

and a portion of it is not correct. I did advise Mrs. McManus as to the steps she might and should take in reference to the imprisonment of her son. I told her there were two parties against whom she might proceed. First, there was Roth, the boy's master, who had undoubtedly acted wrongly; and the other party consisted of the Justices who had tried the case, and who, in my opinion, had also acted wrongly. But I told her, when she came to me, that in relation to the Justices—one of whom, Captain Daldy, was my client, and moreover my personal friend—though I did not consider their action right, still I must decline to act against them; and that if she wished to proceed against them she must go to some other solicitor. I see she states that in her evidence. [Read extracts.] She then asked me if she could bring a case against Roth. I said she could, and told her that there were two courses open to her—one to take action against him in the Supreme Court and recover damages against him for malicious prosecution. I notice that she states in her evidence that I said the cost would be £40. I have no distinct recollection of having said that, but I daresay I did tell her so. I also told her she might proceed against him in the District Court, as the arrest had been illegal, but added that I did not think she would get substantial damages, though the Court would say the arrest was illegal. She said she did not desire any damages; that her main object was to clear her boy's reputation. He had been imprisoned unjustly, and her object was not monetary damages, but that her son's name should be cleared of the stigma cast upon it by his having been imprisoned. I said, "Very well; we will bring an action in the District Court for false imprisonment." I may state to the Committee that an action for malicious prosecution could not be brought in the District Court. It would have been necessary to go into the Supreme Court if such action had been brought. This would have cost perhaps, as she states I said, £40, while an action in the District Court would cost £10 or £12. The action was brought, with what result you know. As to costs, Mrs. McManus, as she states, did give me authority to draw her salary, and I drew £13. I then issued the writ, and proceedings were taken. I may state that, in the meantime, I understood she had gone to Mr. Macdonald, solicitor, of the Thames; in fact, I know she had, because I received a notification from Mr. Macdonald to that effect. But, as for me, I never undertook to quash the conviction, or to take any proceedings so far as the Magistrates were concerned, for I told her more than once that if she liked she could take the whole matter to some other solicitor. I proceeded simply against the policeman and Roth. I found that the policeman was not liable, as the six months had passed, and I had to pay his costs. The case against Roth was heard before Judge Fenton, and he decided that the arrest had been illegal, because when the boy was arrested neither Roth nor the policeman had any warrant in their possession; but, he said, if substantial damages were sought, the Justices could be sued in the Supreme Court. I think I told Mr. Fenton that I had so advised Mrs. McManus, but refused to conduct the case against them myself—not because I was not convinced of the illegality of their conduct, but because one of them was my client. After the trial, she came to me at my office and settled with me; but not a word was said as to her being dissatisfied. She never accused me then of having in any way mismanaged her case, nor did she say anything about bringing an action in the Supreme Court. At this time it was not too late to do it. She did speak to me about getting the boy's indenture cancelled; I said, "Very well, we will see about that." I think I instituted proceedings in the Police Court, but Mr. Joy, who was acting for Roth, came to me, and we made an arrangement whereby the indentures were cancelled without the costs of a Police Court case. The arrangement was carried out, and the boy was taken away from his master altogether. Up to that time I had not the least idea that Mrs. McManus accused me of want of care. I was going to refer to the question of costs just now: now here is the very bill I sent in. I do not know whether there are any professional gentlemen present; if so, I commend them to the perusal of it. As Mrs. McManus says, I did receive £13 from her, and £9 or £10 in costs from the other side—in all, at any rate, £22. I paid £2, the constable's costs; I had given Mrs. McManus £1, about £2 for costs of Court, and I returned her £5 at the time of the settlement. You may see, on looking at this bill of costs, that the charges are very light—in fact, nearly three times the amount would have been charged under ordinary circumstances. By the account you will see that there was on the whole a balance of 11s. 10d. due to Mrs. McManus, but that I returned her £5. I did this because I considered she had been badly treated—both she and her son. However, I did all she instructed me to do. The whole of the circumstances of the case were brought out, and the boy's indentures were cancelled. I do not know whether the latter service was charged for at all.

*Mrs. McManus* : Oh, yes; it is all there.

*Mr. Rees* : Well, perhaps so; but all the charges were moderate in the extreme. Then she casts great blame upon me, and says it was my fault because the conviction was not quashed. I may say I never was employed to do it, nor had I anything to do with that. As it was, I did more than I was instructed to do, because I was not instructed to get the boy's indentures cancelled; therefore I wish to disabuse the mind of the Committee of any wrong impression which the evidence of Mrs. McManus may have produced. I did the best I possibly could for Mrs. McManus, and, if my hands had been free, I do not hesitate to say I would have proceeded against the Justices. But I was bound to Captain Daldy as a client. At the same time I told Mrs. McManus that Justices, like any other men, were liable to make mistakes, and that I believed neither of them could have had any vindictive feeling either against her or against her boy, though they might have been misled by Roth or somebody else. Still I did not shield them from the consequence of their mistake, though I refused any responsibility in the matter myself. She was very bitter against them, and seemed thoroughly convinced that they had acted through malicious motives—an idea I attempted to rid her of by pointing out that they knew they were liable for anything of that sort, as two Justices in the province had already been cast in damages for acting improperly, and it was not likely they would knowingly lay themselves open to a similar penalty. I got a public expression of a judicial opinion that the boy had been wrongly convicted, and that was all I undertook to do. I did not put her out of the way of suing the Justices. I did nothing of the sort at all.

84. *Mr. Seaton*.] You say the constable had no warrant in his possession at the time the boy was arrested. Was it shown that he ever had a warrant even after the arrest?—I am not sure.