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THE PROCTORIAL TRIALS.  
COURT OF COMMON PLEAS,  
WESTMINSTER,  
FRIDAY, November 30, 1860.  
(Before the Lord Chief Justice Erle, and a Special Jury.)  
KEMP v NEVILLE

The following comprised the Special  
Acton Silliter, of Titchfield Villas, merchant  
George Pollexfer, Abbey-road, merchant  
John Tobias Green, Park-road, Islington, merchant  
Edward Cooke, St. John's-park, Islington, Esquire  
David Stean, 92, Gloucester-place, Marylebone, merchant  
Ed. J. Nettleford, 10, Albion-road, Newington, merchant  
Philip Worsley, 4, Taviton street, merchant  
Geo. J. Clifton, 13, Waver ley-place, Marylebone, Esquire  
Leader Cox Stevenson, Avenue-road, Hampstead, Esquire  
George Norman, Hereford-road South, merchant  
Selby Hullett, 81, Broad-street, Ratcliffe, merchant  
Francis Walker, South Grove, Highgate, Esquire

This was an action against the Vice-Chancellor of the University of Cambridge to recover damages in consequence of the plaintiff having, in January last, been arrested by the officers of the University, and locked up in the Spinning-house under sentence of the Vice-Chancellor for five days. The form of the declaration was for false imprisonment; and the defendant pleaded a number of pleas in justification, alleging, among other things, the ancient jurisdiction of the University authorities in reference to arresting women who were suspected being loose characters, by customary usage, and by a charter of Elisabeth; further, that the Rev. Thomas Samuel Woollaston, the proctor, found the plaintiff, Emma Kemp, within the limits of his jurisdiction, in company with certain students, and that he upon reasonable terms suspected her of being a loose and disorderly person, and thereupon took her before the Vice-Chancellor, who, being satisfied upon that point, sentenced her to confinement in the Spinning- House.

Mr. Edwin James, Q.C., Mr. Lush, Q.C., and Mr. Couch appeared for the plaintiff, Emma Kemp, of Dover-street, Cambridge, instructed by Mr. Cockerell; and for the defendant, the Vice- Chancellor of Cambridge, appeared Sir Fitzroy Kelly Q.C., Mr. O'Malley, Q.C., and the Hon. George Denman, instructed by Messrs. Fuller and Saltwell of Carlton Chambers, Regent street, London.

There was also another action, "Ebbon v. Neville," wherein the same question of legality was involved; both, in fact, arising out of the circumstance of a number of young women being captured in an omnibus when near to the Town Gaol, and conveyed to the Spinning-house in custody of the Proctors, where the plaintiff, Miss Kemp, was confined for five days, and Miss Ebbon for three days.

The case excited considerable interest, the Court being crowded, and among those present we observed several members of the University.

The pleadings were opened by Mr. Couch, which stated that the Chancellor and Scholars of the University of Cambridge, from time whereof the memory of man knoweth not the contrary, until the time of making an Act of Parliament, passed in the thirteenth year of Queen Elizabeth's reign, intituled "an Act concerning the several Incorporations of the Universities Oxford and Cambridge, and the confirmation of the Charities, liberties, and privileges granted to either of them," by which they were made a body corporate, by various names of incorporation, including the names of Chancellors, Masters, and Scholars of the same University for the time being, and that they should be incorporated, and have perpetual succession, by virtue of their offices, and that the office of Proctors of the said University is an ancient office, and that the persons for the time being duly holding such office, have, and each of them, during all the time aforesaid, by custom of and in the said University, from time whereof the memory of man is not to the contrary, there used

and approved for the preservation of good order and morality amongst the scholars of the said University, visited and been used all and every the public streets and places in the town of Cambridge, and within the precincts of the said University, at all times of the day and night, and have each of them the right to arrest and apprehend all such women who, upon reasonable grounds, have been suspected by the said Proctors to be loose or disorderly women, or who, within the limits and precincts aforesaid, have been found keeping company with any of the scholars aforesaid; and any persons suspected, to be apprehended and taken before the Vice-Chancellor, and to be dealt with according law.

Mr. Edwin James, in a very lengthened and eloquent address, then opened the case for the plaintiff. He said that the question which was now to be submitted for the decision of the jury was one which had attracted a good deal of public attention, and it was one which he ventured to say was of extreme importance to the liberty of her Majesty's subjects. The action was brought by the plaintiff, a young woman of character, of virtue, and of respectability, to recover damages for what he should show was a most unjust and most illegal stretch of the law; if, indeed, the Vice-Chancellor was clothed with any such authority as that which was set up. He believed that would not be necessary, in order to enable the plaintiff to recover, that the jury should upset the charters and customs upon which the 'proctorial system' was founded, for he submitted that, however good any custom might be, it must be exercised according to the well-known principles of English law and justice. The jurisdiction of the Proctors was a very ancient and very diversified one, for originally they had to keep the streets clean, to suppress riots, and, in addition, to publicly flog the students for bathing in the Cam; but he was persuaded that the custom, claimed to have been exercised from time immemorial, would not be able to be made good, and that the University, out of whose funds this action was defended, would be obliged to rely upon their charters and upon the statute to which reference had been made. The Universities of London, Glasgow, and Edinburgh had no such authority as that exercised by the authorities of Cambridge and Oxford, and he had yet to learn that the students of the first-named Universities were less moral and the towns less quiet than Cambridge and Oxford. Disputes had frequency arisen in these two last-named places. In 1152, there was an Indictment for riot; in 1515 there was another riot, in which a lavman was killed. In 1627, there was another riot, and in 1765 there was an action similar this, in consequence of the authorities having arrested respectable married woman, who recovered damages. The verdict was recorded in the Annual Register, though what ultimately became of the case was not recorded in that publication. Assuming the customs and charters of the University to be established, he submitted that the Vice-Chancellor had no right to have a woman, as he had the plaintiff, into a private room, and attempt to torture her into confession. Nor had the Vice-Chancellor any authority commit to a private prison, for such a place was not known to the law, and the Vice-Chancellor might well have committed her to his own private wine-cellar. Moreover, the Vice-Chancellor had not only committed this plaintiff for a fortnight, but had afterwards exercised the prerogative of the Crown, and pardoned her at the end five days, at the intercession of her friends. The prison being a private one, he submitted that the Vice-Chancellor was answerable for what took place there, for the plaintiff being deprived of her clothes and put into prison clothes, and certain questions of a most disgusting character to a respectable young woman as to whether she had any disease, being put to her by medical man. If the authorities possessed these powers they must be exercised in accordance with the principles of English justice, and not by examining and torturing a young woman by examining her in a private room. The accused must be regularly charged, the case proved on oath, and with the liberty the accused of having some one to defend her. A private prison was repugnant to English law, and could not established except by Act of Parliament, and the Vice-Chancellor had no more right commit to this prison any more than he had to his own wine cellar. Not only had the Vice-Chancellor exercised the powers of commitment, but he had usurped the prerogative of majesty pardoning and discharging the plaintiff after he had found out the great mistake he had made in committing and confining in this prison a most respectable young woman. All that could be or had been alleged against the plaintiff was that, when she was apprehended by the "bulldogs" she was in an omnibus with a student and some musicians going to attend bachelors's ball. The same statutes confirm the charters of both universities, but at Oxford the commitment is to the public prison. Whatever powers the authorities possessed, they must be exercised in a legal manner; but in this case every principle of law and justice had been violated.

