

7. 1857 – 1860

Mulock, with time on his hands and unable to keep to himself his opinion on matters that had become of public interest by virtue of newspaper report(s), now ventured comments on a domestic case, *Swinfen v Swinfen*. The Swinfen name was of high standing in Staffordshire, the disputing parties in contention over an estate said to be then worth £60,000. At a court hearing to determine the validity of a will, counsel for Mrs. Swinfen, had, unknown to her and not in accordance with instructions she had given, agreed a settlement adverse to her interests. Mulock claimed that upon hearing this he had privately advised her by letter not to sign a particular document relating to the case. Whether this advice was noticed by Mrs. Swinfen is another matter, but Mrs. Swinfen's reluctance to sign away much of her interests led to an attachment being sought against her that would have compelled her to agree; the matter was referred to the Court of Commission. That latest action led to delay in the publication of Mulock's letter (at a later date Mulock's unwanted contribution in a court case, no matter how passionately he thought it in the public interest to do so, was to adversely act upon him):

To the editor of the Staffordshire Advertiser,

"The Case of Swinfen v Swinfen:

*Sir, Whenever legal subtlety and professional pretension are violently at variance with common sense and ordinary conscience of mankind, we are entitled to assume that the lawyers are at fault, and that they are perversely urging on objectionable point in order to injustice the colour of law. The facts of the above case fully verify my proposition; and though a perfect stranger to all the parties, it so happens that I was the earliest person to offer a decided opinion on the extraordinary compromise alleged to have been effected at a former Staffordshire Assizes. On the instant that I perused the proceedings reported in your excellent journal, I addressed and posted to Mrs. Swinfen a letter of compassionate counsel, in which I earnestly advised her to refuse signing any papers that might be presented to her for the purpose of giving effect to the agreement which Sir F. Thesiger had made in defiance of her directions. I pointed out to Mrs. Swinfen that the whole arrangement was not only unauthorised but **illegal**; and that even had her consent been obtained, the court had no power to infuse validity into a compromise between the litigating parties. And the reason is abundantly plain. The case of Swinfen v Swinfen was not a suit instituted by a plaintiff against a defendant; it was an issue out of the Court of Chancery to try the validity of a will, by ascertaining the mental competency of a deceased deviser; and is it not clear as the day that the verdict of a jury was absolutely requisite for the settlement of the disputed question? How such great luminaries of the bar and bench should have concurred in a preposterous compromise, which virtually superseded all law and equity, is an anomaly which I leave to others to explain, if possible; but I certainly feel gratified in perceiving that the views **which** I pressed so strongly and on the spur of the moment upon Mrs. Swinfen, constitute the main arguments of her able and fearless advocate, Mr. Kennedy.*

I am sir, yours faithfully,

December 4th 1856.

Thomas Mulock.

(From the date of the above communication, it will be seen that we held it over; as we thought it would be best not to publish it until the judgement of the court had been pronounced. Editor)¹ The case was eventually settled in Mrs. Swinfen's favour.

Imprisonment, at least under the conditions that he enjoyed as a debtor prisoner, does not appear to have perturbed Mulock, or not so that he would allow it to show to his daughter. In letters addressed to Dinah at this time Mulock expressed his religious belief and tolerance: "My comprehensive comfort on every recurrent birthday invariably consist in the full assurance of faith that the blood of Jesus Christ the son of the living God cleanseth from all

*sin now and forever! This blessed belief fills my mind with light and life, peace and joy and moreover with the certainty of coming glory and immortality. It turns my prison into a tranquil sanctuary and instead of growing old I feel myself growing young for **former things are passed away and all things are made new.** This is all of Grace – **we love him, because he first loved us.**” On another occasion he wrote, “Christendom has universally **despised and rejected** Christ, so that obedience to his divine Commandments is deemed to be madness and delusion. The penal **result of this anti-Christian** rebellion against God is, that true love and true marriage are lost to unbelievers forever and ever! Wedded love will be eternally unknown and un-enjoyed by persons who are ungifted with **mutual faith in the blood of the lamb**, who is himself the supreme bridegroom of his Church – and who is therefore the heavenly model for all husbands worthy of the name. Then, “But if you were to write a volume you could not remove the impression which the public are inclined to cherish concerning me, fortified by sly sneers quotable from Byron, and my old acquaintance Tom Moore. The fact is that I have brought much of this malignity upon myself – by condescending to mix and defile myself with the world’s affairs – which lie wholly out of my true Christian sphere. Y prison discipline has taught me an invaluable lesson – viz. To view alike the world’s praise or blame and to **keep myself unspotted** from its manifold corruptions. I am, through Grace, a devoted follower of the glorified Son of God – and as the world openly or covertly despises and rejects Christ – and will always do so – my safety, happiness, and true prosperity consist in being entirely severed from the world – which I am.”²*

The Indian mutiny gave Mulock further opportunity to express his candid, even extremely candid views on traders and expansionism.

THE MENE, MENE TEKEL OF THE INDIAN REVOLT:

Sir,

The wise men and state sages of our British Babylon are utterly at fault in their vain efforts to interpret the awful mystery of the last month’s tragic tidings from India. Greased cartridges acting upon the Brahminical superstition of Hindu soldiers, abetted by the crafty influence of their Mahomettan comrades, furnished the first foolish solution of the terrible problem; and now we have had Mr. Disraeli’s grand exposition of this imperial disaster in a pompous oration, “full of sound and signifying nothing.” The main drift of this rhetorical opposition leader was to let off a sparkling speech in the “I am Sir Oracle,” style, studded with caustic sarcasms, and evincing a vast show of historical research by stringing together a quantity of minute facts with a filigree of amusing fancies.

*But all this guesswork is sheer absurdity. If men refer to history let them go further back than the last few years. Let us examine without shrinking the sad annals of our Eastern misrule, and we shall be constrained to admit that retributive justice lies at the root of all our present calamities. What England requires to know is the solemn fact, **how did she acquire her Indian possessions?** Was it by rightful conquest or by voluntary concession? Mr. Disraeli ignores this important inquiry, so do all the magnates of the periodic press; but as it is the true key to the whole subject I wish to impress it boldly and effectually on men’s minds.*

*On the centenary of the battle of Plassey a public meeting was held in London to invoke aid for promoting some national testimonial which should attest England’s gratitude to the memory of Robert Lord Clive, by whose valour and ability our Indian Empire was originally won and established. **Nescia mens hominem!** On that very day the Bombay mail reached Alexandria, conveying the fatal intelligence that Bengal Sepoys were in bloody revolt, and were carrying fire and sword throughout our defenceless stations. Our blind guides would have it that this is only a military mutiny – but what can be worse than an insurrection of armed natives whom we have accoutred for the field, and who combine the European arts of war with their own Oriental modes of massacre? All India will openly or covertly befriend these mutineers, who are actively engaged in endeavouring to overthrow British supremacy. And let it be noted that all revolutions in Asia have been invariably*

effected by soldiers. Popular insurrections are unknown. No **ementes** could be organised in a Bengalee populace; no barricades could rise up in Calcutta or Benares. But the insurrectionary spirit of India is represented by the Sepoy multitudes who have deserted our standards, and who will identify the masses with their cause; and thus we shall have before us the terrible task of recovering our rule over revolted millions. That the natives will ultimately prevail, after a sanguinary struggle, is to my thinking a matter of fearful certainty. My conviction is founded in the Scriptural belief that nations, like individuals, must infallibly reap what they sow; and however long judgement may be delayed, God will assuredly **measure men's former work into their bosom.**

The enterprising extensions of England's commerce led her to the coasts of India; and there, by the connivance of the native Princes, she established "factories," which at first were but trading **entrepots** manned by counting-house clerks. Feuds sprang up among the vassal Princes of the Mogul empire; the French and English adventurers took opposite sides, and the issue was favourable to the interests espoused by the British intruders. Emboldened by signal success, our commercial cupidity took the additional shape of territorial aggrandisement. Clive and his British bandits wrought wonders. By dint of daring energy they assumed a mental mastery over Eastern multitudes, and the result was the physical prostration of an immense Empire, which was to be ruled in future by the despotic delegates of a joint-stock company in London. And here lies the dreadful secret of English misrule in India. **The British Monarchy** has never borne direct sway – Royal Supremacy – in India. The cupidity of a counting house has been the governing principle of our ignoble rule over Hindustan; and no tyranny upon earth is so cruel, galling and oppressive as the sordid domination of commercial rapacity. To the insatiable covetousness of the English commercial potentates in India we must ascribe all the atrocities of Clive's guilty career – all the enormities perpetrated by the British **Verres**, Warren Hastings – and in fact the whole system of annexation, with its concomitants of gigantic robbery and wrong doing, from the dictatorship of Lord Wellesley to the avowed absolution of Lord Dalhousie. Nor should we omit the fruits of that amazing legislative blunder which, while virtually annihilating the East India Company as traders, left them in possession of the territorial government of Hindustan, to extort revenue by threats or by torture, and to carry on a course of blind injustice under colour of law.

After one hundred years of wrongful possession of India we have now got notice to quit, for we can no longer govern Hindustan by Sepoy instrumentality, and an adequate machinery of European soldiery in that burning climate is a stark impossibility. Moreover, the impolitic exclusiveness of the East India Company having prohibited the least approach towards colonisation, there is no British interest in India beyond the official circle of civilians, and the entire native population will be arrayed against our European handful. If all the available military force of England should be despatched to India, it would not enable us to recover our lost position in that ruined region, for we have a double difficulty to encounter, owing to the immense area over which our grasping rule has increasingly spread. If we concentrate our forces, our numerous outlying stations will be cut off in detail; and if we attempt to defend those stations, our armies will be disabled from efficiency in the field. The plain painful truth is, that India is lost to us as a dependency of the British Empire, for our power in Hindustan has passed away! **That** power consisted wholly in our permitted precarious hold over the **mind** of an abject population, cowering beneath our mechanically enforced sway. Our bubble of misgovernment is burst, and all human means will prove ineffectual to retrieve our fallen fortunes. From the savage slaughter already inflicted upon our unhappy Europeans, it is to be feared that the natives will proceed to a general massacre, with the intent of extirpating the hated intruders, of whom they no longer stand in awe. We have no **right** to remain the possessors of India. As well might a band of burglars claim a right to remain in the house they had robbed. Instead of sending ships to India crowded with soldiers and filled with munitions of war, England's wisest course would be to dispatch a whole navy to our Indian ports, and embark every man, woman and child surviving in our

settlements. But national pride will stifle all prudent counsel, and British blood and treasure are about to flow – for what? To recover an Indian empire for Leadenhall Street chartered monarchs.

