to the great danger of its health and life, and did so deal with and dispose of it that its said mother has not been able to recover it, and that it has not since been seen or heard of, notwithstanding the most diligent search and inquiries."

Shaw, for the panel, objected to the relevancy of the minor propositions of the libel, in respect that (1) the description of the *locus delicti* was not sufficiently specific, and gave the prosecutor too great latitude; (2) in particular, some one portion of the hill of Startup ought to have been libelled; (3) the description of the *modus* was too vague; (4) that "to deal with and dispose of a child so that its mother has not been able to recover it," is not a criminal act.

Authorities — *Michie*, Oct. 10, 1845, 2 Brown 514; *M'Que*, Feb. 20, 1860, 3 Irv. 552.

Darling, for the prosecution, answered that it was true the prosecutor must specify as far as in his power, but that where from the occult nature of the crime he was unable to specify he had fulfilled his duty in giving all the information which he possessed as to the *locus* and *modus* of the offence. In the case of *Michie* the injured person was not dead, and might reasonably be expected to remember on what part of the hill of Balnabroich the assault had been committed; while in *M'Que's* case the body of the child was recovered and bore the marks of the injuries received. Here the body of the child was amissing notwithstanding the most diligent search; and if the prosecutor were not allowed some latitude it would be impossible to frame an indictment against such a crime. Moreover, the Court had allowed such latitude in the case of *Crosbie*, May 17, 1841, 2 Swint. 550, and Baron Hume specially remarks that in cases of child murder it may often be necessary to allow the prosecutor a greater latitude in the statement of both the *modus* and *locus delicti* than is warranted in ordinary cases—Hume ii, 192 and 217.

Objections repelled.

Counsel for the Crown—Darling.
Counsel for the Panel—Shaw.

COURT OF SESSION.

Thursday, December 16.

FIRST DIVISION.

[Lord Craighill.

ANDERSON *v.* GARSON.

Process—Reclaiming Note—Reponing—Decree by Default.

A defender prayed to be reponed against a decree by default. *Held* that the granting or refusing such a prayer is matter for the discretion of the Court, and in the circumstances remit made to the Lord Ordinary to repone upon payment of previous expenses.

Garson was a member of the Imperial Building Association, and one of the defenders in an action brought against the Association by Anderson, another member, for payment of £420, the amount of a bill which he, as one of the trustees for and specially authorised by the Association, had accepted on their behalf, and which he had himself paid under threat of immediate personal diligence, the Association having failed to meet it. Defences in the action were lodged for Garson and another, and decree in absence was pronounced against the latter. When the case was called in the procedure roll, Garson at that time being the only defender, no appearance was made for him, and decree was given against him by default.

Against this decree he now prayed to be reponed, on the ground that he had not observed the case in the rolls. Garson acted as his own agent.

The following authorities were quoted—*Arthur* v. *Bell*, 16th June 1861, 4 Macph. 841; *Wilson* v. *Stark*, Feb. 17, 1844, 6 D. 692; *Young* v. *Mackenzie*, July 19, 1859, 21 D. 1358; *Boak* v. *Watson*, July 14, 1860, 22 D. 1468; *Gordon* v. *Fraser*, June 7, 1831, 9 S. 690; *Maclaren* v. *Robertson*, May 29, 1857, 19 D. 769.

At advising—

Lord President—This is a decree by default, and not a decree in absence, against which the defender desires to be reponed, and I am not disposed to depart from what I said in the case of *Arthur* v. *Bell*, 4 Macph. 841. I think it is a matter in the discretion of the Court whether the party against whom a decree has gone out is, in the first place, to be reponed at all, and, in the second, if so, upon what conditions. The Court has had occasion to see and know that many decrees go out against parties in circumstances which show fault and negligence on their part and that of their agents, and we must take care that they are not reponed against these decrees on conditions that are too light. I think that the defender ought in the circumstances to be reponed, but he must pay the previous expenses which have been incurred in this case.

The other Judges concurred.

The following interlocutor was pronounced:—

"Remit to the Lord Ordinary to repone the said defender on payment by him of the expenses incurred by the pursuer in the cause up to this date."

Counsel for the Pursuer—Trayner. Agents—A. & G. V. Mann, S.S.C.

Counsel for the Defender—Mackintosh. Agent—Party.

Friday, December 17.

FIRST DIVISION.

