

Andrew M'Donough, a person of most gentlemanly appearance, 29 years of age, described as a soldier, was indicted for a rape on Margaret Somerville.

Mr. Wilkins defended the prisoner.

Mr. BALLANTINE stated the case on behalf of the prosecution, and said it was a case which required the most attentive consideration of the jury, as there were facts connected with it of a rather singular character. The prisoner was a person who, judging from his appearance, must move in a respectable walk in life, and at the time the offence was alleged to have been committed, he was living with a lady, who passed as his wife. He (Mr. Ballantine) would not say that person was not his wife, because the prosecutrix had no means of ascertaining anything about it. He occupied apartments with the lady and his child at a lodging-house at the west-end of the town. The prosecutrix, a young girl between 14 and 15 years of age, had lately come from Ireland with her parents; and it would be proved that previous to the transaction which gave rise to the present indictment, there never was the slightest imputation upon her character. She was taken into the service of the prisoner on the 25th of June last, for the purpose of nursing the child, but slept at the house of her parents. On the following Friday, the 7th, Mrs. M'Donough happened to be from home, when the prisoner desired her to take the child into the adjoining room, and put it

upon the bed, as he wanted her to go on an errand. As soon as she returned from the room the prisoner took a very improper liberty with her, then threw her upon the ground, and committed the offence imputed to him. She resisted as much as she could, and screamed out for assistance, but the prisoner placed his hand over her mouth. After he had accomplished his object, he told her if she said anything about it, he would throw her out of the window. Almost immediately afterwards the prosecutrix went home, for the purpose of informing her mother of what had taken place, but, finding that she was absent, she returned to her master's. When she went home at night she made a communication to her mother on the subject, but did not tell her all that had taken place; she merely said that the prisoner had taken improper liberties, and when asked whether anything further had taken place, denied that there had. Nothing further was said about the matter till the expiration of six or seven weeks, when it was found that she was infected with a loathsome disease, and she then for the first time stated all that had occurred. The evidence of the prosecutrix would be very materially confirmed, and he (Mr. Ballantine) thought they would have very little difficulty in saying that the prisoner was guilty of the offence imputed to him.

The prosecutrix, having given evidence in confirmation of the above statement, was subjected to a lengthened and most rigid cross-examination, when she admitted that when she first mentioned that the prisoner had taken liberties with her, he was very angry, and said if she repeated such a falsehood, he would knock her down. She did repeat it, and he then struck her, upon which she said she would make him repent giving her that blow. It was not till more than two months afterwards she charged him with violating her. She acknowledged there were a great many persons residing in the same house with the prisoner, and although she screamed out as loud as she could, no person came to her assistance. She remained at the prisoner's four or five days after the alleged offence was committed. She was then particularly questioned as to her acquaintance with several females of questionable character, and also her acquaintance with some young men, who were named, but she denied that any improper intimacy existed between them.

Mr. French, one of the surgeons of St. James's parish, and Mr. J. H. Tucker, also a surgeon, proved having examined the prosecutrix on the 22d of September, when they found her labouring under the disease before alluded to. In their opinion she had then been infected with it about a week, or it was possible she might have been so three or four weeks, but they were decidedly of opinion that it was highly improbable, to say the least, that it could have existed beyond that period.

Mr. WILKINS then proceeded to address the jury, and commenced by alluding to the observations of his learned friend with respect to his doubts whether the lady with whom the prisoner was living was his wife. Such observations could only have been made for the purpose of prejudicing their minds against him, because there was not the slightest ground for such an imputation; the prisoner was a gentleman of education, and a member of a family of rank in Ireland; and a learned friend of his (Mr. Wilkins's), then in court, had informed him that he was well acquainted with the prisoner, having been his (prisoner's) tutor at the Dublin University.

The learned Counsel then proceeded to comment upon the facts of the case, and was contending, that even without calling his witnesses (of whom he had a great number, for the purpose of disproving the statements of the prosecutrix), it was impossible for them to believe what she stated, when

The Jury said, it was unnecessary for Mr. Wilkins to proceed further.

Mr. Justice WIGHTMAN said, if they were not all perfectly satisfied, they had better hear the whole case.

The foreman, however, said, they were perfectly satisfied, and immediately *Acquitted* the prisoner.