The foregoing strictures were penned before the arrival of the last melancholy overland mail. Every tittle of tidings serves to confirm the correctness of my views, and a fatal feature of the revolt is now largely developed. **It is a religious war.** False religions are upheld by false priesthood and the native priests are the implacable instigators of insurrection. It was precisely the same in the two great Irish rebellions of 1641 and 1798. Indeed the analogy is fearfully characteristic. The same war cry of “religion;” the same prominence of priestly fanaticism; and the same indiscriminate slaughter of alleged heretics, without sparing sex, or age, or infancy. In shuddering over Indian horrors, we seem to view the counterpart of Irish atrocities – both perpetrated under the diabolical pretext of religion. **The dark places of the earth are filled with the habitations of cruelty.**³

In November, 1857, ever concerned with situations where legal difficulties brought about what appeared to him injustice, Mulock took up the case of James Key, a debtor prisoner in Stafford gaol and wrote to the Lord Chancellor complaining of the inadequacy of the law in this instance:

To the Right Honourable Lord Cranworth, Lord High Chancellor,

My Lord,

However arduous or pressing your Lordship’s existing engagements may be, I am confident you will give immediate attention to the following case:

James Key was arrested for debt and conveyed to the sheriff’s ward of Stafford gaol on the 13th January 1857. He petitioned the Insolvent Court, had his hearing before the County Court Judge (R. G. Temple, esquire) on the 4th of March and was contingently discharged on a remand of ten months. This adjudication appeared to be so extraordinarily severe that two applications were made for a re-hearing, which at first Judge Temple said he had no power to grant. He afterwards admitted his power, but refused the application on the 7th of October. It was, however, acknowledged by the judge “that he had not remanded Key on the grounds of fraud;” but if that were the case why had he inflicted so excessively severe a sentence? In the meanwhile the insolvent Key was seized with serious illness, the governor of the prison, Major Fulford, felt it his duty to call in the attendance of the prison surgeon (Mr. Hughes), who, together with three other medical men of high local standing, joined in a certificate declaratory of their opinion that the further imprisonment of Key would endanger his life. The further steps in this matter will be best made known to your Lordship by the three papers enclosed herewith. The result of a reference to the Chief Commissioners of Insolvency appears to be this: “That an adjudicated insolvent can be liberated by his detaining creditor under any circumstances, but that the law affords no possibility of the release of such an insolvent even at the point of death.” Either the Chief Commissioner is wrong, or there must be a grave omission in the law of this country. According to the present doctrine and practice, an adjudicated insolvent (for there lies the pith of the case) who has been divested of all pretension to property, may sicken and die in gaol under the eyes of the authorities, if he be not able to raise money to compromise with a detaining creditor and thus defraud all other scheduled creditors. Out of respect to your Lordship’s high position, I take the liberty of troubling you with the brief details of this case – but not with the view of asking for any intervention on the part of your Lordship. Your Lordship will be good enough to return me the enclosures, which I mean to publish without delay, as the general question calls for inquiry and settlement. I have the honour to be, your Lordship’s obedient servant,

Thomas Mulock.”

I did not find a reply to this letter but perhaps through Mulock's intervention, Mr. R. W. Litchfield, solicitor, took up the case of Key, who was suffering from enlargement and chronic inflammation of the liver, and Key was released in December 1857. James Key, however grateful he may have been, did not pay the solicitor's bill!⁴

In May, 1858, undoubtedly influenced by his own experiences and the cases with which he was surrounded, Mulock published for sale an article, *'Imprisonment for Debt Unsanctioned by the Law of God and Utterly Opposed to Christ's Gospel,'* priced at two pence, published by Hill and Halden, of Stafford and W. Tweedie, Strand, London. In claiming that imprisonment for debt was a device of Satan, Mulock inveighed against the system of credit whereby moneylenders gained a profit from their transactions and, if they did not get their return, could consign a debtor to imprisonment. In drawing a comparison between the lot of the debtor and that of the criminal prisoner, Mulock pointed out quite accurately that the latter, if health was in jeopardy under protracted confinement, might gain release by representation through the Visiting Justices of the prison to the Secretary of State; not so the hapless debtor. No power, not even the Royal Prerogative, existed to release even a dying debtor, other than the detaining creditor waving his interest or the debt being paid in full. The *Staffordshire Advertiser* in noticing this publication commented:

'Mr. Mulock in this pamphlet has used his able pen in behalf of many thousands of the poor, the needy and the oppressed, who are confined, at the instigation of relentless creditors, in her Majesty's prisons. In his own forcible style the writer undertakes to prove 'that a more blasphemous and defiant denial of God cannot exist than where imprisonment for debt is enforced by the law of the land.' That law, he asserts, has no sanction in the will and word of the Most High, and in proof of his assertion refers to the law and the prophets, in which the poor and needy are declared to be fit objects for clemency and compassionate bounty, every seventh year being by the law set apart for the release of a debtor from his debts; and in like manner in the New Testament there cannot be adduced one recorded word of Christ and his Apostles which does not inculcate mercy, forbearance, kindness and bountifulness to the poor. The source where the gentile nations have derived their iniquitous legislation, which serves to perpetuate the horrible tyranny exercised by creditors over debtors, Mr. Mulock ascribes to the devil. The system of credit, the proximate cause of imprisonment for debt is thus denounced:

*'Imprisonment for debt is a device of Satan, to back up the cruel covetousness of churlish creditors by giving them an unjust power over the bodies of their debtors. No law compels any man to lend his money or his goods; nevertheless he is anxious to give credit that his capital may be profitably employed. If he gets gain by his debtor, all is well; but if not the devil's law is enforced against the luckless defaulter. Now mark the tremendous injustice of this procedure contrasted with the general equity of the criminal law. However heinous may be the alleged guilt of the transgressor, he cannot be finally consigned to prison until his case has been so sifted by competent authorities as to justify commitment for trial; and his body is in the custody of the state. But in the case of an unfortunate debtor every principle of public justice is horribly reversed. The creditor is allowed to usurp the function elsewhere exercised by the state – to consign the debtor to gaol by his (the creditor's) act, and to keep him there even if **in articulo mortis**. There exists no power in any court of law – no, nor in the royal prerogative – to release a dying debtor. Shylock must have his pound of flesh in England, for so the lawyers have inexorably ruled the point. But in a prison, where a debtor's health is destroyed by confinement, we are bound to notice the proper lenity observed towards malefactors. If the health of a convict sinks under protracted imprisonment, his case is immediately represented by the Visiting Justices to the Secretary of State, who infallibly orders the enlargement of the prisoner. Credit is given lavishly and recklessly from sheer avidity for gain. A Manchester man who would not lend a shilling to a needy friend, will risk thousands in giving credit to parties upon whom he will even force his goods. And in the like manner will act myriads of traders, fiercely competing to secure customers by means of*

*enticing credits. Now the law of imprisonment for debt gives a pernicious encouragement to this system of universal credit. The covetous capitalist thrusts his goods upon the small trader – obtains some unjust preference – then sides himself up, and finally sends him to gaol, in the hope of extorting money from his friends. In such cases the last resort is the Insolvency Court, and the relief thus extended only enlarges the sphere of fraud; for it is a well known fact that the most dishonest debtors who can manage matters through the aid of pettifogging attorneys, are the persons who get off scot free through the feeble actions of County Courts. Fraud is palpably proved, and the culprit sent back for a year – and on the night of his commenced sentence he is at liberty and laughing in a taproom at the baffled severity of his outwitted judge! How is this? Why the knave avails himself originally of a ‘friendly arrest’ in order to pass through the court, and when convicted of roguery is at once discharged by his sham collusive creditor. Thus the **bona fide** imprisoned debtor is reduced to destitution by the operation of the law and the very same law enables a thorough-paced scoundrel to cheat all his creditors with the help of an unscrupulous lawyer. Insolvency Courts are infamous dens of shameless fraud.’*

The proper remedy for these gigantic evils, the writer adds, is in the abolition of imprisonment for debt; and the objection that fraudulent debtors would escape, he meets by saying:

‘A fraudulent debtor, a man who obtains the property of another by false pretences, by dishonest arts, is clearly a culprit amenable to the criminal law, and he should be punished by the due operation of that law. Justice should preside over his punishment, which would be awarded by the State, and which would be for a definite period, instead of his being immured in a debtor’s prison at the suit of a pitiless creditor who would detain a debtor until the crack of doom, if he could thereby extort a handful of sovereigns.’⁵

Whether Thomas Mulock, in thus pleading the cause of many thousands of people, gained any financial return from his efforts is difficult to establish; indeed it may be a matter of conjecture as to whether the printer was actually paid but it undoubtedly gave Mulock fresh impetus to carry his pen to further use; imprisonment for debt did not debar him from pursuing his chosen vocation and in the June of 1858, he ventured an opinion - citing his acquaintance with Viscount Canning, son of the late George Canning - concerning the imperfect accommodation offered to the Post Office by the authorities at Stoke railway station.

5th June 1858:

“In the summer of 1854 I availed myself of a long acquaintance with Lord Canning to press upon his lordship my view of the imperfect accommodation afforded to the Post Office by the railway authorities at the Stoke station. Lord Canning coincided with me, ordered over the then new assistant surveyor to confer with me, and in a few hours a new and much more eligible location for the Post Office was satisfactorily arranged. In the course of correspondence on this subject with Lord Canning I drew his attention to the strange inconsistency that the principal (or as it technically termed the forward) Post Office should be removed from Newcastle to Stoke, upon the special ground of the latter being a chief railway station, and yet that the North Staffordshire Railway should be made no manner of use of in the conveyance of her Majesty’s mails. Lord Canning gave me to understand that the railway company were too exacting in their demands. Upon which I frankly responded that the government had most anxiously neglected the public interests by abstaining from a just legislative measure which should make the carrying of the mails imperative upon all railway companies, they receiving a fair and liberal remuneration for the same. Lord Canning agreed with me; but like all the circumlocution office magnates, he did nothing, or nothing to the purpose. Until some general measure shall be adopted by parliament, it is plain that the grossest and most palpable anomalies will continue to prevail in the forwarding of mails.

*So long as the Post Office Department is powerless in their relations with railway companies, the Pottery folks may depend upon it that all their public meetings and deputations will end in smoke. Railways having superseded the ancient highways of England (which, by the way, were in legal parlance considered royal roads), it is a monstrous omission that the Post Offices should not possess a controlling power over railway companies, so as to secure the proper transmission of her Majesty's mails."*⁶

There was a follow-up to this letter with another to the editor of the *Advertiser* the following week:

"It may be satisfactory to your numerous readers in the Potteries to be informed that I have received a letter from Lord Colchester, the Postmaster-General, assuring me that he had given, and shall continue to give, the most earnest attention to the subject embraced in my letter, which appeared in your columns of the 5th instant.