SPECIAL CASE—STEWART ROBERTSON AND OTHERS.

Entail—Clause of Devolution.

A truster directed his trustees to hold his property for ten years, and then to execute an entail in favour of the heirs whomsoever of his own body, whom failing in favour of A and the heirs male of his body, and he directed a certain yearly allowance to be made during the subsistence of the trust to the person who would be the first to take under the entail. He also directed the trustees to insert a clause excluding from the succession the heir of entail in possession of a certain other estate. A succeeded to the latter estate during the subsistence of the trust. *Held* that he was not entitled to the annual allowance.

The late Mr Hepburn of Colquhalzie left a trust-disposition and settlement by which he directed his trustees to hold his estate for a specified time, and then to execute an entail in favour of a certain series of heirs. By the sixth purpose of the trust he directed payment of the whole free income of the trust-estate to his wife in the event of her surviving him. The seventh and eighth purposes of the trust were as follows:—"*Seventh*, That my trustees shall continue the trust hereby created during the life of my said wife, and for at least ten years after my death, although her death may occur within that time, and shall have power thereafter to continue the same for such longer period as in their own discretion they may deem expedient, and after the decease of my said wife they shall pay such legacies as she may bequeath by a writing under her hand, so far as the personal estate left by her may be sufficient for that purpose, but the payment thereof from my estate not to exceed in all £1000: *Eighth*, After the death of my said wife, and while the said trust hereby created shall continue to subsist, my trustees shall apply the free rents of my lands of Colquhalzie, and, if necessary, a part of the annual produce of the other trust-estate, towards the education, maintenance, and upbringing of the heir who would then be entitled to succeed to my said lands under the destination after contained, if in minority, it being my wish that the education of such heir shall include a professional education if required, and shall be conducted upon the most liberal scale consistent with the circumstances of the trust; but providing always that the sum to be allowed for the foresaid purposes shall not, in the case of a male heir, exceed £200 per annum, and in the case of a female heir £150 per annum; but declaring that in the case of a male heir my trustees shall also advance such sum or sums as may be required for payment of apprentice fee, for purchasing commissions in the army, or otherwise fitting him out in the world; and in the event of the heir who at the death of my said wife would be entitled to succeed to the said lands under the designation before referred to being major, or on the heir then in minority as aforesaid attaining majority, such heir, or any other heir who during the subsistence of the said trust shall for the time being be the heir entitled to succeed as aforesaid, and shall be of full age, shall be entitled to be paid by my trustees, while the said trust continues, at the rate of £200, or £250, or £300 per annum, according to their own discretion and their judgment of his or her capacity for prudent management, or in the event of his or her being married, with the approbation of his or her parents and my trustees; but providing always that there shall be reserved a surplus of at least £200 per annum of the revenue of the trust-estate, to be accumulated during the subsistence of the trust, and to be expended at the final close thereof in manner directed in article tenth of the purposes hereof, or disposed of in terms of the second branch of the last article of said purposes, all as hereafter written; and I also give power to my trustees, if satisfied of the prudence of such heir, to allow him or her the produce of the said lands of Colquhalzie, and the actual possession of the mansion-house, offices, garden and orchard, and such other parts of the said lands of Colquhalzie then unlet as he or she may choose to take into his or her own occupation."

The trust-deed contained a power of revocation, and by a codicil Mr Hepburn changed the series of heirs specified in the trust-deed, and directed the trustees to execute the entail "to and in favour of the following series of heirs, viz., to the heirs whomsoever of my body; whom failing, to James Stewart Robertson of Edradynate, my second paternal cousin, and the heirs-male of his body; whom failing, to the heirs whatsoever of his body; whom failing, to the other heirs and substitutes therein specified."

