On the station he wore large, clumsy boots, nearly made. He had light brown hair, about the same colour as now, but it is better cared for now than then. I was applied to by persons who represented that they came from the defendant, the then plaintiff in the other case. They showed me a photograph of Arthur Orton, who was in Freemantle, in Western Australia. I said he might be there, but it was a likeness of Arthur Orton who was in our employ. There was no indorsement held out for me to make a false statement. I declined to come over unless I could bring my family with me. We have also to pay the expenses of our house at home, and the board of two men.

By Mr. Justice Mellor: It was no part of Arthur Orton's duty to drive cattle to Melbourne, and be absent eleven or twelve days. I never heard him go by the name of Alfred Smith. I don't remember a man of that name.

By a Juryman: Arthur Orton was inkneed, and had an awkward walk.—By Mr. Justice Mellor: I am certain the defendant is Arthur Orton:

The Court then adjourned.

FIFTY-SIXTH DAY.

The further hearing of this case was resumed on Thursday, July 10, and on other Lordships taking their seats on the Bench,

The defendant asked to be allowed to call attention to the *Daily News* of that day.

The Lord Chief Justice—You must leave your counsel.

Dr. Kenealy—The defendant wishes to draw your lordships' attention to an insinuation in the summary of the *Daily News* that he is really not suffering from illness, which his medical man will be prepared to prove to your satisfaction that he is—an insinuation calculated unfairly to prejudice him on his trial.

The Lord Chief Justice—I have not seen the article, but I am sorry that you should have been any cause for such a complaint. I may say that having received several anonymous letters, I can understand what may have given rise to the insinuation, as it appears the defendant has been advertised to appear at the Queen's Bench Hall.

Dr. Kenealy—He has not appeared publicly since the sycophantic set in.

The Lord Chief Justice—The illness may have been brought on by appearing in public.

Mr. Hawkins—I carefully abstain from saying a word.

Dr. Kenealy—Will you allow the defendant to leave the court as soon as he has been identified by the witnesses?

The Lord Chief Justice—If he really intends to confine himself to his own house on account of his illness, we can allow him to leave. If he appears in public, of course that would be calculated to excite a suspicion that he is not suffering. I am the last to insist in a person's attending, although, strictly speaking, he ought to be here, if it is compatible with his health in any serious degree. At the same time, it would put the Court in a most ridiculous position, if, when we permit his absence on the ground of indisposition, he exhibits himself in public places of entertainment.

A Juryman—I have read the article in the *Daily News*, and it never occurred to me that it made any reflection on the defendant.

Mr Justice Mellor—I have also read it without observing any insinuation of the kind complained of; but it may be that it escaped my notice.

Mr. McAlister, husband of Mrs. McAlister, who was examined yesterday, deposed that in the 2nd of June, 1854, I served with Mr. Forster to Boulade. Boulade is 150 miles from Melbourne. The road is 150 miles out—only fit for horses and stock—the chief trade of the district was transacted at Hobart Town and Port Albert. Some was sent to Melbourne. I remained in Mr. Forster's employment about a slight interruption until the time of his death in May, 1862. In July, 1863, I found in Mr. Forster's service a man named Roger Orton. He acted as stockman, and assisted in killing any stock that was required. He would be absent before any of the other men if he was at home at the time, on account of his knowledge of butchering. He went by the name of the "Butcher." He left in October, 1863. I heard him say he had been in Hobart Town and in America. After he left Boulade I accidentally saw him at Sale, about 18 miles distant. I have a perfect recollection of Arthur Orton. I saw the defendant yesterday for the first time since he left Sale. I have no the slightest doubt that the defendant is Arthur Orton. I produced the station books the same as I produced before the Commission. The stock book for the end of 1865 is missing. I have searched for it, but can't find it. I was left at the public-house where the Commission was held. I produce four ledgers for the years 1854 to 1859 inclusive. The books were examined, from which it appeared that Arthur Orton entered at Boulade on the 15th September, 1856. The defendant, in his cross-examination, stated it was in July, 1854, that he, Thomas Castro, entered with Mr. Forster's service. There was no mention of the name of Castro in the ledgers. There is no entry of the name of Castro in the store-books, but there is Orton, who was debited with a pound of tobacco in Dec., 1856. Before that date none. There never was a man named Castro in Mr. Forster's employ in my time. Orton had a smattering of Spanish. Mr. Johnstone, of Newton Park, had a horse called "Castro." He occasionally go kangaroo-hunting with dogs. A man might go out on Sundays hunting with his own horse. Sale adjoins Boulade, and is the nearest place to Boulade, where there was a place for religious worship. There was not a Roman Catholic chapel there in 1854. Guns are only used for shooting wild bulls.

Cross-examined—I can't account for the thirty-two hundred pounds in the ledger for 1854; they are in the same state as when I received them back from the Commission. The index gives the names of the accounts on the missing leaves. I have no check-books with me dating further back than 1856. I furnished McKenzie with the names of persons who knew Orton. He was an awkward, clumsy-looking fellow, not at all like a gentleman. I have a perfect recollection of his features. I recognize him, not at all, but I never saw the defendant before. I recognize the defendant as the Arthur Orton I knew