

The new trial accordingly came on at Stafford in March, 1858. The evidence of the letters remained, but a mass of other evidence was put in, all tending to show that the testator's mental faculties, if impaired at all, were not so damaged as to deprive him of testamentary competency. The judge summed up against the widow, but the jury were not influenced by his lordship and returned a verdict establishing the will, a result due principally to the able advocacy and thorough mastery of the case displayed by Kennedy.

The heir was not yet shaken off, however. He went to the Master of the Rolls for a new trial (*Swinfen v. Swinfen*, 28 *Law J. Rep. Ch.* 849), but far from getting it the Master stated that had the verdict been otherwise he would have sent the case down again. In the course of argument Kennedy went far and wide for instances of physical imbecility combined with mental competency. Many eminent characters in history were referred to, among others the great Marlborough, who, stricken with paralysis, his mouth awry, unable to articulate, was yet competent to make a most important codicil just before his death. Lord Eldon, the famous Chancellor, Sir Herbert Jenner Fust, who suffered from the very disease which affected the testator, and a recent judge (not named) who, though struck with hydrocephale, yet performed his duties with 'transcendent ability' to the very last. The whole report, in fact, is well worth reading by the student of medical jurisprudence.

The writer ventures to think from his limited observation of human nature, that the desire for vengeance is usually stronger with the fair sex than with their *soi-disant* lords and masters. Mrs. Swinfen was no exception to this rule. Flushed with victory she now entered the lists against her late counsel, the august Chancellor himself, and sued Lord Chelmsford for damages for a 'fraudulent' compromise against instructions (*Swinfen v. Chelmsford*, 29 *Law J. Rep. Ex.* 383). This, however, was a little too much, and the Court unanimously dismissed her suit, and settled by its