The first witness called was Emma Kemp, the plaintiff, examined by Mr. Lush, who said I am a dressmaker and milliner. I live at No. 4, Dover-street, Cambridge. I live with my mother. I have no

father. I carry on the business of a milliner and dressmaker. In January last I knew Mr. Graham, an Undergraduate of Emmanuel College; I knew him from July last. I received an invitation from him to join a party at Shelford. It was private party. He had recently taken his degree. Shelford is about five miles from Cambridge. I received an invitation for a young man to whom I was engaged to go with me. I know that other persons were invited. Harriett Bell and my sister (14) was invited also to go. We were to go in an omnibus; it was to be a private dancing party. We were to come back by the omnibus. We were to go at six o'clock. It was arranged that we should meet the omnibus at Melbourn place, Parker's-piece. We went there on the 30th of January; my sister went, but my young man did not, because he was out of town. When we got into the omnibus we found two gentlemen, one was Mr. Graham. There was a musician inside, but there was no one outside. There were no other persons when I got in; we took up four other persons on the road. I knew them by sight. It was arranged that we should come back at half-past eleven o'clock. We were against the Town Gaol when we were stopped by the Proctors. The Proctor asked if there were any members of the University there? One of the gentlemen (Mr. Graham) gave his name and got out. His brother got out also. The Proctor asked "Where we were going?" No one answered. We then proceeded to the Spinninghouse in the omnibus: when we got to the Spinning-house, the omnibus stopped. I was handed out, or rather dragged out. We were all taken to the Spinning-house. After standing in the hall of the Spinning-house for some time, I was taken into a separate room, where the Proctors were sitting. I was asked my name and occupation. I told them Emily Kemp, and that I was a milliner and dressmaker ; I told them where I resided, and that I lived with my mother. That was all that was said to me by the Proctors. The matron was summoned to take me to a cell. I was taken to a cell alone, which was a very small bricked place, heated with gas, and a bed. I was left in the cell. I asked the matron if I might speak on behalf of my sister? to which she answered, she will take no harm. I remained there for about half an hour. I was then summoned before the Vice-Chancellor and three Proctors. I was then asked my name and occupation, by the Vice-Chancellor, when I told him. He asked me if I knew what kind of party I was going to. I said, understood it was a very respectable one, or should not have joined it. He me what time was going to return. I told him, by half-past eleven or twelve. He did not ask me whether I had mother or father. He asked me if I knew the gentleman who invited me to the party. I said, "Mr. Graham." He said, "How come you to join the party?" I said, because I considered it respectable one. I told him that I took my little sister, because my young man could not go. I told him I did not know of a breakfast being provided, because we were coming home at twelve o'clock. I asked him if he would allow me to have reference from ladies I worked for, to which he made no answer. I said, with reference to the Proctors, I think none of these gentlemen know me." They made no answer. I asked him if he would allow me to speak to my sister. He said he would put her punishment upon me, and sentenced me to fourteen days. I was then given into the custody of the Matron, and placed in the cell. He told me that my sister would be sent home. The Proctors were asked no questions about me before the Vice-Chancellor. They made no charge against me. I told the men in the Hall that I never had been in the Spinning House before. I was then locked in the cell, and the next morning my dress was changed. I had a check (coarse) dress on, flannel petticoat, and a handkerchief. I had no fire, and the cell was not warm. For breakfast we had bread, and what they call "soup" for dinner, fat meat, and potatoes ; and what they call "gruel" for supper. The Chaplain said he was very sorry to see me there. My mother asked for other food to be allowed me, but I was not allowed. After my dress had been changed, I was taken to a cell far worse than the other. The Matron afterwards announced to me that I was to be released, after confinement of four days and five nights. I was visited by Mr. Fawcett, the surgeon. I know his partner, Mr. Hough, whose wife I had worked for. The Matron told the reason was, because mother had been to the Vice-Chancellor. The cell was cold, and I was much worse with the rheumatic fever, from which I had been suffering.

By Sir Fitzroy Kelly: Had known Mr. Graham for six months. First met him at promenade concerts, on Fenner's Ground, in July last. Had not seen him before. He spoke first. Made no appointment with him at the promenade concert. Met him, after that, in the street several times. I saw him first at the promenade concert in July last, but did not meet him from that time till the following December or January. Had not met him since that time. Did not get up the party as Mr. Graham's party. Had no party book of the number of persons. Knew Rosetta Aves for two years. She came to me, and asked if I was going to a party at Shelford. Mr. Graham said he was going to give a dancing party at Shelford, and would I go to it? I said "yes." Rosetta Aves asked me if I knew who was going. I said, yes, myself, and Harriet Bell, a dressmaker, in Adam and Eve Row. I did not know that Harriett Bell had been in the Spinning-house. I was determined to know who were

going, because if it was not respectable I would not join it. There were in the 'bus Rosetta Aves, Harriet Bell, Emma Coxall, Ebbon, Fuller, and my sister. Did not know that Emma Coxall was in the Refuge. Mr. Graham made the arrangements. I met at Miss Bell's house, and the other females met on our way. We were not dressed particularly for dancing. Harriet Bell's brother was invited. There was no one in the omnibus besides us seven females, the musicians, Mr. Graham, and his brother. We were to drive from Parker's Piece, through Shelford. I knew no one but Harriet Bell. We were proceeding when the omnibus was stopped. I have been in Cambridge ever since I was seven years of age. My mother goes out cooking, and acts char-woman; that is the way she gets her livelihood. Had been a milliner and dressmaker for six years; was now twenty-four years of age. During the last four or five years had been acquainted with an Undergraduate of the University. Did not associate with young man named Vaughan three years ago; that is five years ago; I met him once; on one occasion I rode out in a clarence with him. I don't know a public-house called King William the Fourth; had been there, however, on one occasion; never stopped at that house for a night. Was never caught in bedroom with him, when Mr. Vaughan was requested to leave; nothing of the kind ever took place. On one occasion I went with him to a house, but I was never in a bedroom with him; I was never with him more than hour. Lambert rode outside the fly, and of him the fly was hired. Lambert persuaded him to go away; was not with him more than half-an-hour. Have not had money from Vaughan from time to time; never had any money through Lambert. I did not represent to Lambert that I had had a miscarriage, nor did I endeavour to obtain money upon that representation. Get my living by dressmaking. I and six others were taken to the Spinninghouse. Had made no attempt to obtain money or assistance from Vaughan. Saw Mr. Lambert in May last. He asked me if had heard anything from Mr. Vaughan. I have never received any, or applied, or attempted to get any money from Mr. Vaughan. We were called into the Spinning-house one by one. The Vice-Chancellor remonstrated with me for taking my sister. I don't remember him saying that because I had got up the party he should have to punish me. I did say to the Vice-Chancellor that I could call witnesses to character. I said there was no intention stop all night; I deny saying that had been asked by Mr. Graham to make up the party. I did not say that I had received a note from him. I did not tell the Vice-Chancellor that had a book to put down the names of those who were going to the party. I was about five or six minutes before the Vice-Chancellor. Miss Johnson, the matron, was kind to me after my mother had been. I asked for something to do, and was working all the time I was in the Spinning-house; I did not feel the effects of the cell being heated by hot air. I did not tell my mother that I had been in better health, or taken my food better while there than had done before. I saw Mr. Hough, surgeon, who came to me at the Spinning-house. He reproached me for having given a different account. I told Mr. Hough that Mr. Graham had invited me. I did not admit that I had told an untruth. I told Mr. Hough that my mother did not know that I was going. Mr. Hough promised to intercede with the Vice-Chancellor, and I was released within four days. I spoke about bringing this action. I expect that I shall have to pay for this action. I don't know who is furnishing the money for the action; I expect that I shall have to pay these and other actions as well. I had to pay my expenses here.