*It should be borne in mind that the Postmaster-General is, as I have shown, much hampered by the want of due and requisite control over the railway despatch of her Majesty's mails. If Mr. Ricardo, as chairman of the North Staffordshire Railway, were to submit a judicious and respectful offer of placing his railway at the official disposition of the government authorities for the public service, I have no doubt that his proposition would be liberally appreciated, and that his example would soon be beneficially followed elsewhere, so as to render railways universally available for post office purposes, and sufficiently remunerative to the railway companies."*⁷

The opportunity for meditation – even introspection – was afforded to Thomas within the safety and security of the prison and one containing reflections on past activities now surfaced:

A letter from Mr. Thomas Mulock, of Stafford, which has been published in the *Carlisle Examiner*, contains the following anecdote:-

"The House of Commons and Railway Matters:

"For many years I enjoyed an intimate acquaintance with the late Sir John Gladstone, of Fasque – the father of an ex-Chancellor of the Exchequer. One day in the winter of 1841, I was conversing with Sir John, at his house, in Carlton Gardens, when the worthy baronet condescended (as the Scotch lawyers say) upon the fruitful theme of the enormous frauds and deceptions perpetrated by railway schemers, in getting up and even carrying out the most pernicious projects. I asked why the legislature did not adopt some stringent measures to check such abominations? "Impossible!" rejoined the clear-headed canny Caledonian. "Don't you know that we have a railway parliament – almost every member of the House of Commons is, by himself, or by his connections, mixed up with the scandalous schemes of the vilest railway projectors. Nay, the very best projected railway could not secure the sanction of a committee if sinister influences were not lavishly employed. I will (continued Sir John) give you an example. When the Liverpool and Manchester railway scheme was before Parliament I was one of the directors, and I assure you, upon my honour, that we never should have succeeded if we had not taken the precaution of bribing every member of the House of Commons Committee." "And how was this effected?" I asked, anxious to penetrate the arcane of the noblest legislation in the world. "In this simple business-like way," said Sir John, who was quite 'up' in all such clever achievements – "Lord Molyneux (now Earl Sefton) and I stood on either side of the Committee door, and as each member approached we placed in his not reluctant hand a certain number of propitiatory shares." "And were they accepted by all the honourable senators?" said I. "Aye, Sir, and not only so; but the well-known William Holmes applied to us for a second supply on the plea

that he attended the committee twice as often as any other member.” I was so struck with this ingenuous statement of my venerable friend that I took a full memorandum of this notable piece of House of Commons scan.mag., and, to prevent all mistakes, I showed my memorandum subsequently to Sir John, who, with an approving laugh, ratified my faithful record of his ipsissima verba.”

(We leave the responsibility of vouching for the correctness of the above statement entirely to the writer and publisher of the letter – Manchester Guardian.)⁸

The following month Mulock returned to attack the process of imprisonment for debt, this time over the involvement of the County Court and the heavy maintenance costs incurred by the county ratepayers and appealed for the withdrawal of the power of County Court Judges to commit persons to prison. Citing statistics for the past three years, Mulock claimed that 749 persons had been committed to the gaol at Stafford, all for debts and costs of under £3. Mulock also took his customary swipe at lawyers, and in particular Lord Brougham, and did not fail to quote a judgement that put his old adversary Campbell in an adverse light:

*‘About forty years since, the present Lord Brougham, then a prominent member of the House of Commons, raised, in and out of the senate, a very loud and popular cry for what was plausibly styled “law reform,” and in which grand enfranchisement from error and tyranny Henry Brougham was to be the legal Luther. This movement opened a career more likely to be successful than one of mere political partisanship. As a general rule lawyers do not succeed in the House of Commons, and their failure is ascribed to their forensic habits, which, it is said, render their manner of speech disagreeable to the third estate. But this is a false explanation of an undoubted fact. The real reason is that no amount of seeming zeal or declamatory power can ever make people believe that lawyers are in earnest. Advocates are professional men looking out for hire from any paying quarter, and whether they speechify in or out of Parliament they are viewed as civil **condottieri** – purchasable pleaders who will fight in any cause, utterly regardless of the truth or falsehood of the brief committed to them. The lamented Spencer Perceval is perhaps the sole instance of a practising lawyer’s attaining to great political eminence, but poor Perceval was not one of the children of chicane nurtured exclusively in the wiles of Westminster Hall; he was a man of plain good sense and honest frankness, and therefore, in spite of his Attorney General-ship, he was the ear and heart of the House of Commons. Brougham never would have been premier if he lived to the age of old Parr, so he betook himself to law reform, as the suitable sphere for promoting his personal aggrandisement, cozening the credulous world into the belief that philanthropy and patriotism were the inspiring motives of his virtuous ambition! As the tree is known by its fruits, so we have a right to examine the results of Lord Brougham’s boasted reforms, and to test the soundness of his multifarious schemes. One of his chief crotchets is a burning anxiety for what he calls ‘cheap justice for the poor;’ and this great end is to be effected by gradually investing County Courts with the jurisdiction formerly monopolised by the Superior Courts – so that a local machinery should be everywhere in action drawing forth the uttermost virulence of man’s fatal love for litigation. To sages like Lord Brougham, who evidently considers society to have been organised for the benefit of lawyers, all this is natural enough; it is the old story of the currier’s “nothing like leather.” But Christian contemplation discovers infinite evil in this wide extension of the facilities for going to law. The costliness of proceedings in the superior courts was a salutary check on lawyers and their eager or vindictive clients. No such restraint practically exists now, for a floodtide of boundless litigation ever rushes towards county courts; and those courts, in sharing much of the jurisdiction, ape the pompous nothingness and elaborate search after subtlety which too frequently darken the decisions of the London judicial magnates. In town and country courts, firm, luminous, legal principles are seldom or never enunciated; and in their stead we have cases peered out from among piles of precedents, in the hope of straining some analogy to the case in hand, but producing about as much resemblance as between a cannon-ball and a*

Dutch cheese – both being rotund bodies! But lawyers only follow their vocation in mistaking sophistry for truth and justice.

Where, however, the most ruinous result of the County Court procedure is manifested is in the universal increase of the credit system. Traders and shopkeepers are everywhere competing to secure custom, and with the poorer classes no incentive to deal is so strong as the allurements of easy credit; that credit is now all the more readily given, because the huxter or higher trader calculates upon the succour of the County Court. With a judge and high bailiff eventually to befriend him, the shopkeeper issues a cloud of passbooks, winks at insufficient cash payments, and allows still further advances of goods, till the day of doom arrives and the plaint and trial, and judgement summons convince the British debtor that Lord Brougham has indeed “brought law to the poor man’s door,” and handed over his goods to a broker waiting outside! Now, in thousands of cases it might be clearly shown that this credit system is perniciously upheld by the action of County Courts, whose principal function is to promote the recovery of small debts. But the effect of this legal machinery is to disappoint the creditor while distressing the debtor, and thus ‘cheap justice’ in the shape of ‘costs’ continues to swallow up the produce of sales under execution warrants.

Still it may be properly urged that a debtor who has had goods from a trader should be forced to make payment so far as his own goods are available; but what shall be said of the innumerable commitments which crowd our county gaols with increasing multitudes of County Court debtors? Ordinary debtors imprisoned for amounts exceeding £20 are in no very enviable plight it is true, but in the worst even they have the Insolvency Court to repair to. But the County Court debtors are for the most part absolute paupers by operation of law, who are sent to prison as a punishment for some un-definable offence, the gravest one being the total want of funds. To mend this latter delinquency the county court judge sends an unfortunate whose debt and costs are under, it may be, ten shillings, to the county gaol for twenty or forty days, to be there supported at public expense. As the imprisonment does not operate in any extinguishment of the debt, the debtor, it appears, may be sent to gaol again and again for the same debt, but always loaded with additional costs for supplementary court processes. This point has been decided in the Court of Queen’s Bench. A County Court judge had made an order for payment by instalments, and upon default the debtor was committed for seven days, and was subsequently summoned and committed three several times for forty days for non-payment of the same sum. The debtor was brought up by habeus corpus and the court held that the County Court Judge was right. “I think,” said Lord Campbell, “that the judge had the power to grant a fresh warrant of commitment for a period not exceeding forty days, if the prisoner was guilty of a new default under the act. If the prisoner on being summoned acknowledged his ability and refused, under such circumstances the Judge was authorised again and again to make out a fresh warrant.” This is forsooth what legal folks call a ‘decision,’ and yet what a vague indecisive piece of misinformation it is, for it assumes that the debtor had ‘acknowledged his ability to pay and refused,’ which is so improbable that it may be safely said no such acknowledgement ever occurred.

But leaving Judges to grope in their own darkness, surely it behoves laymen of ordinary power of mind to ponder on the oppression connected with the imprisonment of County Court debtors. By the kind permission of the Visiting Justices, the ratepayers of Staffordshire may now gather from the following official return the heavy cost of the maintenance in prison of the County Court debtors during the last three years ending June 30th 1858:

*The number committed whose debt and costs were under 10 shillings - 31;
10 shillings to £1: 184;
£1 to £3: 534;
£3 - £5: 189;
£5 - £10: 161;*

Exceeding £10: 120.

Here, therefore, we have a total of commitments during the last three years of 1,219, and for what imaginable object, it may be asked, is the county saddled with the prison sustenance of debtors sued by the parties who choose to give credit with a view to trading profits? Why should a farmer in the Moorlands be compelled to pay additional county rate because a Potteries huxter sells bad groceries on credit, and then consigns the indigent debtor to the tender mercies of the County Court – so affluent in commitments? What is wanted is the withdrawal of the power of commitment to prison for debt from County Court Judges. As the foregoing return plainly shows, the very poorest of the community are immured in consequence of claims for which the law does not permit them to be arrested. You cannot sue out a writ for less than £20; and here are poor creatures sent to gaol where the debt and costs is under 10 shillings! What a blessing is ‘cheap justice’!⁹

When the death of Joseph Gill, a debtor prisoner, was reported in August 1858, Mulock responded to the news with another tirade against imprisonment for debt:

‘The Recent Inquest on a Debtor confined in Stafford Gaol’

‘Sir,

In your issue of the 21st there appears a meagre and misleading paragraph under this head, which must not be suffered to mystify your readers. I am quite certain that it never emanated from any of your able reporters, who are always clear and faithful, and who are incapable of bad orthography.

The paragraph in question states that the deceased debtor, Joseph Gill, ‘died of disease of the heart’ ascertained, of course, in the usual way, viz. by a post mortem examination, which, in eight cases out of ten, is one of the grossest deceptions imaginable; but, in this particular case, it was a rank humbug. The disease of the heart that cut short Joseph Gill’s existence was, in fact and truth, anguish and disappointment from inability to obtain release from protracted imprisonment. Had any of his fellow prisoners been summoned before the Coroner’s jury, they would have testified that up to a very late period, when his hopes of enlargement failed, Gill was in the enjoyment of good health, and was, according to fair appearances, as likely to live as most people.

The case is a fearful illustration of the views put forth in my tract on imprisonment for debt, so fully noticed in your columns. I alleged that the incarceration of debtors was mainly an instrument in the hands of rapacious attorneys, in order to extort untaxed costs. Gill was held in custody for an amount of £25, due for rent, and his creditor on hearing of the prisoner’s illness freely forgave him the debt, but there was an illegal accumulation of costs which the attorney, even when Gill was in extremis, refused to reduce below £16. This latter sum not being obtainable to satisfy the legal harpy, Gill died in the gaol infirmary, where he received the kindest and most liberal treatment, but to his latest hour he dwelt incessantly on the hardship of his case, which undoubtedly drew on his dissolution. Attorney-Coroners may not like that the oppression arising from the abuses of lawyer-dons should go forth to the public, but it is incumbent on the press to diffuse a knowledge of the working and wickedness of that evil system which is carried out by means of lawyers. Bad laws are the worst tyranny, and no laws are as iniquitous as those which sanction imprisonment for debt, where no fraud is proved. Convicted criminals are allowed to prowl for plunder throughout the land under the sanction of ticket-of-leave; imprisoned convicts have their terms of sentence shortened when their health is endangered by prolonged custody; but a wretched debtor must pine, wither, and die in gaol under the twofold tyranny of an implacable creditor and a still more inexorable attorney.