The codicil also contains the following provision:—"Further, considering that the said James Stewart Robertson is heir of entail presumptive to the lands of Cluny and others, now in possession of Mrs Helen Stewart Hepburn, my wife, in virtue of a deed of entail executed by Adam Stewart of Cluny, her father, under which the heir of entail in possession thereof bears the name and title of Stewart of Cluny, and that it is my intention that the foresaid estate of Colquhalzie and others shall be held by a series of heirs different from those succeeding to the said estate of Cluny, and with the name and title of Stewart Hepburn of Colquhalzie—therefore I direct my trustees to insert in the said deed of entail to be executed by them a condition in such terms as shall in their opinion effectually provide and secure that in the event of the succession to my said lands and others opening to an heir who shall be at the time proprietor or heir of entail in possession of the said lands of Cluny and others, or of the succession to the said lands of Cluny and others opening to an heir who shall at the time be proprietor or heir of entail in possession of my said lands and others, in virtue of the said deed of entail to be executed by my trustees, the right of such heir under the said last-mentioned deed of entail to succession to or possession of my said lands and others shall lapse or cease and determine to the same effect as if such heir were naturally dead, and that if such heir shall be in possession of my said lands and others, he shall be bound forthwith to denude himself thereof in favour of the heir who, in accordance with the destination before specified, would be entitled to succeed thereto, as if the heir so bound to denude were then dead."

At the time when this Special Case was presented, Mr Stewart Robertson had already succeeded, by the death of Mr Hepburn in 1874, to the estate of Cluny, and a question arose whether the annual allowance above mentioned was to be paid to him or to his son, in whose favour the entail would eventually be executed.

This Special Case was therefore brought by Mr Stewart Robertson and his son, and Mr Hepburn's trustees, and the following questions were submitted to the Court:—"(1) Whether the said James Stewart Robertson is, during the subsistence of the trust and his survivance, entitled to the provisions and benefits conferred by the eighth purpose of the trust-disposition and settlement of 16th August 1865? (2) Or whether the said James Stewart Robertson junior is at present entitled to the provisions and benefits conferred by the eighth purpose of the said trust-disposition and settlement and codicil?"

Argued for Mr Stewart Robertson senior—The clause of devolution was not intended to affect the intermediate provisions of the trust-disposition; it was not in fact yet made, and it was not

to be assumed that when made it would act to Mr Robertson's prejudice. Mr Hepburn did not intend the clause to apply to Mr Stewart Robertson at all, but to the succeeding heirs of entail. To construe it against him was to suppose that the truster intended to give a benefit with one hand and take it away with the other. Mr Stewart Robertson was *persona predilecta*, and the truster's intention in his favour was clear. The effect of the clause of devolution was not before the Court at all. It might be even contended than when the trust came to an end in 1882 Mr Robertson would be entitled to take or hold the estate of Colquhalzie, but even assuming that he would not, there was nothing which precluded him from enjoying the intermediate benefits of the trust. The disqualifying clause was a matter quite distinct from the plain directions to the trustees to execute an entail. The direction here was to trustees to execute an entail ten years after the death of the truster, and it was therefore quite impossible to look upon the truster himself as the institute. The institute would take by direct disposition, not as heir at all. The truster's leading object in the 8th purpose of the trust was to aliment the prospective heir, and the disqualification not being inevitable, it could not be held to apply at present.

Argued for James Stewart Robertson junior—That which had been called a clause of devolution was in fact more; it was a clause of exclusion, intended to shut out the person who might be Stewart of Cluny and was thereby made incapable of becoming Stewart Hepburn of Colquhalzie. The truster must have meant something by the destination to the heirs whomsoever of his own body, and if he did mean something by it, then the argument as to *persona predilecta* fell to the ground, and Mr Stewart Robertson was not the institute, but only a substitute to a class, and he was bound to show something on the face of the deed exempting him from the excluding clause. The nature of the purposes for which the allowance was made all pointed to a minor heir, who was likely to remain in minority for a considerable time during the subsistence of the trust. The result of giving effect to Mr Robertson's argument would be that the residue of the truster's estate, if not invested in land by the trustees, would go absolutely to him, and to the enrichment of the Cluny estate, not of Colquhalzie.

Authorities—*Hutchison* v. *Hutchison's Trustees*, 20th Dec. 1872, 11 Macph. 229; *Glendonwyn* v. *Gordon*, 20th July 1870, 8 Macph. 1075; aff. 11 Macph. (H. L.) 33.