Sir Fitzroy Kelly: I am not asking that.

Mr. Edwin James: I will call the plaintiff's attorney, Mr. Cockerell.

By Sir Fitzroy Kelly: I did not say I would choose partners, as it might not please. I might have called Mr. Graham "Boggy."

By Mr. Edwin James: Never anything improper has occurred between me and Mr. Graham. He told I might take anyone I liked. Mr. Graham never made any improper advance or addresses to me of any kind. Lambert is a publican: he is here. When I first met Mr. Vaughan he asked me where I lived. This is not at all unusual in Cambridge (laughter). I gave him a wrong address, as I was afraid of him. Lambert, before he came with the fly, had more than once solicited me to meet Mr. Vaughan. I believe Lambert's house is frequented by undergraduates. At the time referred to I was walking with a female friend, now in Australia. When Lambert came home with Mr. Vaughan in a fly, he got down and opened the door. I went with Mr. Vaughan to a house, but nothing improper took place between us that I know of (laughter).

Mr. Edwin James: That you know of?— Witness: No; nothing ever did. My mother cooks for the master of Corpus, Mr. Hough, and other gentlemen. I have not worked for Mrs. Hough since my

imprisonment. The confinement did not improve my appetite or benefit my rheumatism (laughter). I am not aware that was ever in company with loose women.

The plaintiff was then asked a number of questions in reference to her acquaintance with Mr. Vaughan, which she denied having any improper motives.

Mrs. Charlotte Looker, of Dover-street, Cambridge, the mother of Miss Kemp, stated that she got her living by cooking. Her daughter was a dressmaker, and was taken to the Spinning-house. When she heard of her daughter's arrest, witness went to the Spinning-house and asked to see the Vice-Chancellor and Proctors. She waited about outside, and saw the Vice-Chancellor and Proctors leave, and made her way up to them, but they took no notice of her. She then thrust her foot in the Spinning-house doorway, and asked see her daughter; told the matron that she brought her daughter a dress and shawl, and would they allow her to put it on, she having suffered from rheumatic fever. She spoke to Mr. Hough about her daughter, who said that she could not live in such a place. She received a note from Dr. Pulling, the Master of Corpus, to the Vice-Chancellor, to which he replied that he had made inquiries, and that he would write a note and have her released. Witness declined to take her daughter out of the Spinning-house by daylight, but on that evening Mr. Hough had a fly for her. There was no pretence for saying that her daughter was an associate loose or disorderly characters.

By Mr. O'Malley: Would not have consented to her daughter going to a ball at Shelford with a "parcel" of young gowmsmen.

Mr. Edwin James asked for the warrant to be produced.

Sir Fitzroy Kelly: We have no warrant at the time of the commitment, but we have one afterwards prepared.

Mr. Edwin James : That I decline to accept.

Miss Johnson, Mistress of the Spinning-house, was called, but she said she could not produce any warrant of commitment.

Louisa Looker, sister to plaintiff, said she first heard of going to Shelford on the Saturday. We met at Miss Bell's, where witness's sister was. Miss Aves, Miss Ebben, and Miss Bell's brother. They went on to Melbourn Place. The omnibus was stopped, and the girls ordered to be driven off to the Spinning House, when she was taken there, with her sister, where the Vice-Chancellor was. He asked witness her name, and she told him, and that she got her living by needle-work. The Vice-Chancellor asked witness if her sister took her out of an evening. Witness said "Yes," sometimes to the Post Office. She told him that her sister did not go out of an evening. He told witness to go home, and that if he saw her out again, he would lock her up. He said that her sister had got fourteen days, and she was to go home.

William Graham, examined by Mr. Edwin James, said: I am a student of the Inner Temple, and was an Undergraduate of Cambridge University. I asked plaintiff to a ball at Shelford. We were joined by about 13 or 14 others. The arrangement was that there was to be a dance and supper, and what is called "negus." There was a musician, and there was to be supper; I had known the plaintiff from the summer previously to January. I spoke to her upon Fenner's Ground, at the promenade concert; I did not see her from July to December; I told her that it was my intention to give a ball upon my taking my degree; I told her that she could ask any one she liked; she said she would bring her little sister with her; I told her she could ask any more she liked; I engaged the omnibus; the omnibus was to take the ladies up at the corner of Parker's Piece. There is no truth that there was to be a breakfast on the following morning, or to stay all night; the party were to return the same night. About 13 or 14 students had joined me. I gave the orders for the entertainment. It was be a dance and supper.— Mr. E. James: What they call "negus" I suppose (laughter.) I remember the omnibus being stopped by the proctor; I gave my name and so did my brother; I followed to the Spinning-house; I asked Mr. Blore by what right he stopped me, and said because I had not got my academics on. I asked the proctor why he stopped the girls, as I believed they were all respectable. He said the Vice-Chancellor would answer that. There was

nothing improper intended. The inn, believe, to be a very respectable one. Nothing improper, or anything of an indelicate nature occurred between me and plaintiff.

By Mr. Denmen: It was in Dec. when I suggested to have the ball. There was no definite number of gentlemen named. Spoke to Miss Bell about the party. The choosing of the females was not left to plaintiff. About a dozen of wine was taken with them. The ale was supplied the innkeeper. She used meet me at Parker'a-piece to consult about the party. I asked Harriett Bell be one of the party. I did not tell plaintiff the men were all to be University men. I considered she would infer it. I did not personally know the other females in the omnibus. I knew the females were to be persons in a different station in life to myself. Some wine was provided for the party - a dozen—but not champagne. I never made any inquiries about the females I believe they asked one another's friends. She said if they were all respectable girls she would take her little sister with her, but she must know first. I first spoke to Harriet Bell with the plaintiff at the promenade concert. I can't say that I saw her alone.

Sarah Ebbon stated that she was one of the party invited; was taken to the Spinning-house; never went Mrs. Bussey's with any intention of improper motives.

Mrs Maris, of "TheDe Freville Arms," Shelford, said she had been there for 17 years, during the whole of which time no complaint had been made. Mr. Graham gave orders for tea and supper, and party in January last, in a room where club meetings were held. No arrangement was made for tea and supper afterwards.

Mr. Cockerell deposed: I am the attorney for the plaintiff. I am solicitor, and Clerk of the Peace for Cambridge. I am told Mrs. Bussey is here as a witness for the defendant. I was consulted about this action by the plaintiff in February last. The plaintiff is the only person responsible to me for costs. The cause was originally set down for trial in the local court. The expenses would have been less. Counsel's fees would not be allowed [laughter].

Mr. F. James: That is one of the defects of the inferior courts (laughter).

Cross-examined: The local court can take cognizance of cases to an unlimited amount. The damages were there laid at £500. I have no expectation of being, under any circumstances, wholly or in part paid my expenses by subscription. I am engaged in four actions.

This was the plaintiff's case.

