however, not only has the power, by *habeas corpus*, to discharge any one from illegal confinement, but he has had delegated to him, as representing the State in its capacity of *parens patriæ*, the power to provide, according to law, for the safety and proper treatment of infants who are unable to take care of themselves. *Wellesley* v. *Beaufort*, 3 *Cond. Cha. Rep.* 10; 2 *Fonb.* 226. It was only as to the extent of this large parental authority of the Court that I had entertained some doubts. 2 *Lond. Jurist*, 66. My first impression was, when this case was opened before me, that this Court could not, for any purpose however apparently laudable, deprive a father of the care and custody of his infant children; thrown upon him by the law, not for his gratification, but on account of his duties to them, with reference to the public welfare, and place them against his will in the hands of another. *St. John* v. *St. John*, 11 *Ves.* 531.

But, upon a more careful investigation, I find, that although it is admitted to be always a delicate thing for the Court to interfere against the parental authority, yet that it will do so when it becomes necessary for the safety, protection, and obvious benefit of the infant. The Court founding its judgment in such cases, as in those between husband and wife, upon an admission that the tie which binds them together cannot be severed by it; but, yet that a partial or a temporary separation has become necessary for the protection of the weaker or defenceless party; and thus, so far, allowing a stronger policy to over-rule a weaker one. *Westmeath* v. *Westmeath*, 4 *Cond. Cha. Rep.* 1162. The Court will not permit the color of parental authority to work the ruin of the child, or suffer the child to be sacrificed in any way to the views of the father. *Butler* v. *Freeman*, *Amb.* 302; *Creuze* v. *Hunter*, 2 *Cox*, 242; *Lyons* v. *Blenkin*, 4 *Cond. Cha. Rep.* 115. And therefore, where the father was infamously profligate and vicious in his habits, and course of conduct; or had attempted to associate his infant children with a lewd woman he had brought into his house; or was guilty of gross ill treatment and cruelty towards them, they were removed from his custody. *Ex parte Warner*, 4 *Bro. C. C.* 101; *Skinner* v. *Warner*, 2 *Dick.* 779; *De Manneville* v. *De Manneville*, 10 *Ves.* 61; *Whitefield* v. *Hales*, 12 *Ves.* 492; *Ball* v. *Ball*, 2 *Cond. Cha. Rep.* 299; *Wellesley* v. *Beaufort*, 3 *Cond. Cha. Rep.* 1; *The King* v. *De-Manneville*, 5 *East*, 221. (*e*) But the father has no right to the custody

(*e*) PRATT *v.* PRATT.—William Pratt, an infant of eleven years of age, by Christopher Cross Routh, his uncle and next friend, on the 6th of February, 1773, filed his petition in this Court, in which he stated, that John Pratt, his father, had married Mary Buck, by whom he had issue, the petitioner his eldest son, and several other children; that she afterwards died seized in fee of divers lands, leaving tho petitioner her eldest son and heir-at-law; that the petitioner's father afterwards married Elizabeth Griffith; and on the 21st of November, 1770, made his last will, in which, among other things,