At advising—

Lord President—The question raised by this special case is, whether Mr James Stewart Robertson of Edradynate, or his son, is entitled to a certain provision contained in the 8th purpose of the trust-disposition and settlement of the late John Stewart Hepburn of Colquhalzie. One object of that trust-deed was to provide for the execution by the trustees of a deed of entail of the lands of Colquhalzie and others in favour of a series of heirs originally contained in the deed of trust itself, but afterwards altered by a codicil. In the codicil, which of course is now the ruling deed in regard to the destination, the trustees are directed to make the entail in favour of "the heirs whomsoever of my body, whom failing, to James Stewart Robertson of Edradynate, my second paternal cousin, and the heirs-male of his body, whom failing," to certain other heirs. The entailer inserted in the same codicil a clause which has given rise to the difficulty intended to be solved by the judgment in this special case—"Considering that the said James Stewart Robertson is heir of entail presumptive to the lands of Cluny and others, now in possession of Mrs Helen Stewart Hepburn, my wife, in virtue of a deed of entail executed by Adam Stewart of Cluny, her father, under which the heir of entail in possession thereof bears the name and title of Stewart of Cluny, and that it is my intention that the foresaid estate of Colquhalzie and others shall be held by a series of heirs different from those succeeding to the said estate of Cluny, and with the name and title of Stewart Hepburn of Colquhalzie—therefore I direct my trustees to insert in the said deed of entail to be executed by them a condition in such terms as shall in their opinion effectually provide and secure that in the event of the succession to my said lands and others opening to an heir who shall be at the time proprietor or heir of entail in possession of the said lands of Cluny and others, or of the succession to the said lands of Cluny and others opening to an heir who shall at the time be proprietor or heir of entail in possession of my said lands and others in virtue of the said deed of entail to be executed by my trustees, the right of such heir under the said last-mentioned deed of entail to succession to or possession of my said lands and others shall lapse or cease and determine to the same effect as if such heir were naturally dead, and that if such heir shall be in possession of my said lands and others, he shall be bound forthwith to denude himself in favour of the heir who, in accordance with the destination before specified, would be entitled to succeed thereto as if the heir so bound to denude were then dead.' Now, when the testator died, Mr Robertson of Edradynate was the heir first entitled to succeed, the testator having died without issue of his body. But when the widow Mrs Helen Stewart Hepburn died, Mr Stewart Robertson succeeded by that event to the estate of Cluny, and the consequence was that under this clause he became disqualified from holding the estate of Colquhalzie. In consequence of the provision of the trust-deed, to which I am about to refer, he never was the heir in possession of the estate of Colquhalzie, and therefore he had no occasion to denude of that estate. His disqualification arose before he could take in any view the estate of Colquhalzie; and having become Stewart of Cluny he thereby became absolutely disqualified from being Stewart Hepburn of Colquhalzie. The two characters are by the will of this testator absolutely incompatible. It is said, indeed, that Mr Stewart Robertson is not affected by this clause, because he is the institute of tailzie in the deed directed to be made, the deed of entail of Colquhalzie, and the institute is not named in this clause of exclusion. Now, upon the construction of the clause itself I should not have the least difficulty in holding that the institute is intended to be included. In the first place, this is not a question of the construction of a deed of entail, and therefore such authorities

as the *Duntreath* case, and the long series of cases that followed upon it, have no application whatever. We are here upon the construction of a deed of trust directing trustees how they are to make an entail, and it is impossible to read this clause without seeing that it is the *enixa voluntas testatoris* that no man, be he who he may, shall combine in his own person the two irreconcilable characters of Stewart of Cluny and Hepburn of Colquhalzie. He wont have it at any time, or under any circumstances; and giving effect to the intention of the testator, as we are quite entitled to do, dealing with a deed of trust like this, the result is not at all doubtful. But there is another reason why this argument cannot prevail, which I shall mention by-and-bye when I come to the construction of the 8th purpose of the testator's trust, with which we are more immediately concerned. In the first place, it is necessary to look at the 7th purpose, in order to make the 8th perfectly intelligible. The 7th is "that my trustees shall continue the trust hereby created during the life of my said wife, and for at least ten years after my death, although her death may occur within that time, and shall have power thereafter to continue the same for such longer period as in their own discretion they may deem expedient, and after the decease of my said wife they shall pay such legacies as she may bequeath by a writing under her hand, so far as the personal estate left by her may be insufficient for that purpose, but the payment thereof from my estate not to exceed in all £1000;" and the 8th is—"After the death of my said wife, and while the said trust hereby created shall continue to subsist, my trustees shall apply the free rents of my lands of Colquhalzie, and, if necessary, a part of the annual produce of the other trust-estate, towards the education, maintenance, and upbringing of the heir who would then be entitled to succeed to my said lands under the distination after contained, if in minority, it being my wish that the education of such heir shall include a professional education if required," &c.; and further on he proceeds—"And in the event of the heir, who at the death of my said wife would be entitled to succeed to the said lands under the destination referred to, being major, or on the heir then in minority as aforesaid attaining majority, such heir, or any other heir who during the subsistence of the said trust shall for the time being be the heir entitled to succeed as aforesaid, and shall be of full age, shall be entitled to be paid by my trustees, while the said trust continues, at the rate of £200, or £250, or £200 per annum, according to their own discretion and judgment of his or her capacity for prudent management;" and then there is an alternative in the event of the heir being married, which it is not necessary to refer to. Now, it is quite plain that the person who is intended to be favoured under this 8th purpose, is the heir who would be entitled to succeed at a particular time in the history of the trust, the heir who would be entitled to succeed to the estate of Colquhalzie at a particular time there fixed. The first observation that occurs here is, that if Mr Stewart Robertson is institute in the sense of not being an heir within the meaning of this trust-deed, he can take nothing under this clause, for there is nobody favoured by this clause except heirs, and therefore that I apprehend, independent of all other arguments, puts an end to his contention that he is institute of tailzie, for the moment that that is affirmed he is out of Court.