Sir F. Kelly then addressed the jury. He said he entirely agreed with the learned counsel for the plaintiff in the importance of this case. With reference to the liberty of the subject, it was to be remembered that they (the jury) were likewise sitting in that box the guardians of the morality and well-being of thousands and tens of thousands of the youth of England, who were ushered into life, and became active members of the community, through the University of Cambridge. Whilst, on the one hand, nobody could exaggerate the importance of the question with reference to the liberty of the subject, he took leave to add that it was not much the liberty of the subject that was in danger as was the morality, the well being, and the character for honor, probity, and good conduct through life of so many persons that were involved in the issue of this case. The jury would not have to consider this case with reference to the conduct and character of the plaintiff, or those associated with her, but with reference to the powers and authority possessed by the college authorities for the good conduct of the University. It was to be remembered there were about 2,000 young men between the ages of eighteen and twenty-five belonging to the University of Cambridge—a period when the passions were most liable to excitement, and least under the control of reason and sense of duty—who were the men that would hereafter constitute our statesmen, our judges, our generals, our admirals, and the ornaments and supports of the country; and was it fit that no discretion or unusual power should be vested in the authorities of the University, to protect these youths from the temptations to which they were liable? For the last three or four hundred years the University authorities had exercised these powers. The Vice-Chancellor for the last three hundred and fifty years had acted under the powers of the charter, except in one instance, in which the learned counsel for the plaintiff was unable to give a satisfactory account, and which was recorded in Annual Register without impeachment or question. By the charter and the Act this Court of Record was established, the Vice-Chancellor

for the time-being, being the judge, and who, upon complaint made to him, or on cases brought before him, was to adjudicate, and he (the learned counsel) was not aware that any appeal had been made against the decisions. It was for the Vice-chancellor to consider the cases brought before him, to try the accused, and determine whether, upon the facts before him, he was justified in pronouncing a judgment upon them. In this case malice was not attributed to the Vice-Chancellor, and if his judgment was final, he was entitled to the verdict.

Lord Chief Justice said he thought it was purely a question of law for him, and not of fact for the jury.

Sir F. Kelly said he quite agreed it was a question of law for the judge, and as had been admitted that the Vice-Chancellor had acted without malice he should abandon the plea of custom and rely on the charter and Act of Parliament. Queen Elizabeth, in the third year of her reign, granted to the University a charter, whereby it should be lawful for the authorities, by themselves or deputies, as well by day as by night, at their good pleasure, to make search, scrutiny, and inquiry as often and whensoever as they might seem expedient within the town and suburbs of Cambridge, of and for all common women, vagrants, and other persons suspected of evil, coming to or assembling in the town and suburbs of Cambridge, and that one or all those whom he might find guilty or suspected of evil, should be liable to punishment by imprisonment or otherwise as the Vice-Chancellor might think fit. That charter was confirmed by Act of Parliament in the 13th year of the reign of Elizabeth.

The Lord Chief Justice said the allegation for the jury to say, if proved, was, had the Proctors reasonable ground to suspect the plaintiff of evil, and that she was in the omnibus for idle, disorderly, or immoral purpose?

Sir F. Kelly there were two allegations for the jury's consideration ; first, that the Proctors finding these persons in an omnibus, they reasonably suspected they were there for some immoral purpose; and secondly, that having apprehended them, and then being brought before the defendant, he examined the plaintiff, considered the matter, and adjudicated that he was satisfied of their being justly suspected of some evil purpose. The parties being before the Vice-Chancellor he was bound to examine into the matter, and being satisfied that it was an assemblage for an evil purpose, which was the only object they could have in coming together. It would be uncharitable to suspect a party of both sexes of the same station in life having under the circumstances an evil purpose in view; but it was not so in the case gentlemen arranging a ball and supper with milliners and dressmakers' assistants. Dancing was an amusement that excited the passions {laughter}, and drinking without control would only add to it. The learned counsel concluded his address by stating that he should call the Vice-Chancellor and the Proctors before them, and put the charter in evidence.

The Rev. Mr. Blore: I am a fellow of Trinity College, and on this occasion I was one the proctors. I received a letter on the morning of the 30th of January, and I took steps to verify it; and, ultimately, ascertained that supper had been ordered. I communicated with the other proctors immediately, and went to the Town Gaol on Parker's piece to meet the omnibus. Mr. Woollaston, the senior proctor, was with me. We met the omnibus within a few minutes that we expected it. Mr. Woollaston opened the door after the omnibus stopped. I knew the musician inside — he goes by the name of "White-headed Rob" (laughter), I could not speak with certainty, at the time, as to the class of life to which the females belonged. I had formed an opinion of them, but not by seeing them particularly. I did on other grounds and entertained a suspicion. I could not imagine it possible they were ladies starting from Barnwell (laughter). I expected, therefore, they were women of the town, or the class I afterwards found them to be. I formed a decided suspicion of the purpose for which they were there from the persons, members of the University, I had found there. I formed suspicion they were the persons the letter referred to going to Shelford. It is contrary to the usage of the University for undergraduates to consort with such females at balls.

Mr. James objected to that answer.

Mr. James then called for the letter sent to the witness informing him of the party, and which the Clerk of the Court read as follows:-

Cambridge, January 28th.

REV. SIR, I wish to call your attention circumstance that under notice day or two ago. I understand a ball and supper is to take place on Monday, the 30th, the party consisting of 12 young girls of the town, and 12 University men. It is arranged they should meet at 6 o'clock on Monday evening, at the new Tennis Court, at the corner of East Road, where there will be one or more omnibuses to convey them to Shelford, the place chosen for the ball, &c. The party is got up by Miss Kemp, and an Emmanuel gentleman, a friend of hers, who has just passed the Senate, and in giving this in honour of it. I hear there are to be 2 or 3 King's gentlemen, and the rest are your own men (Trinity) I also hear a Miss Sharman in Post Office Terrace, is to be one of the party. Miss Kemp lives in Doric Street, East Road. You will, doubtless, wonder where I got my information from. The fact is, I used to employ Miss Kemp as she professed to get her living by dress-making, but have been convinced to the contrary so have discontinued. She, however, came to my house the other evening, and I inquired of my servant the object of her visit. She told me Miss Kemp had been several times lately trying to persuade her to go to a party. I, of course, insisted upon knowing what kind of party it was, when she told me what I have just stated, and more than that, she stated Miss Kemp was going take her sister, a little girl of about 14 years of age. The supper being prepared by Mr. Peeling, Bene't street, to be sent over to Shelford to be had at 10 o'clock. I think you will find this statement perfectly correct. My husband intended calling upon you. but I thought it better to write. I trust you will use your authority as a Proctor, to endeavour to put a stop to the evils that are so frequently occurring in Cambridge.  
I am, yours respectfully, AN INHABITANT OF THE TOWN.

Rev Mr Blore  
Trinity College, Cambridge.

The letter was in a female's handwriting, and its contents caused considerable laughter.

By Mr. James: The Vice-Chancellor asked us if we knew any one of them to be improper characters, and we said no, did not know them; that was before she was sentenced. I have not employed any one to inquire into the plaintiff's character since the action was brought; I don't know that any has been made. I asked my own men, but they knew nothing about her. I don't think they tried to find out. I did not see her in the spinning-house after her committal. There is a row of cells in the spinning-house of very comfortable appearance (laughter). I don't think the cells are so bad as described by the plaintiff. I don't know if the supper was sent. Peeling said he had to provide the sweets.

Mr. James: And you took care of the bitters? (laughter).

Witness continued: I made no inquiries about them.

The Rev. Mr. Smith, another proctor, was of opinion at the time that the party would result in acts of immorality. The Vice-Chancellor charged the plaintiff with having been instrumental in getting up the party, and she replied she saw no harm in it.

Mr. James: You are considered an active proctor

Witness: I do my duty, and try to keep the streets clear.

Mr. James: Not by putting everybody in the spinning-house.

Witness: Certainly not. I did not know any of the females. The matron charged Harriett Bell with having been there before, and she denied it. I believe she was once there; there is no entry in the books of her name.