Stafford. August 22nd 1858.

Thomas Mulock.

P.S. Dr. Hughes informs me that, in answers to questions from jurors, he stated that 'If Gill had been released from prison his life would probably have been prolonged.'¹⁰

Joseph Gill had been under imprisonment since the 1st of September 1857, for an amount totalling £25 that was due for rent and costs, and had been admitted to the prison hospital on the 2nd of August 1858.

A week after this letter and Mulock was again pointing out the deficiencies of the legal system in respect of County Court debtors, this time citing an instance of a man sent to the gaol for the trifling sum of 10d, and proceeded to lecture the Judge concerning the practice whereby only the officer appointed by the court was permitted to value the goods and effects of an insolvent before that person could take advantage of the Insolvency Court in order to seek release, no matter the distance involved and the expense that this could put the debtor to; while a licensed auctioneer, living nearby, was unacceptable.¹¹ This last contention was later re-butted by the judge of the court, Rupert Kettle,¹² on the grounds that the relevant Act of Parliament authorised such action, but the argument relative to the expense of the auctioneers had much merit:

*“Improper Exactions upon Insolvent Debtors under the Colour of Authority
From a Judge of the County Court.*

In a recent article (see above, 10th July 1858,) touching the practice of the County Court, it was shown, in a way not open to easy contradiction, that the imprisonment of County Court debtors for the most insignificant sums was partly attributable to securing bailiffs fees; and it is to be hoped that in future the judge will institute a stricter inquiry before he sends a debtor to gaol for so small an amount – ten-pence – the procedure having only the effect of enriching a well paid officer of his own court. But while our former strictures were being put in type a county court case of a somewhat similar description was occurring, which it behoved the press to lay before the public, in order to check proceedings of a very censurable character. The disclosure is made on purely public grounds, the writer having no more personal knowledge of any parties whose conduct he may blame than he has of Commissioner Yeh or Nana Sahib.

The facts of the present case are as follows: John Nichols, of Longton, an imprisoned debtor, being constrained by the implacability of a creditor's solicitor to take the benefit of the Insolvency Court, he (Nichols) employed a licensed auctioneer at Longton to value his articles of furniture, etc., which were appraised at £6-6s-3d and the auctioneer was paid six shillings for his trouble. On the 27th instant Mr. H. Gillard sent his assistant to the county prison and demanded payment in advance for taking an official valuation of Nichols's goods, on the plea that Mr. Gillard was the valuer appointed by the Judge of the County Court. Nichols showed the inventory already taken and paid for. The rejoinder was that all such valuations went for nothing, and that if Nichols did not employ Mr. Gillard he should be 'prevented from passing the Insolvency Court.' Nichols was intimidated, and at length compromised for the sum of five shillings which he paid to Mr. Gillard's assistant; the latter saying that he was going to Longton on other business and would call and revalue Nichols' articles. He did call in the afternoon, saw Nichols' wife insisted upon taking an inventory, and peremptorily demanded £1-5s as his legal charge. Mrs. Nichols had not so much money in the house, but being terrified by the threat of her husband being 'prevented from passing the Court' she hastily went to a near neighbour and borrowed the required sum, with which the intruder departed to his employer.

On a full representation of these facts being made by letter to Mr. Gillard he placed twenty-five shillings in the hand of the governor, which same Major Fulford instantly ordered an officer to transfer to Nichols. This is so far well, but it does not fully meet the justice of the case, which calls for the amplest publicity, inasmuch as many similar cases have now turned

up, and some security against the recurrence of such abuses should be afforded to the public at large. It is quite preposterous to allege that the county court judge has the power of giving a monopoly to *his* valuer. If so, it would not only allow room for such exactions as the one just narrated, but it would be a monstrous oppression on insolvent debtors. A debtor is in gaol, his furniture and his family's clothing in a house very many miles from Stafford, and yet, forsooth, instead of employing a licensed auctioneer on the spot, the insolvent must be at the heavy cost of employing a valuer sent from Stafford. The law for the relief of insolvent debtors never meditated such an extortionate monopoly as this, and Judge Temple will no doubt issue sufficient instructions to his officers, so that future malpractices may not occur in the insolvency department of his Court.¹³

In October 1859, Mulock sought to bring to the attention of the Secretary of State to what Mulock conceived an irregularity concerning proceedings at Quarter Sessions:

"The Recent Staffordshire Quarter Sessions:

Mr. Mulock presents his compliments to the editor of the Staffordshire Advertiser, and begs to transmit him for early publication, the following copy of a letter, in which reference is made to a case reported in last week's Advertiser:

To the Right Honourable Sir G. C. Lewis, Baronet, Her Majesty's Secretary of State for the Home Department:

'Sir, I am desirous of asking your official attention to the following case, which in my opinion, involves considerations importantly affecting the due administration of criminal justice.

On Friday last, the 21st instant, at the Court of Quarter Sessions for Staffordshire, a prisoner was placed on his trial, the particulars concerning whom are thus given in the published gaol calendar: No. 39, Frederick Henshall Cooper, 36, Ironmonger, superior education. W. Brownfield, Committing Magistrate, Hanley, 29th August 1859; embezzling the sum of £20, the property of Edward Bowen, Hanley.

This charge the prisoner was prepared to meet, and he had expended his funds in causing witnesses to be subpoenaed in order to disprove the accusation; but late in the evening before his trial he was served with a notice of a charge not previously urged against him, viz. of having embezzled a sum of £5-5 shillings. Thus taken by surprise – undefended by counsel, whom he was unable to fee – and disabled from obtaining any favourable evidence, the prisoner was promptly convicted on a charge not made known to him in time, whereas the charge on which alone he had been committed to prison, and which alone appears on the face of the calendar, was wholly disregarded by the bench and the bar.

It has since transpired that the commitment was entirely wrong, and that the inquiry before the committing magistrate was not concerning a case of alleged embezzlement, but for obtaining money by false pretences, so that all the judicial parties appear to be chargeable with error – and, most of all, the bench at Quarter Sessions in not demanding an explanation of the wrongful procedure in throwing aside the case on which information had been laid, and the prisoner committed for trial.

I think, sir, I am not mistaken in saying that your love of justice, as well as your high sense of the responsibility of your official position, will move you to cause proper inquiry into this matter to be instituted. If I am not much misinformed, serious irregularities occur at Quarter Sessions here and elsewhere, owing to the fact that barristers over-sway the bench, the former not being controlled as by the Judges of Assize.

Stafford. October 26th 1859

Thomas Mulock..¹⁴

(Frederick Henshall had been sentenced to twelve months hard labour)

Given Mulock's claimed association with George Canning and that statesman's undoubted charismatic influence upon so many people with whom he came into contact, any attack upon Canning's reputation, or the slightest slur upon his character, was sure to bring forth a vigorous defence from Mulock and when a review of a recent biography of Canning, by Stapleton, appeared in the *Times* newspaper, Thomas duly responded, assailing both the paper and the reviewer:

"The reviews of books which appear occasionally in the columns of the Times partake of the signal characteristics of that great leading, and it may be added, misleading journal. Haughty pretensions of the most arrogant cast, false principles enunciated as confidently as if they were established truths, bold, reckless assertions in which fiction is glibly substituted for notorious facts – these are the permanent peculiarities of the Times; always accompanied with a certain amount of intellectual power and piquancy of style which, like the Worcestershire Sauce, suffice to give a savoury zest to the most indifferent dishes. An anonymous writer in the Times of October 26th, in an article headed 'George Canning,' and purporting to be a review of Stapleton's recently published Life and Times of that illustrious statesman, has contrived to assemble, in an aggravated form, every vicious variety of Times criticism. It is a malignant, splenetic, treacherous onslaught on the memory of a great man so long passed away as to leave but few surviving friends qualified to attest his merits and to vindicate his fame. To those who had a personal knowledge of Canning it must be at once evident that the Times reviewer not only labours under the lack of any such knowledge – but he absolutely draws on his perverse imagination for what he supposes Canning to have been! The veritable Canning is shut out of view, and the Times Canning is made to exhibit all the false proportions of a hideous caricature. Thirty-two years after the death of Canning, a scribe on the staff of Printing House Square attempts to enlighten the world after the following fashion: "Mr. Stapleton's extraordinary laudation of Canning only serves to bring into more than usual prominence the fact that public opinion has not yet been fixed with regard to this statesman. People do not very well know where to place him. Was he a great genius or a great charlatan? A heaven born minister or only a pretty puppet? More than this – Canning's reputation is so splendid while his achievement is, in reality, so small, that there is every excuse for persons who are puzzled with the man, and treat him as a sort of myth, like Hercules and Mrs. Harris, King Arthur and the widow." To all which medley of bitterness and buffoonery it may be soberly replied that if by "people" is meant the people of England, not the fabled three tailors of Tooley Street, the national verdict has long since recognised Canning as one of the greatest men that ever adorned the annals of this great country. Distinguished for ability and eloquence during Pitt's lifetime, Canning, after the decease of his great chief, towered over all the Tory party, with acknowledged mental supremacy. In place or out of place, Canning, by virtue of his intrinsic intellectual superiority, stood, from the overthrow of 'All the Talents,' in 1807, until the day of his death, the foremost statesman in the British Empire. This is historical fact, although so impudently and even ignorantly flung aside by the sneering scribe of the Times. Canning had faults and failings – his human portion of public and private errors may be honestly admitted – but the exalted position he occupied among his contemporaries cannot now be ignored by reasonable man. His oratory was commanding, persuasive, and effective, beyond all that rivalry could then reach, and which now has no rivals. To compare Disraeli's pompous periods of elaborated nothingness, or Sir Lytton Bulwer's spasmodic reiterations of romance, with Canning's glowing eloquence, at once powerful and polished, teeming with high thoughts, and coruscating with the brightest wit, is sheer absurdity to all except Times reviewers. Of all the elegancies of literature Canning was a consummate master, and the 'Beauties of the Anti-Jacobin' serve to show us (and will show to posterity) that Canning's mind was of the very highest order, capable of grasping every theme,

'From grave to gay, from lively to severe,'