But the next point for consideration is, what is the point of time in the mind of the testator at which we are to determine who is the heir who will then be entitled to succeed? Now, I do not think that is difficult to fix. It is at the death of the widow, while the trust still subsists. The death of the widow, standing the trust, is the *punctum temporis inspiciendi*. Now, what is to be ascertained then? The thing to be ascertained then is, who is the heir who would at that time be entitled to succeed under the destination aftermentioned; or in other words, who is the heir who, "at the death of my said wife, would be entitled to succeed," for that is another form of expression contained in the clause; or again, another form of expression that is used, "who for the time being is the heir entitled to succeed as aforesaid?" Now, I apprehend that under this trust-deed with the codicil, an heir cannot be entitled to succeed, within the meaning of this clause, at the death of the widow and while the trust still subsists; because until the trust is brought to an end and the deed of entail executed, no heir can succeed—that is to say, he cannot take the estate. And therefore the meaning of the various expressions here used is plainly this—supposing that at the death of the wife the trust were to come to an end, in whose favour would the deed of entail fall to be executed in the first instance? In other words, who would be the disponee under the deed of entail, supposing it to be executed at the date of the wife's death? Now, can it be maintained under that clause of exclusion, to which I have referred in the codicil, that Mr Stewart Robertson, the father, is in that position that he could require the trustees, if the trust were at an end, to make the deed of entail in favour of him as disponee? Upon the death of the widow he has succeeded to the estate of Cluny, and by succeeding to the estate of Cluny he is debarred for ever from taking the estate of Colquhalzie; and the plain answer therefore is, that he can neither demand, nor can the trustees comply with the demand, that they should execute a deed of entail in his favour. If the deed of entail fell to be executed at that point of time, viz., at the death of the wife, it would plainly fall to be executed in favour of his son as the next heir called to the succession under the destination, and not in favour of the father. I am therefore for answering the first question in the negative, and the second question in the affirmative.

Lord Deas—I am entirely of the opinion expressed by your Lordship. I think the question whether Mr Stewart Robertson is to be dealt with as an heir of entail in the sense of the trust-deed is a question of intention. I agree with your Lordship that, in the circumstances here stated, there can be no doubt as to the matter of intention. If he had been already in possession of the estate of Colquhalzie, he must have given it up under the terms of this deed; and I think with your Lordship that, although he is not in possession, he is under a disqualification which necessarily prevents him from taking the estate of Cluny. The trust-deed says that in the event of the succession to the said lands

of Cluny and others opening to an heir who shall at the time be proprietor or heir of entail in possession of my said lands and others in virtue of the said deed of entail to be executed by my trustees, &c., the right of such heir is to lapse. I think that that clause with the others has plainly come into operation. I think the succession has opened to him in the sense of this deed; and unless he were to say that he declines to take advantage of that succession which is open to him—unless he were to say that now, I am humbly of opinion that he cannot claim this annual allowance. So that in every view of it I concur in the result arrived at by your Lordship.

Lord Ardmillan—Mr James Stewart Robertson succeeded, on the death of Mrs Hepburn in April 1874, to the entailed estate of Cluny, and is now in possession of that estate. The settlement and the codicil of Mr John Stewart Hepburn of Colquhalzie must be read together.