Mr. James asked for the book.

Sir F. Kelly declined to produce it.

Witness: There is book of the person, name, calling, residence, parents, and occupation, The matron usually has the book.



Mr. James: I call for the book.

Sir F. Kelly : I will not produce it, and by-and-bye I will tell you why. You can give secondary evidence of its contents. The four proctors told the Vice-Chancellor they did not know the girls.

The Rev. T. Woollaston corroborated the two witnesses' evidence.

The Hon. and Rev. L. Neville, the Vice-Chancellor, was called, and deposed that the statements made by the proctors were substantially correct. I understood the plaintiff to say that she was asked by Mr. Graham to make up the party. She never said anything in the slightest degree about sending for persons to speak to her character. I was satisfied it was a proceeding likely to result improperly. I acted to the best of my judgment in the matter. I signed a commitment at the time, that I have since been informed was informal. I have signed another since—in this month—under the advise of counsel.

Cross-examined: I don't know if I limited to the period of imprisonment to inflict. I should not imprison for longer than a month. No one made a charge against the plaintiff except myself. I saw no notice of the matter in the newspapers before I discharged her, or heard of it. I discharged her because I was informed there was reason to believe her family respectable, I made an entry in the book of her answers to the questions I put to her. I have not the book in my possession.

Mr. James: I call for the production of the book.

Sir F. Kelly : And I don't produce it.

Witness continued: I can't recollect the form of the warrant on which I committed the plaintiff. The warrant is a printed form with the blanks for the name, &c. I don't know who filled in the plaintiff's name in the warrant; I think it was done before I came to the spinning-house, and the warrant was left for me to be signed (laughter).

Mr. James: Are you serious that the name was filled in before you knew the charge against the girl, or had examined her.

Witness: I can't say if it was filled in. The paper, I be- was on the table, but who filled it in I cant say. I can't positively speak that the warrant was made out before the plaintiff was examined. I can't positively say whether I entered the plaintiff's name myself, or whether it was entered before I signed my name to it. There are three or four written lines in the body the warrant, but I can't say who filled it in.

Mr. James: Is that warrant in existence now.

Witness : I have not got it.

Mr. James : Is it not here ?

Witness: I shall not say.

Mr. James : You don't know?

Witness: No: I do not.

Mr. Jams : When did you last see it.

Witness: I don't remember.

Mr. James : You heard Sir F. Kelly say just now that the document is in court. As it is not produced, in whose handwriting is the plaintiff's name?

Witness: I don't know.

Mr. Jambs: You won't swear it is not in your handwriting.

Witness: I can't, without seeing it. I don't know whose duty it to fill in the warrant. I have sometimes done it.

Mr. James: I must ask your lordship to compel its production. It has been held in the Court of Exchequer that a judge has the power to do so.

The LORD Chief Justice: Have you given notice to the defendant to produce it?

Mr. James: We have.

The Lord Chief Justice: I have no knowledge of such a power having been exercised, but I recollect Baron Gurney once did it in a case in which I was counsel in a case in Cornwall. He granted my request, and made the opposite party produce a title deed, but the verdict was afterwards set aside. I will consider the point between this and the morning.

Sir P. Kelly: If your lordship orders me to produce it I shall obey it: but it appears to me it is unjust interference with the discretion of counsel.

The Lord Chief Justice: I never make an order unless I mean to carry it out. If I make an order in this case for its production, and Sir Fitzroy Kelly refuses to obey it, I shall commit him to the Queen's Bench Prison (laughter.)

Mr. James: But not, I hope, for fourteen days (renewed laughter )

Sir F. Kelly: The Rev. Mr. Smith informs me that the warrant of commitment was made out, and the plaintiff's name was inserted by the Vice Chancellor, after the examination of the plaintiff.

About half-past six o'clock the Court adjourned till

SATURDAY, December 1.

Sir F. Kelly put in the rules and regulations of the spinning-house, signed by the Secretary of State for the Home Department, Lord Palmerston, and the certificate of the inspector of prisons, which were by statute evidence without further proof than their production. One of the regulations was that every inmate should put on the dress required by the regulations, and be kept in separate cells, except under peculiar circumstances. It was further proved that the inmates of the spinning-house should be employed, and should be provided with religious instruction; and there should be no deviation from the dietary, unless in exceptional circumstances; and that prisoners should not see their friends except by order in writing of the Vice-Chancellor, or of some other governor.

Mr. E. James said that in reference to the production of the original commitment, to which there was a contest yesterday, he might mention that he had come to an arrangement with Sir F. Kelly, and the matter would remain as it was.

The Lord Chief asked if he was to take it that this plaintiff had been confined in one of the cells to which the regulations and certificates referred.

Mr. E. James: No.

Sir F. Kelly : No; these documents referred to the upper cells, which were not at the time in question, ready; but he still asked his lordship to receive the documents, because they showed that the prison was under the regulations of the Home-office and the Inspector of prisons.

Mr. Herbert Vowles, Inspector of Prisons under the 5th and 6th Wm. IV., c. 88, said—I have inspected the spinning-house every year since 1851, when I was appointed to the district. I visit every cell, and see every inmate; it is decidedly a fit prison; it was in 1833, and every part was Inspected and certified.

Cross-examined: There are twenty-three cells. The original prison was built in the 17th century for the confinement of vagabonds. It is built after the model of Pentonville prison. The cells are for separate not solitary confinement. There is a distinction between the two terms. There is no objection to the prison dress. The only object is to have the dress uniform. I am not in the habit of asking females to show me all parts of their dress (a laugh). It is not a dress like that of female convicts. The convicts have uniform. I do not inspect prisons where convicts are confined. The dress of the prisoners in the spinning-house not like that of convicts, a conspicuous or parti-coloured dress. There is no indignity at all in the dress; it is the same thing as a female servant would wear about the house of morning. A female convict-dress is particoloured.

Dr. Philpott: I have been more than once Vice-Chancellor of Cambridge. I have been Vice-Chancellor for three years. I have known the University for many years, and during all that time the spinning-house has been the place of confinement for women.

Cross-examined: There has been a "grace" to the effect that this action should be defended at the expense of the University.

A good deal of discussion took place as to the putting in the charter of the University, the witness, Mr. Hewlett, who had prepared a translation for the defendant having left London, and the published translation being objected to by the defendant's counsel as not a correct translation. Ultimately the Latin charter and the translation of Mr. Hewlett were both handed to his lordship.

The second warrant of commitment was then tendered in evidence by the defendant's counsel.

Mr. E. James, however, objected that it was inadmissible.

The document was admitted subject to the objection: proof that such warrant was made in November, but dated in January.

This closed the defendant's case.