*The truth is that Canning's gifts and attainments were so transcendent that they stirred up the most unforgiving of mortal meanness – envy. Of this the **Times** writer gives us a specimen, furnished by the Whigs of the olden times – “the self sufficiency of Canning, indeed, at this time was so offensive that, beginning to shine in the debates, Grey, Tierney and others used regularly to leave the House of Commons when he rose,” the plain English of which we take to be, that the success of a rising orator on the opposite benches was gall and wormwood to a lot of disappointed Whigs, fearful also of being raked by Canning's incomparable talent for ridicule. That the Whig rancour still survives may be inferred from another passage, in which the **Times** reviewer sums up the character of Canning as a public man – “In his career three things are very clear, that being a jester he could not resist the temptation to sacrifice a colleague to a joke, and often a very bad one, that he was eaten up with self-conceit, and that he was essentially a trickster.” To this black indictment every admirer of Canning, every cherisher of his memory, would disdain to plead, for its utter falsity is revoltingly apparent. Canning was no jester. He was a man of genius, endowed with a wonderful flow of intellectual pleasantry, but the records of his ridicule go to prove that his great power was fitly exercised against folly, deception and crime. No man that knew Canning could ever admit that he was “eaten up with self conceit.” He had, no doubt, a proper estimate of his own eminent capabilities, but he was kind, affable, considerate, and even condescending to lesser minds, which no monster of self-conceit ever was or ever will be.*

*Whoever this **Times** castigator of Canning may be, one thing is certain, that he palms upon his readers a cloud of recitals respecting Canning's public and private life which are totally devoid of truth, e.g. “As he had stood in a peculiar relation to Pitt, so also he stood in a peculiar relation to the Duke of Portland. The Duke's eldest son and Mr. Canning had married sisters, who had inherited £100,000 each on the condition that they should not marry noblemen. If either violated this precept the other was to receive the entire sum. In marrying the Marquis of Titchfield the elder, of course, had forfeited her patrimony; but Mrs. Canning, her sister, insisted upon disobeying the provisions of the will and making over to the Marchioness her share.” Alas for heroics! A few words will dethrone this exalted bit of sentimentality. General Scott, an enormously successful gamester, had **three** daughters, one of whom married the Earl of Moray, another the Marquis of Titchfield and the third became Mrs. Canning – the latter lady being “called the poor one,” as she had only £90,000, as the rumour ran. The **Times** story is quite apocryphal; and in referring to Canning's public life the writer blunders as glaringly. He tells us, for example, that Canning “consented to serve under Castlereagh as ambassador to Spain, and when he returned to England he was content to accept the Board of Trade. This is all inexcusably wrong. Canning never went to Spain, and never sat at the Board of Trade. He was for some time Ambassador at Lisbon, and on his return home accepted the Presidency of the India Board, which he held with great administrative ability for six years; he then accepted the Governor-General-ship, which he afterwards relinquished for the Foreign Office. People who profess to direct the public mind of England into new channels are bound, we think, to consult correctness in their boastful array of alleged facts. Let them flare away in the dreamland of speculation as they list: but surely the writers of the **Times**, who may be supposed to command a supply of almanacs, red books, and annual registers, might manage to attain accuracy concerning the public life of George Canning!¹⁵*

Commenting upon international affairs held no terrors for Thomas Mulock; he was keen to share his opinions with the public and at that time discontent was rife amongst the poorer element of many of the several states that made up the Italian mosaic. Intervention by Austria and France had earlier helped to suppress popular uprisings but Giuseppe Garibaldi

had emerged as a determined nationalist leader and the formal unification of Italy was just over twelve months distant:

'The Pope and the Lost Territorial Possessions of the Papacy':

'It frequently excites the astonishment of truthful thinkers that great public questions should be, at certain seasons, so thoroughly mystified by what are called leading minds, as to render the practical solution of seeming difficulties almost impossible. And this is precisely the position of what is popularly termed the Italian question. In itself, and disembarrassed from the infinite involvements of diplomacy and sham statesmanship, the present state of Italy and its peculiar bearing on the temporalities of the Popedom, are subjects capable of being readily grasped by any person of sound intelligence. But worldly wisdom recoils from this simplicity, and would risk the peace and prosperity of whole nations rather than submit to plain, unsophisticated truth.

More than ten years ago the population of what are styled the States of the Church flung off the yoke of the Papacy, and sought to establish republican institutions in lieu of a detested ecclesiastical sovereignty. After a bloody contest with troops furnished by the then French Republic, the Roman revolvers were vanquished, and Pio Nono was re-enfeoffed with a mock rule over the Papal Territories – the real protecting power residing in the bayonets and artillery of a French garrison swarming round the Vatican. So far the Pope became repossessed of Rome, and outside of the city his sway was recovered and upheld for him by Austrian troops, spread over the pretended patrimony of Saint Peter.

*Such was the state of things in Rome and in the legations when on New Year's Day 1859, Napoleon 3rd let fall the ominous words which foretold war with Austria. We all know the history of that short but most sanguinary war – terminated by a patched-up peace, which contains the baneful germs of wars probably at hand. But be that as it may be, one thing is clear, viz. that the crossing of the Ticino by Roman Catholic Austria as the true prelude to the fall of the Pope's temporal power, for the victories of Magenta and Solferino only served to rouse the Pope's misruled subjects into successful rebellion, a rebellion, in short, which the despoiled wearer of the tiara has neither power nor influence to quell. Well, he must submit, like other dis-crowned sovereigns, to the loss of sovereignty, without attempting to call in other nations to avenge his wrongs. Pope as he is, he has no better claims to restored temporal power than other Italian Princes now exiled from their grand dukedoms. Intervention on the Pope's behalf would certainly cause much bloodshed, and if his rebellious subjects should be overpowered by foreign force **that** force must be permanently employed to secure a hollow subjection to a hated rule.*

Therefore the proper course of the great European powers is as clear as the noonday. No congress is required, for nothing is wanted to be done. As the Pope is shown to be without power in his temporal concerns let him fall back upon his boasted spiritual sovereignty, and be as infallible as he can! Surely the great pontiff, who can impose the most unscriptural dogmas on ever so many millions of abject religionists, can manage to yield to his lot, and bear contentedly the privation of certain square leagues of a revolted region!

The blind zealots who accuse other governments of deadly enmity against the Papacy –because, forsooth, they will not cry havoc and trample down the seceders from the temporal rule of the pontificate – little dream of the horrors that will overspread Italy if the Pope's domination should be forcibly revived; and in no other way can it be revived. Whether the former subjects of the pope will vitally improve their condition is perhaps questionable, but the stern fact is, that they have unanimously ceased to be his subjects; and if Pio Nono cannot coerce them into renewed bondage, what power can justifiably interfere?'¹⁶

The general situation in Italy fired Mulock's enthusiasm to follow up these comments with an article that commented on Ranke's 'History of the Popes,' (though Mulock's contribution seems more of an attack on the Papacy than an evaluation of Ranke's work, though perhaps, as Ranke's work was in itself an attack on that famed institution - no matter how impartially it might be thought Ranke approached his subject - then Mulock's aggressive words may be taken as a critical endorsement of the history). For those unfamiliar with the work in question it should be mentioned that Leopold Von Ranke, a Protestant from the North of Germany, published his History of the Pope's in 1834, under the title '*The History of the Popes, their Church and State*,' the title amended in a later publication of 1874 to the present one, and when the work was thoroughly revised and extended by other sections.

Mulock's contribution was the following article:

"RANKE'S HISTORY OF THE POPES, COUPLED WITH MACAULAY'S REVIEW OF
THAT CELEBRATED WORK":

*"No better service can be rendered at this moment to reflecting readers than to invoke their earnest attention to the twofold theme sought to be briefly and pithily treated in the following truthful strictures. The Papacy, in its relations with European polity, and with the Roman Catholic religion wherever subsisting, is, just at this important conjuncture, the absorbing topic which exercises the minds of statesmen, politicians, and ecclesiastical combatants, who all manifest a very scanty knowledge of the subject. A Parisian **brochure** entitled **le pape et le Congres** has the chief credit for stirring up an awful amount of angry discussion among the foes and partisans of the Popedom; and yet this vaunted pamphlet (alleged to be the product of an Emperor's brain) does not contain two sentences of solid truth or practical wisdom. It is a see-saw statement of **pros** and **cons**, interspersed with a brilliant display of French flippancy, strongly resembling the fireworks occasionally let off before the windows of the Tuileries, and not a whit more permanently useful. All that can be gathered from Laguerroniere's second-hand pages is an inference that Napoleon 3rd, although a very good Roman Catholic after a certain philosophical fashion, has no particular desire to endanger the stability of his imperial throne by starting a fresh war for the recovery of the Pope's lost territorial possessions. As the case stands, the Pope appears to lie under heavy liabilities to the French Emperor without having rendered the only equivalent in his power, viz. the papal consecration of Louis Napoleon's as yet **uncrowned** sovereignty, in which the elected of France falls short of his uncle's complete assumption of imperial dignity. Perhaps Pio Nono bears in mind that the recompense of Pius 7th for crossing the Alps to preside at the coronation of the victor of Marengo was a subsequent journey as a prisoner, escorted by dragoons, to a long captivity, first at Savonar and then at Fontainebleau! Popes of the true school do not easily forgive or forget slights passed on their predecessors. As for the friendly scheme of supplying the Pope with a fixed income derived from the **quotas** to be contributed by the Roman Catholic potentates, it sounds more like a jocular hint thrown out at **L'ambigu** or some other comic theatre on the Boulevards, than a serious suggestion emanating from the cabinet of St. Cloud. Who is to settle the partitioned amount – and who is to enforce the payment – if remittances fail? Even a congress can hardly guarantee permanent pocket money for the Pope and Cardinals in lieu of the rich emoluments wrung from the Romagnese provinces, now lost or fading away from the fabled successor of Saint Peter. However devout and self-denying the Conclave may be, they will probably feel dissatisfied with the portion assigned them in the Emperor's pamphlet, viz. prayers and **la culture des ruines** – whatever worship that may be – it is to be hoped not a return to the old Roman mythology.*

From all this nonsense propagated by imperial pamphleteering, it is really refreshing to recur one of the ablest works on the Papacy ever given to the literary world, namely, Ranke's History of the Popes, their Church and State.' No writer, indeed, on the subject enjoyed this German author's variety of advantages. Possessing a clear comprehensive

mind, vast stores of congenial erudition, which nothing but Teutonic perseverance could accumulate, and a rigid impartiality which almost borders on apathy, Ranke seems to be the very man marked out for the execution of a task previously performed by lying Jesuits and other unscrupulous adulators of the Papacy. Facilities of every kind were afforded him in all the archives of continental powers, and a peculiar access was gained for Ranke to special records of the Popes preserved by the great families of whom any member had worn the tiara. Several of the Popes had children (notwithstanding their vows of celibacy), and, of course, filial pride and duty secured ample details of a Pontiff paternal in all senses. Many and questionable Popes managed to have nephews who founded families, and who took exemplary care to hand down written records of the minutest acts of their great Papal progenitors (in the following week's paper, Mulock wrote that there had been a misplacement of words in this sentence, see below). From all these long sequestered hoards of curious information (information too which Roman Catholics' at least are bound to consider veracious) Ranke was permitted to make abundant extracts, so as to illustrate step by step the public annals of the Papacy. No dynasties in Europe have had the acts and motives of their particular princes so transparently revealed to view as the successive Popes of Rome who, while watched by French, Austrian, Spanish, and above all, by Venetian Ambassadors, (the cleverest and craftiest of these accredited spies), were inspected still more closely by their own family sentinels, noting down every proceeding of their Papal protector and kinsman, and thus portraying him for posterity.