It is the distinctly declared will—the *enixa voluntas*—of Mr Hepburn, that "the estate of Colquhalzie shall be held by a series of heirs different from those succeeding to the estate of Cluny," and the accomplishment of this purpose is secured by clauses, the distinctness and effect of which are not doubted, if Mr Stewart Robertson is within the scope and meaning of the declaration that the succession to the two estates shall be different.

I am of the opinion now expressed by your Lordships. I am disposed to think that Mr James Stewart Robertson is a conditional institute under this destination, and would, unless otherwise excluded, take as such, on failure of the heirs whomsoever of the body of the maker of the deed. That is the most favourable view for the first party; and I understand that is the view which, on the strength of the authorities mentioned, has been maintained for him. It is said he is institute and not heir. But if he is not heir, he cannot claim under the eighth clause. Assuming that he is institute under the destination, and assuming also that, in a question in regard to the imposition of the fetters of an entail, the institute is distinguished from the heirs, and cannot be fettered by implication, or excluded inferentially in clauses applicable to heirs alone, I am still of opinion that under this deed and codicil he cannot succeed to both estates, and is not "the heir who would be entitled to succeed under the destination," being actually the heir in possession of Cluny, and as such specially excluded.

The words by force of which the separation of the two estates is secured, and the heir succeeding to Cluny is excluded from Colquhalzie, are, I think, too clear to admit of doubt.

In this view the provisions of the 8th clause or purpose of the trust-disposition do not confer the benefits claimed on Mr James Stewart Robertson, since he is not the heir entitled to succeed under the destination. Therefore I think that the first question should be answered in the negative, and the second in the affirmative.

Lord Mure—I am of the same opinion, and I go upon the words that your Lordship has referred to in the 8th purpose of the trust, that the party who is to get these additional allowances is the heir who would then be entitled to succeed to the particular estate. Now, the provision in the codicil puts the elder Mr Stewart Robertson on the footing of an heir who, at the death of the wife of the truster would not be entitled to succeed to the estate; and on that ground I am of opinion with your Lordship that the first question should be answered in the negative.

The Court answered the first question in the negative, and the second question in the affirmative.

Counsel for First Party—Dean of Faculty (Watson)—Kinnear. Agents—Adam, Kirk, & Robertson, W.S.

Counsel for Second Party—Balfour—Asher. Agents—Pearson, Robertson, & Finlay, W.S.

Counsel for Third Parties—Mackay. Agents—Lindsay, Howe, Tytler, & Co., W.S.

Friday, December 17.

SECOND DIVISION.

[Lord Craighill.

BYRNE *v.* JOHNSON.

Landlord and Tenant—Reparation—Game—Relief.

A let the exclusive right of shooting and sporting and killing game and rabbits over his estate to B, who was bound to maintain during the currency of the lease a fair stock of game and rabbits, and to exercise the shooting in a sportsman-like manner. In consequence of a great increase in the number of rabbits, much damage was done to the agricultural tenants, who were bound by their leases to preserve the game and rabbits, and had been interdicted from shooting the rabbits. Two of these tenants raised actions of damages against A, their landlord, who in his turn brought actions of relief against B, as game tenant.—*Held* that A was answerable to the agricultural tenants for the damage done, but that he was entitled to relief from B, who, in permitting the estate to be so overstocked with rabbits had not made a fair and reasonable use of the subject let to him.

John William Byrne of Elshieshields, in the county of Dumfries, let in 1871, upon a lease of seven years, the Holm Farm of Elshieshields to Gilbert Gillespie. The farm of Chapelcroft, upon the same estate, had been let to Mr William Kidd in 1864 upon a fifteen years' lease. Both Gillespie and Kidd were taken bound by their leases to preserve the game (rabbits and hares included) upon their farms. In November 1872 Mr Byrne let to Mr Robert Johnson, for the period of five years, the mansion-house, grounds, &c., of Elshieshields, together with the exclusive right "of hunting and shooting, sporting, killing game and rabbits, &c." Johnson bound himself to maintain a fair stock of game and rabbits, and to exercise his right of shooting in a sportsman-like manner.

During the years 1873-4, complaints were made to Mr Byrne by the agricultural tenants of the damage done to their crops in consequence of the excessive stock of rabbits which they alleged