Mr. O'Malley then replied, on the part of the defendant. He very much regretted that it had fallen to his lot to reply on the part of the University, which arose from the fact of Sir Fitzroy Kelly, who had conducted the defence of this case being called away by pressure of business. He must therefore discharge the duty the best way he could. But, in doing so, he besought their indulgence, because, in consequence of his leader being absent, the preparations on his (Mr. O'Malley's) part were but imperfect. Now, he had been requested to explain to them, what the learned Judge would easily understand, why it was they had thought it expedient to withhold from their opponents the inspection of a document. Now, they had heard that there were arising out of this transaction several other actions, which were pending. Mr. Cockerell said he had not proceeded with them, but not to have proceeded with them, did not follow that they were abandoned. There was nothing to show that they had been cut off—nothing to show but what they would be carried on with all vigour and despatch, so soon as the result of this case was known, and therefore it was, that the warrant was withheld, in order that no assistance might be afforded in the prosecution of other actions. Mr. O'Malley having cited a case, "King v. Barker," in support of the course adopted, proceeded to observe that it was quite understood the defence to the action was one which it was believed to be the established law of the land namely, that the Vice-Chancellor being the judge of record, the decision of his court could not be brought into question here; but, as the learned Judge had intimated that he was desirous of there being necessity for a further inquiry into this cause, it would be for the jury to decide upon the question of facts laid before them. Mr. O' Malley conceived that the questions resolved themselves into three, from the allegations; but any other points beyond, he could not possibly conceive. Now, the three points, he argued, were these—first, whether the Proctors had a reasonable ground for suspecting the plaintiff was in company with members of the University for evil purposes; secondly, whether the Vice-Chancellor had not reasonable ground for suspecting them, and was justified in committing them; and thirdly, whether the prison was not a fit one. Now, his learned friend had spoken a great deal about the plaintiff having had her clothes off; and before he (Mr. O'Malley) proceeded to consider the other points, he would just call the attention of the Court to the law in that respect, and after citing a case in point, arguing therefrom that if the fitness of a

prison was approved of by the proper authority, as in this case certified by the Inspector of Prisons, the responsibility of the discipline of that prison did not rest upon the Vice-Chancellor, or upon the Proctors, but upon the Minister of the Crown, and in respect of which, the Vice-Chancellor had no more right to alter than any one of the jury. Well then, it was admitted that the Proctors acted bona fide; that they had no prejudice; that they had no unworthy motives; but that they were actuated simply with a desire faithfully to fulfil the duties cast upon them. The question, then, to which their attention would be directed, was—first, was the suspicion a reasonable one? and in answer to that, he was sure that any one of the jury could not believe for one moment if they were frankly to consult their own conviction, but what the Proctors did in this instance entertain reasonable suspicion— they (the Proctors) had said upon oath, and he ventured to say, that if any one of the twelve gentlemen now before him were placed in similar circumstances, they would come to the same conclusion—nobody could deny that there were reasonable ground of suspicion. They knew that the probabilities were, that had that omnibus been allowed to proceed, the result would have been most serious and awful kind. The question was not what conclusion they would draw themselves, but what were the facts submitted. Well, what were the facts? It was now proved beyond all question, that a gentleman who had just passed examination and had been in the Senate-House for his degree, had, with others, made preparations for a dance which was to take place some few miles from Cambridge; and that at that dance there were to be on the one side gentlemen of a University education, and, on the other, young women vastly of an inferior position and station in life; that the young women were not selected on account of any previous acquaintance, but that a commission was given to one to invite a number of girls in a similar condition of life to her own. Now, then, let them consider the circumstances under which such a party were to assemble. Miss Kemp, it would be remembered, at the first starting, was to be accompanied by her sweetheart; but she substituted for her sweetheart, her sister, a girl only 14 years old; but was it not perfectly clear and well understood that no sweetheart was to go, but that members of the University were to form the party with the young women. Now, what was the view which the University took of this transaction?—that to allow such a proceeding to take place would be contrary to the usage of the University; that had they allowed young gentlemen to go on in that way, it would subject them to very severe rebuke. What would be said of the University if the authorities countenanced such proceedings?—to have allowed its members to associate, unchecked, with the class of girls to which the plaintiff belonged? What did Miss Kemp's mother say? why that if her daughter had told her of the course she was about to pursue, she would have opposed it. She believed it to be an improper place—an improper scene—and one which was fraught with the most dangerous consequence to her daughter. But what did the plaintiff say—why, that she deceived her mother upon that occasion. They had then before them on the one side members of the University, and on the other side, girls of an inferior class; and on that account, the University authorities deemed it an improper proceeding? It was not because the University were desirous to deprive young men of their innocent or rational amusement? It was because this transaction, when viewed on the one side and then on the other by every sensible mind, was likely to result in most dangerous and evil consequences. There was not a father in that jury box, having the care of his son at heart, would consent to his son consorting with girls of that class; nor was there a father having due regard for his daughter's virtue, would consent to his child associating with young men of the University under such circumstances, because common sense would tell them that there could be no tie between them except the tie of impure desire. On the one hand the daughter's purity was in jeopardy, and on the other the son's morality was in danger. But what were the further circumstances in this case. Here were number of young men in the hey-day of youth, in the heat of blood, consorting together for midnight revelry of the lowest condition, about to be collected together, not in the town, withdrawn from the inspection of their guardians, associating together, not at a private house, but at a public house, where there was to be dancing and drinking of wine, their passions excited by wine, and by music and dancing. Was there any one before him who could suppose, upon seeing such an excursion start, and not draw the conclusion that before night was over, it would end in immorality? Who would say that there was no other object in view but innocent recreation? It was not because some of the women might be mistresses of their own passions, that others would have the same firmness, and that no demoralization would occur and if one girl had her modesty and virtue sacrificed, it was enough that this scene of midnight revelry should have been prevented—should have been interrupted. What would be said if such scenes were allowed to pass unchecked under the very eyes of the University? Would not any one in such a position have taken steps similar to those adopted by the Proctors. He felt convinced that no one would dare to say that such party was a proper one, and that there was not just ground for saying that, if allowed, it would have ended in evil

consequences. Was there not just cause for suspicion? The proctor received a letter signed by an inhabitant of the town, and in that letter were certain statements which became the duty of the proctors to test the correctness of. Now, in regard to anonymous letters, they were most cowardly; and although the writer of that letter remained undiscovered, the proctors had nothing to do with that. They had received notice that a breach of the University rules was about to be perpetrated, and was it not their duty to see if the notice was well founded? Would they not have been guilty of gross neglect if they had allowed the intimation to pass without further inquiry? Well, what was the result of the investigation? Why, that there had been a supper ordered by a young gentleman of Emmanuel college for that very night, and who had just taken his degree. The proctors stationed themselves upon the spot described in the letter, and what do they find? Why that within a few minutes of the time an omnibus passes, and in it are seven young women, accompanied by Universitymen, for the purposes described. Was it not conclusive that the letter was true, and that the party was to take place? He would ask any of them in that box if they had received such a letter, if they would not have used means to ascertain its accuracy. Now he had but little to add in reference to the ground of suspicion, but he was reminded that his learned friend on the other side had turned into ridicule, with that usual forcible manner for which he was so celebrated, and in those glowing terms of eloquence which he was the master of, that the party was but an innocent one, and that these Bachelors' Balls at Cambridge were countenanced by the Proctors themselves. But, in answer, he (Mr. O'Malley) did not say that dancing excited the passions at all times, for he believed that where the rank was equal— where the culture was equal, so far from tending to excite the grosser passions, dancing rather tended with such persons, to subdue and purify them. He believed that where there was culture of the mind, such amusement was calculated to quell the passions into honorable attachment; but, in the present case, there was no tie of that description. In the one instance, there was a highly educated gentleman, accustomed to associate with persons in an elevated position; but in the other instance, there were cooks, charwomen, and dress-makers. Under such circumstances, the jury must know that there was but one direct attraction. But it was said by his friend that these were girls against whom nothing was known; but did that make the associating together the less dangerous? It was well known that those who were behind open prostitution— who avoided public gaze, were far more dangerous to the peace of mind of the Cambridge and Oxford young men. Such persons were more dangerous, he said, than the common prostitute, because they would seduce young men, entangle them, and prevent them from applying assiduously to their studies, and bring upon them a burden and anxiety which they seldom if ever recovered. It was from them and from that class especially, that the authorities of the Universities were found to protect young men committed to their care. It was a duty they owed to their parents, and a duty they owed to the town, particularly to the young men, so that they in after life might look back with cause to thank the authorities for having opened to them the dangers which the path of vice was attended. The authorities were bound to protect these young men, and if they did not counteract these influences they would not be worthy of holding the responsible offices they did. Now, his learned friend would no doubt contend that in the proctorial system as it was called, the Heads of the University should have the power of dealing with the students of the University in the same way as they had to deal with the women themselves. But if the present mode of dealing was a wrong one, he wondered that it had been allowed to pass so long without rebuke. If wrong, the Act of Parliament under which they are sanctioned should be amended; but so long as they were sanctioned by law, he contended that the Proctors and authorities were justified in maintaining the law as it existed. Not only was the law for the protection of students, but for the town itself; and it had been said that these actions were defended at the expense of the University, he would just observe that he was glad to hear that the costs of bringing these gigantic actions were not to be borne by the town, but were the private speculation of Mr. Cockerell himself. He was glad that the burgesses were not anxious to get rid of the protection which they enjoyed; and whether that protection was a good one or whether it was bad, so long it was lodged in the hands of the University, so long were they bound to carry out the law as it stood. His learned friend might add one more to his 196 brilliant speeches that he had made in Parliament, and which electrified the ears upon which they fell, about the law being un-English and unjust; but if he (Mr. James) could, by his influence in the House Commons, alter the law, (Mr. O'Malley) assured him that he would not only get rid of grievance, but free the University from the unpleasant responsibility of exercising the power now entrusted them—they not only have the right to execute the powers given them, but they must exercise them. He descanted at some further length upon the fact of their being reasonable suspicion, and he appealed to the jury to say whether the Vice-Chancellor was not justified in his course, the plaintiff having no defence to make to the accusations made.

