

CORK ASSIZES

COUNTY RECORD COURT—WEDNESDAY.

CRIM. CON.

Hawkes v. Penrose.

Mr. Jenkins opened the pleadings. This was an action taken by the plaintiff, John Hawkes, against the defendant, Samuel Devonshire Penrose; the declaration contained a count of trespass for the seduction of plaintiff's wife by the defendant. Damages were laid at 10,000l. The defendant had suffered damages to go by default; and therefore it would rest with a jury of the sheriff of the county Cork to assess the amount of damages.

The Right Hon. D. R. Pigot stated the case. He said—Gentlemen of the Jury, the duty now devolves on me of laying before you the facts of the distressing case that has been committed to my charge, and of detailing to you the circumstances that had been the cause of my client coming into this court, and seeking at your hands, for the injury he is stated to have sustained, such damages as you can afford him by way of compensation. Gentlemen, my client, Mr. Hawkes, is yet in early manhood; the defendant is somewhat his junior, though not much. The lady upon whom Mr. Hawkes first fixed his affections was a very young girl when he married her, and she is still a youthful woman. In the year 1822, when Mr. Hawkes was then only 20 years of age, and this young lady, Fanny, only 16 or 17, a mutual attachment had sprung up between them. Nothing was more natural. They held the same position in society—they moved in the same circles—their families somewhat were equals in the amount of their respective fortunes—they had both been educated in the country—both were attached to their homes by the enjoyment of a country life—and the result was, that a strong attachment sprung up between them, which was sanctioned by their parents, and it was agreed that they should be wedded, and wedded they accordingly were in the year 1829. Mr. Hawkes was at that time the absolute owner of a property amounting to about 1,100l. a year, and when he was about to be married he settled upon this lady, who was to be his future wife, an annuity of nearly one-third of his whole property. They were married in November, 1829, and immediately took up their residence at his mansion at Killeera, where they continued to reside until the occurrence of the transaction which has led to this proceeding. Gentlemen of the jury, Mr. Hawkes was, possibly, fond of the pursuits of a country life, and the enjoyments found in the sports of the field, and I believe was not addicted to any practice of dissipation. His habits were domestic, and he resided at his house at Killeera for eleven years after his marriage, in the enjoyment of uninterrupted domestic felicity. During that period his wife bore him three children, the eldest of whom, at the time of the unhappy event I am about to detail to you, was about eleven years old. It will be proved to you in evidence that for the eleven years that Mr. Hawkes and his lady were married, up to the time of this most deplorable transaction, she had not six times slept away from her husband. Gentlemen of the jury, I will now introduce to you another person, and tell you how it is that the defendant in this action has given rise to the complaint which I am now laying before you. Mr. Samuel Penrose, the defendant, resided in the neighbourhood of Mr. Hawkes, and was his near relative; they were cousin Germans; their residences were within half a mile of each other; a little valley divided them; that of Mr. Hawkes was Killeera—that of Mr. Penrose, Farren. From their earliest infancy the strictest intimacy subsisted between the plaintiff and defendant; they were the early playmates of each other, and their fathers were close and fast friends. For a long series of years the fathers of both young men had joined in keeping a pack of hounds, and they and their families were living in habits of the most intimate friendship. So near neighbours meeting so frequently, had formed an intimacy of the closest nature, and that intimacy which had begun with their fathers was continued with their children, and the fastest friendship cemented that intimacy between Mr. Hawkes and the defendant. They were perpetually together—followed the same amusements; and hardly a week had passed in which they did not dine at least two or three times with each other. Gentlemen of the jury, at what time the attempt was first made by the defendant to accomplish the ruin of this lady's virtue, my unhappy client does not know; and one of the miseries of this case is, that the man whose happiness has thus been blasted, cannot tell when his confidence was first abused—when it was that it was first broken—when the man warmly confided in first became false. Therefore you see, gentlemen, I am not in a position to say when the defendant commenced his assaults on this lady's virtue; but that they must have had their beginning in some period of the year 1840 there is too great reason to believe. Gentlemen of the jury, I believe I need hardly tell you, that nothing short of actual demonstration of guilt would have been received as proof by a man who had been so attached to his wife and so confiding in his friend; and when the elopement was no longer matter of dispute or doubt, Mr. Hawkes was not only unaware of the loss of his wife's purity and attachment, but it absolutely came like a thunderbolt upon him when he had heard that she had eloped, and who was the adulterer. And yet we are in this position, gentlemen of the jury, that we know not but that at the very time that Mr. Penrose was the visiting and cherished guest and tried friend of Mr. Hawkes, while he was day after day received with all the warmth of friendship, he was poisoning the virtue of this lady, and seducing her affections from her husband. Gentlemen, I am instructed that it will appear in evidence before you that in the year 1840 the defendant was observed to be in Mr. Hawkes's house during that gentleman's temporary absence; to retire from the house, not by the front door but by a back entrance, at a time that my client was expected home, and to re-appear again at the front door, and then salute the plaintiff and his lady as if that was their first meeting and salutation of the morning. Gentlemen of the jury, some time in the year 1840 Mr. George Hawkes was out enjoying the sports of the field, and received a gun-shot wound, and the defendant was staying at Killeera at the time, and I very much fear that it is but too probable he took occasion of his friend's absence and sufferings to alienate his wife's affections and seduce her virtue. About the month of May, 1841, the guilty pair appear to have made up their minds to elope; and whether or not he suggested it to her, to leave that home where she had before known so much happiness up to that period, it was not until the month of May, 1841, that they both took this decided step. In the month of May, 1841, Mrs. Hawkes intimated to her husband that she was about to take advantage of an invitation she had received from her husband's brother to spend some time with him in Cavan; and she decided upon going there. Mr. Hawkes was then about going to Kerry; and it was arranged that his wife should proceed with his brother to Cavan, and that at the expiration of his visit to Kerry he would go to meet her. Gentlemen, it will appear in evidence that a communication passed between Mrs. Hawkes and the defendant to the effect, that this journey of hers to Cavan should be made the means of accomplishing their contemplated elopement. The defendant having been previously apprised of Mrs. Hawkes's arrangements for this journey, proceeded at the very same time to Dublin, where he had resolved to await her arrival. On the 7th of May, 1841, she and her husband's brother arrived in Dublin, and stopped at Morrison's Hotel. Upon their arrival there she complained of being fatigued, requested her companion to amuse himself in any way he pleased for the evening, and that she would go to bed, and the young gentleman accordingly went to the theatre. Gentlemen of the jury, on his return to the hotel, he found that Mrs. Hawkes had left—that a gentleman had called for her during his absence—that she went out with him, taking with her whatever luggage she had brought, and without leaving any explanation whatever of the cause of her departure. Mr. H. Hawkes was not aware that the defendant was in Dublin, and therefore he was totally unable to say what had become of the lady. However, he at once wrote to his brother an announcement of what had happened; and it was very shortly after ascertained that the defendant had gone to Dublin upon the very evening of the departure of Mrs. Hawkes for that city—that this meeting had been preconcerted and arranged between them, and that they had, in fact, eloped to England. To England they went, and there they delayed for some time. What further proceedings followed, it is now totally unnecessary for me to detail, because the defendant has suffered judgment to go by default, and has admitted the act of adultery, and therefore all that is legally necessary to state should only be laid before you. Suffice it then to say that the fact having been announced and become notorious, the elopement was complete; and the plaintiff, on hearing the calamity that had befallen him, was afflicted in a manner that shall be detailed to you by the witnesses to be brought before you, but which I shall not attempt to describe. Gentlemen, the amount of the defendant's property shall be shown to you. I understand it is a fee simple estate, encumbered by a debt, and yielding about 1,000l. He lived upon a scale of expenditure compatible with a gentleman in the receipt of an easy and independent income; and his means were suitable to his position as a gentleman of ample and adequate fortune. Gentlemen of the jury, this is the case that we are prepared to lay before you, and I have no doubt as to the result of what we shall obtain at your hands.

