would be liable for money had and received to the use of the new assignee; but Mr. Justice Parke held that, inasmuch as the former assignee had been insane, when the money was received, such receiver was liable, for he could not be the agent of an insane person, and therefore held the property as a mere stranger. This ruling was upheld by the full court.

The marriage of a lunatic during the continuance of his lunacy is void. Thus Mr. Justice Blackstone, in his well-known Commentaries, says: "A fourth incapacity is want of reason, without a competent share of which, as no others, so neither can the matrimonial contract be valid. It was formerly adjudged that the issue of an idiot was valid. A strange determination! Since consent is absolutely requisite to matrimony; and neither idiots nor lunatics are capable of consenting to anything; and, therefore, the civil law judged much more sensibly when it made such deprivations of reason a previous impediment, though not a cause of divorce if they happened after marriage. And modern resolutions have adhered to the reason of the civil law, by determining that the marriage of a lunatic, not being in a lucid interval, was absolutely void."

Sir John Nicholl applied those principles in *Browning* v. *Reane*, 2 Phil. Ec. Ca. 69, where administration of the effects of a wife was refused to the husband on the ground that his marriage was invalid by reason of his wife's mental incapacity.

Lord Tenterden ruled, in *Brown* v. *Jodrell*, 3 C. & P. 30, that no person, in defending an action, can be allowed to stultify himself; hence the defendant in the case, which was an action for work and labor, was not allowed to set up his own insanity as a defence, unless it could be shown that the defendant had been imposed upon by the plaintiff in consequence of his mental imbecility.

The facts in *Tarbuck* v. *Bispham*, 2 M. & W. 2, were that A. kept cash with B., a banker, the balances to his credit being stated from time to time in a pass-book. A became lunatic, but the account continued to be kept with his family, and in the pass-book, the entries in which were in B.'s handwriting, a balance was stated to the credit of A. The action was brought by the administrator of A.'s estate to obtain a just account of such deposits pursuant to an order of the Court of Chancery in a suit between the different members of the lunatic's family, the object being to ascertain whether the payments made by the defendant banker were made *bona fide* for the benefit of the lunatic's estate, or by collusion with any other members of his family. Mr. Justice Coleridge directed a verdict for the defendant on the ground that the Statute of Limitations was a bar to the recovery of the first balance, inasmuch as it was not shown that the lunacy of A. existed at the time of that settlement of accounts, and that as to subsequent balances they were causes of action on the footing of accounts stated; whereas, in order to state an account, there must be two parties of sane mind. Upon the argument of a rule for a new trial on the ground of misdirection, Baron Parke observed that there was no evidence of any accounting with the lunatic; if with anybody, it was his agent, or one of the family; but a lunatic is not competent to appoint an agent. The rule was refused.

The decision of the King's Bench in *Baxter* v. *The Earl of Portsmouth*, 5 B. & C. 170, may be compared with that in *Brown* v. *Jodrell*. Between the years 1818 and 1823 the defendant had hired carriages of the plaintiff, and had incurred a debt for which the present action was brought. It was proved that the carriages were constantly used by the defendant, and were suitable for a person of his rank and station. For the defence evidence was given that by an inquisition dated the 28th February, 1825, taken under a commission of lunacy, it was found that the defendant then was, and from the 1st January, 1809, continually had been, of unsound mind, and not sufficient for the government of himself. Chief Justice Abbott ruled that, as the articles hired were suitable to the station and fortune of the defendant, and as the plaintiff at the time of making the contract had no reason to suppose him to be of unsound mind, and could not be charged with practising any imposition upon him, they were entitled to the verdict. In support of a motion for leave to enter a nonsuit, it was argued that the cases do not warrant any distinction between actions for necessaries and other actions. The Court refused the rule.

The question raised in *Read* v. *Legard*, 6 Ex. 636, was, whether an action can be maintained