The defendant was entitled to their verdict for had they not pursued the course they did, they would be guilty of countenancing immorality. He cautioned the jury against being carried away by the roll of eloquence which would presently be delivered by his friend Mr. James, and contended that the real plaintiff was Mr. Cockerell, and concluded by asking the jury not to lend their hands to the scheme for pulling down a barrier of protection which had been raised by these actions.

Mr. E. James said that there was no question but that the decision of the jury in this case would have a very important effect as to the mode in which this proctorial system at Cambridge was to be henceforth carried on. As he said before, it might be consistent that the proctorial system might remain intact, with this single condition, that it should be properly carried out. The Vice-Chancellor, represented by Sir F. Kelly, and backed by the funds of the University, jealous of the authority which was given to him in less enlightened times, came forward and said, "We are above all law, we deny the control of any court of justice in England, we choose to exercise this system we have, harshly and unjustifiably, to be subject merely to our own discretion, and we defy the law of England and the constitutional tribunals to control us." The truth was that the University authorities had brought punishment upon these girls that ought to have fallen, if upon anybody, upon the undergraduates. They had inverted the whole system of justice; they had let the guilty escape, and had punished the innocent. The charter gave the University power to imprison bawds and loose women who came to demoralise the students, whilst in this case it was the undergraduates who had invited the girls to a dance, and the girls would be punished. It was not at all necessary to preserve discipline in the town that this system should exist, for if it were done away with, there was an Act of Parliament for preserving discipline in University towns, but out of which the name of Cambridge had been struck; and why should not this statute be applied to Cambridge? Now to "suspecting of evil; "it was not enough that the proctor should suspect, for a proctor's mind was generally in that morbid state that he suspected every woman of evil (laughter), but he must reasonably suspect. There was nothing more dangerous than a *lois des suspects*, which filled the gaols of France, and crowded Cayenne with convicts, guilty of no crime. What was it that brought thousands to the guillotine under Robespierre and Danton? What was it that stained the banks of the Rhone under Carrier? What was it that in more modern times filled the dungeons of Naples with wretched prisoners, but the existence of a *lois des suspects*? We know no such things in England, and if the proctors claimed a right to arrest upon a law of suspicion, he (Mr. James) could hardly believe that under a constitutional judge and British jury such a system could be supported unless there was the strongest ground for suspicion. To the anonymous letter, evidently written by some young woman who had been disappointed of an invitation, it simply stated that there was to be a party, and what right had the authorities to assume upon an assertion in an anonymous letter that these women were women of bad character. What harm was there in what was proposed? His friend had talked of generals, judges and admirals who were brought up at the University; but he should like to see the admiral, the general, aye, or even the mitred bishop, who could lay his hand on his heart and say he had not, in his youth, had flirtation with a milliner's girl (laughter.) If he said he had not, he (Mr. James) would not believe him, and if he acknowledged it, he should not think the worse of him (loud laughter). The learned gentleman commented upon the indignity the plaintiff had been subjected to; upon the irregularity of the proceedings before the Vice-Chancellor, and especially upon the non-production of the original warrant commitment, which he submitted was in such terms that the defendant dare not produce it. In conclusion, he said that he asked the jury to be jealous of the liberty of the subject, to see that the university authorities did not abuse it. He believed that public opinion sooner later would destroy their anomalous jurisdiction. Their charter might exist undisturbed by the verdict of this jury; for all that the plaintiff asked of the jury was to say that there had been an unreasonable stretch of a dangerous and arbitrary power, and to award damages, to come out of the funds of the university. He asked the jury to say "If you exercise this power exercise it with prudence, with justice, and with moderation : and if you do not we will allow ample damages for any exercise of that power." The Lord Chief Justice, in summing up, said the question which the jury were about to decide had provoked a great deal of warm discussion, but it was his duty to bring them back to the mere questions of law upon which this matter depended. Two of these questions appeared to him to be of very considerable importance, viz., the power of the proctors to arrest, and of the Vice-Chancellor to commit under the circumstances detailed in this case; and he would address himself to these questions, after he had drawn the attention of the jury to the other points, which were of much less general importance—whether the Vice-Chancellor could commit without a warrant; whether the gaol was fit and convenient place to commit to; and whether the change of clothes from the ordinary to the

prison dress was reasonable discipline. For the purposes of to-day he directed the jury that the Vice-Chancellor might justify what he had done, even though there had been no warrant of commitment, and that he might commit by word of mouth. As to whether the gaol was a fit and convenient place, and whether the change of clothes was reasonable discipline, he should leave those questions to the jury; but he should submit to them that if the authorities had a right and a duty to commit, and this having been the well-known prison for the University as far back as memory could go, and it being under the regulation of the Home Secretary and the Inspector of Prisons, it was a very strong thing indeed to say that the Vice-Chancellor was liable for an action of trespass because he had committed a party to such a gaol. The defendants had justified the imprisonment, and it was for the jury to say whether the justification had been made out. The defendants justified under their charter, which having been adopted by the 1st Elizabeth, had become the law of the land, as locally governing Cambridge. The words of the charter were, "It shall be lawful for the Vice-Chancellor and his deputies, and their servants, from time to time, as well as by night by day, at their pleasure, to make scrutiny, search, and inquiry, in the town of Cambridge and the suburbs, for all common women, vagabonds, and other persons suspected of evil, coming into or assembling in the town and suburbs thereof." The important words were "Other persons suspected of evil coming into the town," and these : " All persons which any such search may be found guilty or suspected of evil, to imprison of their body.

A Juryman: Does this apply to all persons "being" in the town ?