Robert Wiseman sworn and examined by Mr. Freeman—I was in plaintiff's employment as steward; the defendant lived near Killeera, within about a mile and a quarter of the house; I often saw him visiting at the house of plaintiff; I often saw him in the house when plaintiff was absent; saw plaintiff's wife in the parlour with the defend-

after he went out the back door, I followed him to the front door, when I saw defendant meet plaintiff, and salute him and the mistress in the parlour; he said—"good morrow, Fanny," and "good morrow, John," to plaintiff; plaintiff's manner to his wife was always good-natured; always saw him kind to her; never saw him out of temper with her; never left home for any time.

Cross-examined by Mr. Bennett, Q.C.—Did you ever hear any gentlemen sitting up in the house when you went to bed? They didn't stay there any night I was there. Did your master ever go to bed before you? He did not. Did he ever go to bed before his mistress? He did not. How do you know? Because every night the master used to call me up and give me a tumbler of punch (a laugh). And you then saw them both go to bed? I did. Was it after you let the gentlemen out at night that you were called up and got the punch? It was. Did you see Mrs. Hawkes out hunting? I did. Was she a good horsewoman? She was. Did she ride fast after the hounds? She used. Did you ever see her ride an entire horse? I did (laughter). What was he called? Signal. And she used to ride that horse? She used; she would ride him over anything. Used the master go with her always? He often went out and left her at home, and she would take the mare and go hunt the hounds. Did she ever go out hunting and leave him at home?—I don't think she did often.

