liable to an action for assault. *Wright* v. *Court*, 4 B. & C. 596; *Griffin* v. *Coleman*, 4 H. & N. 265; *Smith* v. *Brears and Beach*, 1 Ir. L. T. 611; 2 Hale P.C. 219. Neither, in the dubious interval between the commitment and trial, should the prisoner be loaded with needless fetters: Fleta, Lib. c. 26; Mirror, c. 5, § 1, n. 54; 4 Bl. Com. 300; 1 Rol. 807, 1; 2 Inst. 381; 1 Hale P.C. 601; 2 Hawk. c. 22, § 32; and if the jailer shall imprison a man so straightly by putting him in stocks, or putting more irons upon him than is needful, an action will lie against the jailer: Fitzh. Nat. Brev. 93; Dalton, c. 170, § 13; 1 Ed. III., st. 1, c. 7; 14 Ed. III, st. 1, c. 10; 17 St. Fr. 453.

Lastly, as to the trial at bar, we apprehend that the prisoner ought not to be handcuffed. This question arose in 1867, when the prisoners charged with the Fenian outrage at Manchester were brought in fetters before the police court, when their counsel, Mr. Ernest Jones, having failed in his peremptory demand for the removal of the manacles, went so far as to throw up his brief (See 1 Ir. L.T. 603.) But, in our opinion, such a demand could not be insisted upon as of right. That the prisoner ought to be unshackled we doubt not; the custom is so; but it is a matter lying within the discretion of the court. In *State* v. *Kring*, 1 Mo. 439, affirmed 64 id. 591, indeed, where the prisoner, having on a former trial assaulted a by-stander, was brought into court the second time ironed upon his wrists, and the court refused to order the removal of the irons, Bakewell, J., said: "It was no sufficient reason for compelling the prisoner to stand his trial for his life with gyves upon his wrists and his hands bound together. Officers of the court could have been placed around him if he was considered dangerous to by-standers, or he might have been placed in an enclosed space within the bar of the court, as was the English custom. Any proper precaution against escape, or to guard against danger or violence from a prisoner, may be taken during the trial. These may be such as will not deprive his counsel of free communication with him, and will not tend to inflict physical torture upon the prisoner, or to deprive him of the freest use of his limbs, and of all his faculties in that moment of extreme jeopardy. But it is certainly not permitted to fetter his hands, and if he is brought into court in irons he is entitled to have them removed whilst actually on trial; and it is error in the court to refuse to order the prisoner to be unbound." But in a later case, *Faire* v. *State*, 1 Southern L J. 348, we find it distinctly held that the right to manacle prisoners during their trial exists, and should be left to the discretion of the court. There the prisoner, who had been convicted of murder, appealed by reason of the court below having ordered his feet to be shackled at his trial. He had threatened that if he were found guilty he would never come out of the court house alive, but that he would escape, or that the officers would have to shoot him; and the sheriff, knowing his character, was persuaded that he would attempt to carry out his threat; on hearing which the judge ordered the sheriff to take any necessary precautions to prevent any attempted escape, but not to place the irons on his hands, nor to allow the jury to see what was done. His counsel asked to have the prisoner's feet unshackled. The court replied that the irons had been placed on the prisoner in consequence of representations made by the sheriff, and proposed to have him sworn as to the cause; but to this course counsel objected; and the shackles were not removed. The Supreme Court refused to reverse the conviction, holding that while it ought to require an extreme case to justify the placing of shackles or manacles upon a prisoner when undergoing trial, yet whether it is necessary or not should be left to the discretion of the trial court, and cannot be reviewed on appeal. An extreme case, certainly, was that which came before the Commission of Oyer and Terminer; yet we wholly approve of the humane determination of Baron Dowse. Peter Dillon, it will be recollected, was indicted for assaulting James Kelly. After a most violent scene, Dillon actually attempted, in the dock, to strike the governor of the jail, whereupon the learned judge ordered that handcuffs should be placed on the prisoner. This was accomplished after violent resistance, the prisoner kicking and striking about him; and then it was resolved to lash him by the hands to the bar of the dock. He then fell on the floor, and appeared as if working in a fit. "Remove him to the cells," said the learned Baron, "I will not try him in his present condition at all. Remove him; take the handcuffs off him; let