The Lord Chief Justice: Yes, to any person herefound guilty or suspected of evil. All that had been said about the fitness of the law would be very well if addressed to the legislature, but here they had simply to administer the law it stood. This law seemed to have been created upon the belief that the exceptional ease of the young men at the versity required some protection against the misleading attractions of women at a time of life when they had not been habituated to self-control. Upon the question of justification, the main thing for them to consider was whether the authorities of the University had reasonably suspected the plaintiff of evil—that was, of being in the company of these students for idle, disorderly, or immoral purposes. His lordship then detailed the evidence upon this point, and left the question of damages to the jury.

The jury retired to consider the matter, and remained absent for an hour and a half, at the end of which time they said they had written answers the various propositions submitted to them by his lordship, and which answers they handed in.

The Lord Chief Justice (reading)—You find that the proctors had reasonable ground for suspicion—that the Vice-Chancellor did not make inquiry into the character of the plaintiff; that the punishment was undeserved; that the prison was fit and convenient; and that the damages, if damages were required, was 40s. (The announcement of the amount of damages excited considerable surprise in court). He did not all see that the question whether the punishment was deserved was in question.

Mr. O'Malley thought that that matter was quite immaterial in reference to the plea.

The Lord Chief Justice—The answer also that the Vice-Chancellor did not make due inquiry to the character of the plaintiff was not a direct answer to the question which had put.

Mr. Couch suggested that perhaps the jury would retire, and afterwards explain what they meant with respect to his lordship's questions.

Mr. O'Malley said they had found that there was sufficient ground for the proctors' suspicion. The Lord Chief Justice asked if the jury meant to say that the Vice Chancellor had reasonable grounds of suspicion, the same as the proctors?

The Foreman of the Jury—Certainly not; the proctor had, but the Vice Chancellor had not.

The Lord Chief Justice—That was the meaning the finding?

The Foreman—Yes.

A Juryman—They thought that the Vice-Chancellor did not make that due inquiry which, under the circumstances, was necessary.

The Lord Chief Justice said he did not think that these answers amounted to a verdict, and he would therefore write down the propositions which they had to consider, and they would perhaps return and consider them. He proposed to put the questions in the terms of the plea:—Did the Vice Chancellor hear and examine the plaintiff, and was he satisfied of the matter alleged in respect of the proctors, such the mode in which they arrested the plaintiff, and their suspicions; and did the Vice Chancellor, having examined the plaintiff and become satisfied of the matters alleged in respect the proctors, believe that the plaintiff was in company with undergraduates for idle, immoral, and disorderly purposes, as alleged in respect of the proctors.

A Juryman asked if they found this in the affirmative, whether it would be a Verdict for the defendant?

The Lord Chief Justice—Yes; at present there was no verdict at all. The jury again retired to their private room, but returned again after an absence of another hour and half.

The foreman said—The jury cannot say yes or no to the proposition as placed before them by your lordship, they all agree that further inquiry should have been made before the girl was imprisoned.

Mr. Couch —That is a finding that the Vice-Chancellor did not hear and examine the plaintiff.

The Lord Chief Justice—I am inclined to think that the meaning of the jury is that the Vice-Chancellor did not hear and examine the plaintiff within the meaning of the plea. The finding, you see, is in these special terms. I do not know whether either side request that the jury should be sent back.

Mr. Couch—I do not ask it.

Mr. Denman—I certainly think that the jury have not found an answer to your lordship's question, or according to the real meaning the plea.

The Lord Chief Justice: I am afraid that this must be the subject of further discussion, but I do not think that we should approximate to a decision by keeping the jury. I am afraid that the verdict will amount to nothing, and that the case is not decided.

Mr. Couch: We must take it as well we can if your lordship thinks that the finding is for the plaintiff, I am content to run any risk from so taking it.

The loud Chief Justice: You need not inform me of that (laughter).

Mr. Denman: I leave the matter in your lordship's hands.

The Lord Chief Justice : If neither of you request the jury be sent back I should take it a special finding. I believe it would be no use to send them back.

A Jury man. None whatever.

Mr. DENMAN: I cannot consent to that being the finding upon the plea, for there are many points in which it does not answer the plea.

The Lord Chief Justice: Would the meaning the jury be this: "We find that the Vice-Chancellor did hear and examine the plaintiff and was satisfied of the matters alleged in respect of the proctors, that the plaintiff had been in company with undergraduates for idle, disorderly, and immoral purposes, as alleged in respect to the proctors," and that the jury add to that, that they are all opinion that he ought to have made further inquiry before he committed the plaintiff to prison. I ought to tell you that that amounts to a verdict for the defendant.



Several Jurymen: Certainly not.

Another Jurymen: The majority would not agree to that.

Mr. Denman: I propose that your lordship should direct a verdict one way or the other upon the finding, and that the jury should be discharged.

The Lord Chief Justice: I believe that the jury have not come to a conclusion upon that which is the essence of the plea. Shall I take the finding as it stands?

Mr. Denman: Not that I assent to the finding being sufficient, but I assent to your lordship directing the verdict be entered.

Mr. Couch: I think it better that your lordship should give a direction without our consent. I do wish to consent to any thing that may prevent me taking points in the court above.

[The scan rest of the rest of the report is very blurred on the BNA website so the OCR version has been left unedited]

The Lord Chief Justice: will then, without the consent anybody, enter this as verdict for the plaintiff, but at the same time stating that in my opinion it is imperfect verdict. The verdict will therefore for the plaintiff, accompanied with this intimation. Verdict for the plaintiff—damages, 40s. MOXDAY, Dec 8. . EBBON V. NEVILLE Six special jurymen only answered their names, and six common jurymen were sworn to make up the number. Mr Edwin James, Q.C., Mr. Hawkins, UC., and Mr. Naylor appeared for the plaintiff; and Sir Fitzroy Kelly, Mr. O'Malley, Q.C., and the Hon. G. Denman for the defendant. Attorney for the plaintiff, Mr. Thompson Cooper, of Cambridge; for the defendant, Mr. Fuller, of Urgent street, London. Mr. Naylor opened the pleadings, from which it appeared that the circumstances of the case were substantially the same as that of " Kemp v. Neville," tried «a Friday and Saturday last. Mr. James, Q.C., stated that it would be unnecessary to enter upon the facts of the case, as his learned friend, Sir Fitzroy Kelly, had consented that a verdict should be returned for the plaintiff, with £23 damages, either party to have liberty to move the Court upon certain points, and also reserving liberty to plaintiff to file bill of exception, or appeal. Sir Fitzroy Kelly, on the part of the defendant, assented to the course suggested, observing that the amount damages was not an important point with the University, as he understood from his learned friend, Mr. James, that there was no imputation on the part the plaintiff in this case any more than in that of Kemp v. Neville" that the defendant had been actuated by any unworthy motives. Mr. James then handed a paper to his Lordship, which, it was understood, contained a statement of the several exceptions taken the plaintiffs in both cases to his Lordship's ruling in the case of ' Kemp v. Neville" (which, it was understood, would have been the same in this case), and of other points of law intended to be raised on behalf of the plaintiffs in both cases. It then agreed that Mr. Hawkins, on behalf of the plaintiff in both cases, and Mr. Denman, on behalf of the defendant, should confer together on the points reserved. The Lord Chief Justice observed that it would be better that if there were any difference between the learned Counsel, to the exact points reserved, it should be understood that reference should be made to him to get, as it were, a judicial decision thereon. A verdict was then taken for the Plaintiff, Damages £2-5; and the Court, which was very much crowded, was speedily thinned.