And what is the result of all these converging rays of light poured in so profusely on the Papacy? Why simply and sincerely this – that no chronicles of crime in any country, no records of regal misrule in any monarchy, no authentic annals of misgovernment under any institutions, convey a thousandth part of the tyranny, cruelty, fraud, falsehood and unspeakable perfidiousness of the Roman See – demonstrated too by staunch supporters of the Papacy.

But the annals of the Popedom during the sixteenth and seventeenth centuries, as specially spread before us by Ranke, contain the most irrefragable proofs of the utter wickedness, the preternatural abominations of the horribly evil system pursued ecclesiastically and politically by the numerous occupants of the chair of Saint Peter – whose supposed seat has been so foully filled! It may be noted also that after the complete organisation and establishment of the Jesuits, the power of the Papacy to propagate every kind of iniquity increased prodigiously. The other monastic orders confined themselves to the local diffusion of false doctrine and anti-Christian practices; but the ambition of the Jesuits was to plant the errors of Popery in every part of the habitable globe, and to enslave mankind into blind, blasphemous subjection to every dogma enforced or freshly promulgated by the Papacy. The Jesuits were (and are) a corps of intellectual Janisaries, whose very creed was to promote and sanction all expedient evil, and by means of diabolical casuistry to confound and render abortive the plainest distinction between right and wrong. Satan never had on this earth emissaries of so zealous a cast, and so persistent in devices of devildom as the Jesuits – the favourite bodyguard of the Papacy, and the chosen missionaries wherever confusion was to be created or the most detestable treachery to be practised by those skilful perpetrators of iniquity.

*To obtain a lucid view of the gigantic vileness of the Papacy when allied with and operating by the instrumentality of the Jesuits, we must consult again and again the trustworthy pages of Ranke. His book is not, properly speaking, so much a history of consecutive events, as an immense repository of carefully compiled facts, all tending to constitute what we might aptly term the satanic statistics of Popery. No European community was left unvisited by the mischievous meddling, the organised cruelty, the hypocritical perfidy, and the insatiable covetousness and rapacity of the Papal See – well represented by Nuncios selected for their proficiency in the worst arts of the worst court in Europe – the filthy Vatican! Ranke not only enables us to see Rome in its unveiled enormities – **fons et***

origo malorum – but he causes us to travel as it were in the *suite* of the Romish agents who carried the venomous taint of the Papacy into every court in Europe. Was there domestic treason, some tool of the Pope fomented and directed it. Was the sovereign to be soured against his subjects, or the people to be roused to insurrection against their rulers, some official of the Pope was at hand to stifle every vestige of concord, and to render all accommodation impossible. The dispensing power of the Pope was employed in every country to exonerate men and women from the most sacred obligations and the most binding social ties. Whenever a Nuncio got rooted he became a sort of *upas* in the land that received, through his ministrations, the chronic curse of practical Popery, i.e. Popery working by means of delegates from Rome. As to treaties between states – the monstrous pretensions of the Papacy rendered all covenants mere waste paper, whenever the policy prescribed by solemn pact did not square with the supposed interests of Catholicism.

And this direct mention of the Roman Catholic religion in strict, indisputable connection with the Pontifical annals of matchless turpitude, leads the true Christian critic into the heart of this mystery of iniquity, so as to ask boldly the all important question, can a religion, bearing such accursed fruit as the history of the Papacy exhibits, have any possible or conceivable relation to Christianity? The ready answer is derived, not from the hostile opinions of mutable men, but from the sacred scriptures of the everlasting God – **By their fruits we shall know them.**” The Roman Catholic religion is a mere human ritual, administered by pseudo priesthood, and of that priesthood the Pope is the crowned chief. For ages and generations, a succession of these spiritual potentates has occupied the Papal See, and the result has been an aggregate of pontifical un-righteousness not to be paralleled by the wickedest deeds in the chronicled reigns of the vilest secular sovereigns. If Popes were to set up manfully for themselves, and avow their total severance from Christ and his glorious Gospel, thus taking honest rank with Buddhists and Mahometans, a certain degree of fairness might be arrogated for their proceedings; but to claim supreme Christian holiness for priestly personages, steeped in worse crimes than are wont to stain ordinary heathenism, is a defiance of revealed religion not to be met with out of the sphere of the Papacy and its fanatical followers.

How comes it then to pass that the stern truth concerning Popery is shrouded from public and popular investigation at the very time when the world rings with boastful congratulations on progress and enlightenment? The Pope’s abuse of temporal power, and consequent loss of Papal territorial dominion, are truly and liberally canvassed but it is forgotten that all these things are *effects* – what is really required is the ascertained *cause*. Why do Roman Catholic subjects, cradled in the most ultra-montane tenets of Popery, and living under the immediate shadow of the reputed Vicar of Christ, rise up in unanimous revolt, not only as from a temporal sovereign, but from their ecclesiastical head and spiritual shepherd – their king and priest being one and the same? The answer of Dr. Cullen and the rabid Irish priests who strive to uphold the Papal rule are all are atheists and communist levellers. Well, be it so, yet they are all sound Roman Catholics to a man; and, therefore, the just conclusion we are entitled to draw is this, that the Roman Catholic faith is an utterly false religion, which teaches neither righteousness to rulers nor obedience to subjects. Blind submission, it is true, Popery inflexibly exacts, but rigorous misgovernment often coaches the blind, and then old oppressions are cast off like rotten cords. This is the solution of the Romagnese revolt from Papal sovereignty – and that revolt is significant of wider results, dangerous and deadly to the whole papal system. Rome will assuredly fall, and in such a way as to demote the penal certainty of righteous judgment and retribution. Look at her present position, and mark the mode of her sinking state! She sinks, **not** by the aggressive acts of foreign foes – **not** by the successful enmity of schismatic antagonists – but by the inveterate destructiveness of her own suicidal corruptions. The Council of Trent was assembled in order to abate the abuses of the Papacy, and by ineffable chicanery and intrigue it was converted into an engine for strengthening the end power of Popery. The decrees of that council re-established the Roman Catholic religion on its existing anti-Christian foundations,

and moreover declared the infallibility (for all time and in all places) of every succeeding Pope! What can these decrees now do to sustain the Papacy? And does not infallibility appear to have been exhausted in asserting as a crowning and completing article of faith the dogma of the Immaculate Conception of the Blessed Virgin – unquestionably the most blasphemous denial of the whole truth of Christianity that has ever been breached by the most anti-scriptural religionists. Rome falls because she is utterly void of truth and righteousness. Her doom is just, and her ruin will be remedy-less.

*But it must be admitted that powerful influences act upon the public mind so as to lure away many reading and thinking persons from duly estimating the true nature of the Papal question. Immense intellectual vigour and versatility have been employed in one great instance, and even in connection with Ranke's renowned work, to create false impressions as to the strength and stability of the papacy, by which the Roman Catholic religion must stand or fall. The illustrious writer to whom reference is here made is the extraordinary man upon whom the grave has just closed to the universal regret of sorrowing nations. Among the most celebrated of his admirable essays is Macaulay's popularly known review of Ranke's 'History of the Popes.' As a composition, it is one of the most delightful articles ever penned. Ranke's book, teeming with recondite information, is literally gutted and ransacked to fructify the picturesque pages of Macaulay. Every enchanting diversity of style is summoned into service – every historical event or domestic incident is placed in the most **readable** point of view – the remotest analogies are reconciled with the most familiar associations – and a **tout ensemble** is produced which excites at once gratification and amazement. But with all this exuberant display of literary affluence, Macaulay fails in one important particular – without avowing himself a positive partisan, he is impliedly a favourer of the Papacy. Like an illustrious Irishman (Edmund Burke), Macaulay, an imaginative Celt of another island, was evidently captivated by the gorgeous plausibility of pontifical Rome. Her crimes are artistically depicted, but the essential evil of Romanism is never pointedly proclaimed, and you rise from the perusal of Macaulay's brilliant essay on Popes and Popery as if you had been intently inspecting an illuminated missal. There is a wonderful exhibition of pictorial grandeur and beauty, but all this ornamentation only serves to dazzle the eye and to disguise the stupendous enormities of the abominable papal system."*

Even Macaulay could not satisfy Thomas Mulock!¹⁷

Then followed the amendment referred to above, when Mulock, writing to the editor of the Staffordshire Advertiser commented:

"Popes in their Paternal Estates:

Sir,

In my last week's communication on the subject of the Papacy there occurs in one sentence a misplacement of words, which renders my meaning somewhat obscure – allow me to give the sentence in its intended import:

*'Many Popes managed to have questionable nephews (that is, unacknowledged sons), who founded families, and who took exemplary care to hand down written records of the minutest acts of their great Papal progenitors.'*¹⁸

I must presume that the funds transmitted to Mulock from time to time by Dinah, his daughter, in addition to providing him with food, enabled him to purchase pens, ink, paper and stamps, plus various newspapers, allowing him to maintain correspondence with numerous editors and officials. Early in 1860 and in a range of letters that extended into February of that year, Mulock, having noticed, or had brought to his attention, a situation that existed in Ireland in regard to the treatment of persons under the Irish Poor Law Commissioners, had communicated with the Poor Law Commissioners and sent his assessments to The Cork Examiner, in which they duly appeared:

Concerning the Dunmanway Union, between the Irish Poor Law Commissioners and Thomas Mulock, Esq., with a prefatory notice, containing strictures on the present system and working of vice-regal government in Ireland:

“The following correspondence with the Irish Poor Law Commissioners may be fitly introduced to the reader, by a brief, yet succinct and entirely reliable, statement of facts, connected with a case which occurred in the Dunmanway Union – but which has subsequently enlarged itself into a controversy that may be truly said to affect the whole administration of the Poor Laws in Ireland. Very slender confidence, I regret to say, can be placed in the official details circulated by the Commissioners – for, having acted hastily and rashly, it is plain that these functionaries on being detected in error, instead of honourably admitting their mistakes, disingenuously shift their ground, and heap up charges which in truth nullify each other. The statement I now offer is unimpeachable.

