another journal. Their offence consisted in publishing a narrative of the facts involved in the cause before the cause was finally heard, in the course of which they took upon themselves to abuse some of the parties, and call persons who had given evidence by the opprobrious epithet of "affidavit men."

In *Ex parte Jones* (13 Ves. 237) Lork Erskine committed, for contempt of court, the committee of a lunatic, and the committee's wife who had published a pamphlet, with an address by way of dedication to the Lord High Chancellor, reflecting on the conduct of the petitioners, who were persons interested in the lunatic's affairs. This, be it observed, was under the jurisdiction in lunacy.

In *Colman* v. *West Hartlepool Railway Company* (8 W. R. 734), a party was restrained from publishing a garbled account of certain proceedings before the Court which was calculated to damage the case of his opponents. We refer to this case, which was not one of contempt, because it illustrates what we were saying, that it is pretty much at the option of the offended party to move to restrain the publication or to move to commit for having published.

In *Mrs. Farley's case* (2 Ves. Sen. 20), sometimes cited as *Cann* v. *Cann* (2 Dick. 3 Ha. 333n.), the contempt consisted in publishing advertisements in *Felix Farley's Bristol Journal*, relating to the answer of Sir Robert Cann in the cause.

In the *Tichborne case* (15 W. R. 1072), the printer of the *Pall Mall Gazette* was held to have committed a technical contempt by an article commenting on the affidavits filed on behalf of the plaintiff in a cause which had not come before the Court. And in *Felkin* v. *Herbert* (12 W. R. 241), it was held by Vice-Chancellor Kindersley that the publication of an article in a newspaper holding up to ignominy witnesses who have made affidavits, and reflecting on the parties to the suit, is a gross contempt, even though the time for evidence, as regards the party on whose behalf the affidavits are made, has closed. And the case of *Daw* v. *Eley* (17 W. R. 245), must not be omitted, where the Master of the Rolls held that the solicitor to a defendant in the suit was liable to be committed for contempt in having sent anonymous letters to a newspaper stating as facts the matters relied on by his client, which were in fact the points which would have to be tried as issues in the cause. So, too, in *Matthews* v. *Smith* (3 Ha. 331), it was held to be a contempt to publish advertisements with reference to the subject-matter of the suit, calculated to prejudice the rights or misrepresent the relative positions or character of any of the parties to the cause, or witnesses in it.

In *Robson* v. *Dodds* (1) (17 W. R. 782), Vice-Chancellor Malins held that the printer of a local newspaper was guilty of contempt in having published comments on the conduct of a gentleman who had been solicitor of a building society, pending the hearing of a suit instituted by him against the society. And attacks on witnesses were held to be a contempt in *Littler* v. *Thomson* (2 Beav. 130).

We may infer that would be equally a contempt of court to publish comments on the conduct of parties engaged in the conduct of a cause with a view to prejudice the success of the cause, or misrepresent its objects.

It appears then, that it is equally a contempt of court whether the person on whom the attack is made be a party to the suit or not. Witnesses, equally with parties, are entitled to the protection of the Court, if not more so. Every party to a suit has some inducement to sustain the incidental annoyances of litigation; but the mere witness, who in nine cases out of ten thinks it a great hardship to get into the witness box, or attend before the examiner, would be still less likely to come forward and give evidence if his motives, his character, and his truthfulness could be made a jest of with impunity. Hence it is that the liberty of the press, in the few cases where it has run into licence in this respect, has uniformly been restrained. No doubt the question of intention has something to do with the assessment of the penalty; but where a contempt of this nature has been committed it is no justification that it was not intended to commit a contempt (*Felkin* v. *Herbert*, *ubi sup.*).

So much for comments on and notices and advertisements concerning pending proceedings. There is yet another form of contempt of court arising out of the publication of the pleadings themselves, or any portion of them, pending the final hearing of the cause. It is equally certain that this may constitute a contempt, even where there are no comments on the portion of the pleadings or documents so published. There are two reasons why this should be so; first, because such a publication invites the world to pass judgment on a case where the Court has not expressed its own opinion; and secondly, because *ex parte* statements have a tendency to bias the mind of the judge and jury. It may be idle, as was argued in *Felkin* v. *Herbert*, to suppose a publication would affect the decision of the Court, even were it read by the judge himself; but the question is one of tendency, and not of fact. A Captain Perry, it was said by Lord Hardwicke in *Roach* v. *Garvan*, printed his brief before the cause came on, thus prejudicing the world beforehand, and we cannot but presume that it was held to be a contempt. In *Re Cheltenham and Swansea Waggon Company*, 17 W. R. 463, the contempt consisted in publishing in the columns of a newspaper, but without comment, a petition to wind up a company that had been filed, but not answered, containing charges of fraud, &c. It was argued that the contents of a petition were public matter, as it was necessarily advertised, and copies were supplied under certain restrictions; but it was held that it differed not in this respect from a