On Tuesday evening, January 11th 1859, Jeremiah M’Carthy, a clergyman’s servant, while riding to Dunmanway, much intoxicated, came in violent contact with a cart, and to use the technical terms professionally employed, “sustained a serious and dangerous compound, comminuted fracture of the leg, extending upwards to the knee joint.” He was taken to his master’s residence where he was attended by Dr. Holmes – if indeed that can be called attendance which consisted in merely saying that the case was one that required amputation, then allowing it to hang over for twenty-one hours, and finally getting rid of all responsibility by transferring his patient to the Union Workhouse. In England some kind of stretcher is commonly used to convey unhappy persons, suffering from broken limbs – but in the sister-isle a rumbling donkey-cart is, in this instance, deemed to be an eligible mode of conveyance! Dismissed by his own doctor – and having survived the sorrows of the donkey ambulance, poor M’Carthy at length reaches the workhouse hospital where he is instantly seen and carefully inspected by Dr. Wall. It at once becomes evident that the case was one which required timely amputation in order to afford the merest probability of saving life. But the time had already ran out before the patient was placed under Dr. Wall’s care; and, as we shall soon see, nothing could be done for M’Carthy if the College of Surgeons had been present, instruments in hand. The fact was, that doctor Wall on the instant that the case came before the Union Guardians, declared that amputation was the sole resource, and that a favourable result was most doubtful, at so late a period of the case. But M’Carthy and his friends objected in the strongest manner to any operation being performed – and the latter moreover declared their determination to remove the poor sufferer to the Cork Infirmary – a distance of some thirty miles. All this may be shown to evince much folly and obstinacy on the part of M’Carthy and his erring relations – but they had a perfect right (if British Law prevails in Ireland) to reject the surgeon’s knife and to prefer a painful journey to Cork, although the chairman, Mr. Connor and Dr. Wall earnestly endeavoured to dissuade them from pursuing the latter miserable expedient, M’Carthy dies before his friends could arrange for his removal to Cork, and then commences a series of absurd acts, which but for the death of a human being would well deserve to be characterised as comic blunders of a national cast. In England we hold coroner’s inquests in the workhouse where an inmate as died. Not so, it would appear, in Cork County. There a coroner turns a funeral into an inquest, and investigates a case of death not in the workhouse where dissolution occurred, but in a graveyard six miles from Dunmanway. No witness is examined but the doctor who had managed to make over his patient to the workhouse hospital – and the sapient jury are instructed to allege, accusationally, that M’Carthy’s life might have been saved if Dr. Wall had (peremptorily of course) cut off the poor fellow’s leg! The police transmit the particulars of the “Coroner’s Quest” to their superiors in Dublin Castle, and from thence the inculpatory verdict travels to the Poor Law Commissioners, who send down subordinate officers to investigate the case. The upshot of the inquiry is, that the doctor who had attended and neglected M’Carthy is told that he would have been severely censured, if he had acted under a dispensary ticket, but as he had only grossly erred as a private practitioner, he must be let

off scot-free! But to Dr. Wall a far different measure is meted – and after reciting various heads of crimination (all of which in succession were shown to be untrue and untenable), the Poor Law Commissioners call upon Dr. Wall to resign. He does resign, and the Poor Law Guardians having had several years experience of Dr. Wall as their medical officer, and fully acquainted with his professional ability, and, above all, his humanity to the poor, re-elect him. The Commissioners refuse to sanction the appointment, and call for another election. The Poor Law Guardians again exercise their incontestable right and re-elect Dr. Wall. And here we arrive at a point of this case which demands the loudest reprobation of the course pursued by the Poor Law Commissioners. Instead of yielding rationally to the lawfully expressed desire of the Guardians to reinstate a medical man, who enjoyed their fullest confidence – the Commissioners, with a splenetic tyranny not readily to be paralleled, hurl at Dr. Wall's devoted head a 'Sealed Order,' the effect of which is, that he is forever incapacitated from holding any Poor Law appointment! Can oppression go much further than this piece of rabid rigour? If on a strong view of Dr. Wall's presumed misconduct this penal exclusion had been inflicted at first, however harsh it might be deemed, still the Commissioners might claim credit for consistency; but to load Dr. Wall with additional punishment, not for any known or nameable delinquency, but simply for the crime of being re-elected by the very parties who could best appreciate his worth and fitness, is, I hesitate not to say, a stretch of blind, arbitrary authority, which the Poor Law Commissioners in England would never dream of perpetrating. Nor is it merely to be considered as an act of rancorous cruelty towards Dr. Wall; it is a studied insult towards the Poor Law Guardians who manfully asserted their undoubted right to choose their own medical officer for the Union in their charge, and who may be supposed to know more of Dr. Wall, than three gentlemen in a Dublin board-room. This was no case of contumacy connected with local brawls or sectarian differences – it was a just resistance of the Guardians to an unwarrantable excess of misrule by means of which the Commissioners sought to intimidate the lawful possessors of local authority.

The Dumanway Guardians naturally feeling aggrieved by these strange proceedings, endeavoured to gain redress from what in Ireland are ignorantly supposed to be higher powers. They appealed to the then Lord Lieutenant's chief secretary, Lord Naas – who, in my opinion, could not possibly have examined the case in the most cursory manner – but who nevertheless writes a very long dogmatic letter, containing a plenary approval of the decision of the Poor Law Commissioners. I have shown elsewhere that Lord Naas is totally wrong in his facts and his law, and that his oracular dictum is discreditable to the government of which he formed a part. The Poor Law Commissioners, in a recently published article in the Globe newspaper (evidently of official origin, and feeble even to fatuity) rejoice in the rejecting of the Dunmanway appeal by two Irish governments – Lord Eglinton's and Lord Carlisle's – and this is supposed to be a satisfactory settlement of the whole matter.

But I, for one independent thinker, beg permission to differ most widely from the official scribe who figures in the Globe.

The true and proper reason why no redress has been obtained, or is obtainable at Dublin Castle, is simply that Ireland has no Government at all, and what seems to be vice-regal rule is a misleading, pompous sham which demands the earliest possible abolition. The Lord Lieutenancy of Ireland, and all the interior machinery which it nominally upholds, is a powerless imposture, void of every attribute which should belong to a real executive. All the actual business of Government is carried on at the Treasury and the Home Office – whether the matter in hand be statesmanship or jobbery. What need then, it may be fairly asked, has the nation of a Viceroy, who, with his immediate dependents at his mimic court costs the empire some twenty thousand per annum? What does he do? Why he gives dinners and balls, and holds levees and drawing-rooms. Anything more? Can he give encouragement to meritorious services by a wise and benignant distribution of patronage? Not a bit of it. Lord Carlisle or any other Lord Lieutenant has no more voice in any one thing of vital government

than any office-keeper or messenger that haunts the cavities of the castle. Well, but we have a chief secretary. What say you to him? To which I reply, let these great men speak for themselves – and in Parliament too. Some time ago Mr. Horsman resigned his post rather suddenly. He was called to account for his retirement from the sweets of office, and his explanation was, that there was nothing for him to do. According to the right honourable aspirant after social work, the Irish Secretaryship was only suited for some idle senator who wished to enjoy the *dolce far niente*, with an agreeable salary of £5,500 a year paid quarterly. As for himself, Mr. Horsman declared that his chief occupation was to watch from his own windows the visitors who did not come to the Irish office. Lord Naas, on the other hand, expiated on the vastness of his official avocations, which he affirmed were quite overpowering! I take it that both gentlemen were right. Mr. Horsman being a man of some mind, and panting for self-important display, felt snubbed and degraded by the nothingness of his position, whereas Lord Naas, with more complaisance, satisfied himself with fussy trivialities of which we have a splendid specimen in his epistle to the chairman of the Dunmanway Union.

I, as a true and faithful Irishman, venture to maintain, that no greater social benefit could be conferred on Ireland than the total uprooting of the entire vice-regal system with all its false pageantries and deceptive appearances (ch, how hollow) of power, weight or influence. Let England govern Ireland as she governs Scotland, and thus scatter in the winds the worst of all shame – a seeming executive in Dublin, and an actual executive in the London departments of the state. The present result of this anomalous state of things is a fearful lack of real responsibility. If Ireland were ruled by the Home Office openly and directly, people would at least know where redress was meant to be had, and if denied, the Home Secretary himself would be made to feel the responsibility. But such is the Irish imbroglio of peddling officials, that where everyone is in error, no one is, it seems, is to blame, for the vicious system of vice-regal rule baffles all attempts to fix responsibility on culpable parties.

Thomas Mulock.

Stafford, January 20th 1860.

“TO THE COMMISSIONERS FOR EXECUTING THE POOR LAWS IN IRELAND”

Stafford, 6th January, 1860

Gentlemen,

“I am sure you will excuse the great liberty I take in addressing you upon a subject, which not only interests me as a private friend, but attracts my attention as a public writer of some standing in the literary world.

Seven years ago, being then residing at Killiney, near Dublin, I made the acquaintance of Dr. Wall, then commencing practice in the Irish metropolis, and my impression was that he would become a very useful medical man; indeed, at my recommendation, Lord Panmure offered to give Dr. Wall a surgical position in the Crimea, but his wishes led him differently, and sometime afterwards on my return to this country, I was glad to hear of his establishment as a surgeon to the workhouse at Dunmanway. Within the last ten days I received a letter from Dr. Wall, calm, temperate and clear, containing a recital of the circumstances which have unhappily placed him in a state of severance from his late superiors, The Poor Law Commissioners.

I told him frankly that I could listen to no *exparte* statements – that my invariable inclination was to give public departments credit for the just exercise of authority, and that I must hear both sides. He has accordingly sent me what he considers sufficient materials for forming a correct opinion on his case, and I have read them dispassionately, which I regret to say is not normally done in Ireland.

But with all this information I am still completely in the dark on one point. I cannot arrive at the precise allegation of guiltiness, upon proof of which Dr. Wall was finally dismissed from the public service.

Surely it cannot be on the ground that Dr. Wall was unsuccessful in persuading a refractory patient to allow his leg to be cut off. I am not acquainted with any principle of British law would justify even a Poor-Law surgeon in forcibly lopping off the limb of a non-consenting sufferer; and I lay emphatic stress upon this point, for I perceive it has been much over-looked on all sides. Dismissing, therefore, as futile and discreditable the notion that Dr. Wall was dismissed on the ground of not having done what the law of the land would not sanction him in doing, may I venture to ask, as a favour, that your board will kindly furnish me with any document which distinctly sets forth the proved delinquency which in the judgement of the Poor Law Commissioners incapacitated Dr. Wall from being again employed in their service?

*I have the honour to be Gentlemen,
Your obedient servant,
Thomas Mulock.*

Mulock then received from the Poor Law Commissioners the following reply (sent to him seemingly addressed simply as Thomas Mulock, Stafford, and delivered without question to the prison.

The Poor Law Commission Office,
Dublin, 9th January, 1860

Sir,

The Commissioners for administering the laws for relief of the poor in Ireland, acknowledge the receipt of your letter of the 6th instant, on the subject of the removal of Dr. Wall from the office of Medical Officer of the Workhouse of Dunmanway Union, and requesting to be furnished with any document which sets forth the grounds of removal.

In reply, the Commissioners desire me to state that it is not customary to communicate official documents, but in the present case, the Commissioners having addressed a circular letter to their inspectors, with a view to correct false impressions on the subject, do not hesitate to transmit to you a copy of that circular in reply to your letter.

By order of the Commissioners,

B. Banks.

In turn Mulock was prompt in his reply:

9th January, 1860

“TO THE COMMISSIONERS FOR EXECUTING THE POOR LAWS IN IRELAND:”

Gentlemen,

“Desirous of ascertaining the views of medical men holding official appointments in the public institutions of this county town, with reference to the case of M’Carthy in the Dunmanway Workhouse – I have put the following query to Dr. R. Hughes, consulting surgeon to the South Staffordshire Infirmary and to the County Prison.

In the case of an infirmary or prison patient, whose urgent symptoms called for immediate amputation of a limb to avert death, would you feel yourself warranted in enforcing the operation contrary to the expressed objection of the sufferer? To which Dr. Hughes, speaking also for his professional colleagues, replied, most certainly not. No practitioner in this county would be warranted in taking off a limb, where the consent of the patient was withheld, however obstinately and foolishly – and in the case of convicts under cure in prison the Visiting Justices must be satisfied that the patient is willing to undergo

amputation. Dr. Hughes adds, "a case in point occurred in our infirmary last week; a man was admitted with a compound dislocation of the forearm of so dangerous a nature that the medical officers all agreed that amputation was necessary. The patient refused to allow the operation – his increasing peril somewhat disposed him to yield, but he would not do so until his wife consented, and we had to send for her from a distance in order to obtain his concurrence."

Such, gentlemen, are the ruling principles and invariable practice in England, and I trust they are equally applicable to the sister island.

*I have the honour to be Gentlemen,
Your obedient servant,
Thomas Mulock.*

Mulock having received from the Poor Law Commissioners a circular that had been issued by that body responded:

Stafford, 10th January, 1860

"TO THE COMMISSIONERS FOR EXECUTING THE POOR LAWS IN IRELAND: "

Gentlemen,

"I beg leave to thank you for your courtesy in causing to be transmitted to me your circular (no. 19,371) addressed to each of the Poor Law Inspectors.

I have perused that document with the closest and most impartial attention, and I must candidly state that the explanatory details therein given, fail to satisfy my mind as to the justice of the decision arrived at by the Commissioners in the case of Dr. Wall.

According to your printed paper it appears to me in the first place that Jeremiah M'Carthy was not a pauper at all – not a person, in short, entitled to parochial aid, but a patient attended by a private practitioner, who after much dangerous delay and neglecting all proper treatment, shuffled off his patient upon the authorities of the workhouse, but too late to afford more than the merest chance of saving life by means of amputation; that Dr. Wall suggested amputation is perfectly clear from the recited discussion at the Board of Guardians, and it is equally clear that the operation was objected to by the patient and his friends for if not, why did the latter desire to remove the sufferer to a Cork infirmary?

Utterly regardless of the alleged misrepresentations of the public press, I limit myself to the dictum of Lord Naas, viz.:- "It is agreed on all hands that the case was one where amputation was necessary to save life, and it was not urged on the patient by Dr. Wall. The Commissioners have only discharged their duty by recommending the resignation of Dr. Wall."

This influential opinion offered by Lord Naas is, in my humble judgement, entirely at variance with the recorded facts of the case. Whatever censurable professional conduct took place was plainly and manifestly before the patient was admitted, and perhaps improperly admitted, into the workhouse hospital. The time lost outside the workhouse constituted the extreme gravity of the case and rendered a surgical operation almost hopeless. As to the mooted question, how far a surgeon's discretion can be justifiably exercised where amputation is resisted by the patient, I repeat, as an acknowledged principle of law in the British dominions, that no professional man would be authorised in performing amputation contrary to the expressed will of the patient.

Under these circumstances I feel myself compelled to dissent from the decision against Dr. Wall, promulgated by the Poor Law Commissioners.

Nor have I any or the least doubt on the matter, I judge the case upon the exclusive showing of the Commissioners themselves, and without bias of any kind, except in favour of truth and justice. I wish the Commissioners may be induced to reconsider the case and equitably reinstate Dr. Wall.

*I have the honour to be, Gentlemen,
Your obedient servant,
Thomas Mulock.*

Copy: (No 908-1860) Dunmanway Union:

Poor Law Commissioner Office, Dublin, 12th January 1860

Sir,

The Commissioners for administering the laws for Relief of the Poor in Ireland acknowledge the receipt of your letter of the 10th stating that your mind is not satisfied as to the justice of the decision arrived at by the Commissioners in the case of Dr. Wall, late medical officer of the Workhouse of the Dunmanway Union.

The Commissioners feel assured that in conveying to them this information you did not expect them to enter into a controversy with you on the merits of the case in question; but in any event they must decline to do so.

In reference to your request that the Commissioners will reconsider the case and equitably reinstate Dr. Wall, they must reply that they see no ground for reconsidering the question, and that they cannot, consistent with their public duty, reinstate Dr. Wall.

By order of the Commissioners,
B. Banks, Chief Clerk.

Mulock was determined, if possible, to have the last word:

“TO THE COMMISSIONERS FOR EXECUTING THE POOR LAWS IN IRELAND:”

Stafford, 15th January, 1860

Gentlemen,

“I beg to assure you that I have no design or desire to raise any controversy with the Irish Poor Law Commissioners concerning the case of Dr. Wall. It is not my habit to prolong bootless discussion when I have arrived at a conclusion upon clear and sufficient grounds.

But I must close this correspondence with the following remarks:-

If the Commissioners deem themselves to be infallibly right in the case of Dr. Wall I can only regret that so palpable a delusion should prevail among the heads of a great public department. But if, on the other hand, the Commissioners consciously discern a flaw in their own proceeding, and yet persist in an inflexible course which implies a denial of justice, my sorrow will be much deepened, for I shall be constrained to admit the eminent persons now administering the Poor Laws in Ireland, do not adequately apprehend the importance of their position in setting an example of fairness and impartiality.

Again thanking you for your courtesy towards myself, I have the honour of remaining, gentlemen, your obedient servant, Thomas Mulock.¹⁹

Later in 1860 incidents which reflected adversely on the behaviour of members of the prison staff were aired at the County Quarter Sessions; three officers had resigned or lost their positions during the quarter and this led to questions being raised as to the efficiency of the prison governor, Major Fulford. The proceedings of the sessions were customarily reported in *The Staffordshire Advertiser*, the local newspaper, and Thomas Mulock, having read the account, seethed with indignation:

The Alleged Insubordination of the Officers of Stafford County Prison:

The Green, Stafford, October 25th 1860.

Sir,

As in the issue of your journal of the 20th inst. There appeared a full, and I do not doubt a most accurate report of the proceedings at the recent Staffordshire Quarter Sessions on the above subject, I trust to your impartiality to give the earliest insertion to the following correspondence:

*To the Honourable and Reverend A. C. Talbot,
Chairman of the Committee of Visiting Justices.*

Stafford, October 20th 1860.

Honourable and Reverend Sir,

I have this day perused with the utmost surprise and concern, the report of the Gaol Committee, and the discussion thereupon at Quarter Sessions as published in the Staffordshire Advertiser. I had previously seen the Wolverhampton Chronicle, in which, I have reason to believe, the severe strictness of certain magistrates are appropriated with more exactness to the several speakers.

With all due respect, I beg to assert most emphatically, that the sweeping allegations urged by the committee against the officers of the county prison (with one individual exception) are not correct; and that the magistrates have come to a most erroneous conclusion in stigmatising en masse a body of men, many of whom have been, for long years irreproachably employed in the discharge of prison duties – duties, I may add, of a very responsible nature – which the public are interested in having well performed.

From circumstances, unnecessary to dwell upon, I have been confined in the Debtors Ward of this prison for a period of five years and six months, and, however painful my detention might be in some respects, it afforded me one source of satisfaction - I have had the amplest opportunity of examining into the general system and working details of the prison, and I fearlessly affirm that no better conducted gaol can possibly exist in her Majesty's dominions.

In all establishments the view and acts of the person in chief command must be primarily considered; for he it is who gives the true tone to all subordinates, and thereby stamps a character on the whole institution. In Major Fulford the gaol possesses a governor of whom it would be difficult to speak in terms of too strong commendation. He is very markedly a gentleman – every way qualified to fill a far higher position – but who, as presiding over Stafford County Prison evinces, stately and unostentatiously, the most complete mastery over the just principles and proper routine, which should pervade a well ordered gaol; and the results have been excellent. During my long sojourn within these walls no prisoner has escaped, no case of maltreatment of any prisoner has ever occurred, and the general discipline of the entire prison has been, to my personal knowledge, unswervingly enforced in every department.

Now, Sir, able and assiduous as on all hands Major Fulford is acknowledged to be, he would himself be the first to admit that he could not act here efficiently and satisfactorily if

he were not cordially supported by a staff of respectable and attentive officers. You might as well expect an able artisan to work without proper tools. The thing is impossible. I venture, therefore, to maintain that the governor has such a staff, composed of men who know and do their duty, and whose characters are as dear to them, as upright public servants, as the reputation of any magistrates on the bench can be to the latter. If two or three exceptionable cases (and those cases not conclusively proved) have come before the Gaol Committee, - this cannot possibly justify the wholesale imputations so unsparingly cast on the entire body of officers.

I am, thank God, a lover of justice, and I am confident that the officers of Stafford Prison have not been fairly dealt with, I earnestly recommend the Committee to reconsider that part of their report which so severely impugned the conduct of many persons not justly liable to reproach. Nothing is more commendable than to acknowledge error and to render reparation to parties wrongfully aggrieved.

Thomas Mulock.²⁰

There does not appear to be any indication that the Honourable and Reverend A. C. Talbot responded to this letter or that any members of the gaol committee took notice of it and the fuss concerning the prisons' officers soon died away. Mulock, however, was now to gain his freedom having borrowed money from Major Fulford, the prison governor! When his daughter, Dinah, visited him, having obtained his address from Fulford, she found her father looking well, well-dressed and in good lodgings.²¹

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- ¹ Staffordshire Advertiser 17th January 1857.
- ² I am obliged to Karen Bourrier for this information.
- ³ Staffordshire Advertiser 15th August 1857.
- ⁴ See: 'Old Newcastle,' T. Pape; Staffordshire Advertiser 3rd February 1912.
- ⁵ Staffordshire Advertiser 15th May 1858.
- ⁶ Staffordshire Advertiser 5th, June 1858.
- ⁷ Staffordshire Advertiser 12th June 1858.
- ⁸ The Westmoreland Gazette and Kendall Advertiser, 12th June, 1858
- ⁹ Staffordshire Advertiser 10th July 1858.
- ¹⁰ Staffordshire Advertiser 28th August 1858.
- ¹¹ Staffordshire Advertiser 4th September 1858.
- ¹² Staffordshire Advertiser 18th September 1858.
- ¹³ Staffordshire Advertiser 4th September 1858.
- ¹⁴ Staffordshire Advertiser 29th October 1859.
- ¹⁵ Staffordshire Advertiser 5th November 1859.
- ¹⁶ Staffordshire Advertiser 7th January 1860.
- ¹⁷ Staffordshire Advertiser 28th January 1860.
- ¹⁸ Staffordshire Advertiser 4th February 1860.
- ¹⁹ The Cork Examiner, 30th January and 1st February, 1860
- ²⁰ Staffordshire Sentinel, October, 1860
- ²¹ 'Narrating Insanity in the letters of Thomas Mulock and Dinah Mulock Craik,' by Karen Bourrier