Mr. Henry Hawkes sworn and examined by Mr. Jenkins—I am brother of plaintiff; I was present at their marriage; I don't exactly recollect when it took place, as I was very young; you could see a person from one hall door to the other. What relationship was there between your brother and defendant? (Witness hesitated.) Defendant's father was your brother's mother I believe (laughter)? Plaintiff and defendant are brother and sister's children.

Mr. Shaw W. Knowles sworn and examined by Mr. Pigot—I have known the plaintiff and his wife since a few months after their marriage; I was very intimate with them, and observed the way in which they lived; they lived on the most affectionate terms; they testified a strong affection for each other; it did not appear to have been interrupted during that time. Do you know that the plaintiff ever suspected the virtue of his wife? Mr. Bennett objected. Mr. Pigot—Very well. I won't press it. Do you recollect the time of Mrs. Hawkes's elopement? I went to see plaintiff in about a week after, at Mr. Gibbing's house, where he was staying; when I first saw him he was exceedingly affected at this calamity, and was in tears; I never saw him so before; I have often seen him since, and he always appeared exceedingly affected at his living away from his house, for he has not gone there since she left him. Do you know whether his friends have endeavoured to bring him back to his former pursuits? I don't know; but I know he has changed from dairying to fattening cattle (laughter).

Cross-examined by Mr. Henn, Q.C.—Have you ever known Mrs. Hawkes to stay up after the plaintiff retired to bed, while there were any young men there? I have not, unless while I was there; I am not related to either of them. Mr. Pigot—Did anything improper occur between you and Mrs. Hawkes? No, on my oath no, and I am very glad you have asked me the question. Mr. William Hawkes sworn—I am brother of the plaintiff; I was agent to defendant; his property is worth about 1,000l. a-year; there was very little difference between plaintiff's age and that of his wife's; her manner and looks were good; their conduct to each other was always kind; I never saw any unpleasant scene between them.

Cross-examined by Mr. Bennett—I recollect a meeting of the family at Sunmount, in the summer of 1840. What was the subject of that meeting? To communicate to my brother John that there were reports spread through the county about my brother John's wife and the defendant. Then, there were such reports prevalent? There were. Did you communicate these reports to your brother? I did not, but I heard he was told them. To Mr. Freeman—After the meeting at Sunmount, plaintiff and his wife were as affectionate as ever. A Juror—Did plaintiff encourage defendant's visits after that meeting? I saw no change. Mr. Robert Gibbings sworn—I knew the plaintiff and his wife; they lived very happily together; I recollect having attended a meeting of the relations of plaintiff and his wife, in consequence of certain reports; and at the result of that meeting I went to the plaintiff, and told him that I heard that his wife had run away about a fortnight before that; he asked me first where I had heard it, and I said from Mr. Allen the attorney; she was at home at that time; he appeared a little startled, and I told him not to be alarmed; he then said he should endeavour to trace the report to its origin; this occurred on the September previous to the elopement.

Did plaintiff tell you, after that, what had occurred between him and his wife? Mr. Bennett objected. To Mr. Collins—From the time I mentioned that she had gone away, he appeared quite bewildered; the next day he opened a drawer, and fell back on a bed, on seeing a picture turned upside down, and then said that she certainly had gone; there was a locket also, from which her hair had been taken. Who were those who were excluded from plaintiff's house after the reports? Court—What do you want to know that for? Mr. Collins—To show that they were not those about whom the report went abroad. Court—It is not evidence. Mr. Pigot—It is a fact, antecedent to the event, and we deem it important. Court, to witness—Do you know of any persons who have been excluded? Plaintiff has told me since. Court—Then it cannot be evidence. Mr. Collins—Will your lordship let me ask whether they were ladies or gentlemen? Court—Indeed I will not. Mr. Collins, to witness—Have you since slept with the plaintiff? I have.

How does he pass his nights? Indeed, sometimes badly; I have been obliged to give him a glass of brandy and some milk (shouts of laughter). What do you give him that for? Oh, he is always very much distressed when he thinks of her. Here the case for the plaintiff closed. Mr. Bennett proceeded to address the jury for the defendant. My lord and gentlemen of the jury, in this case I hope to do my client some service, though in truth it will be but little, and I do not complain of the reason of it; but I beg and entreat of you to attend to me while I am calling your attention to the evidence, and anything I may omit to remark upon, I am sure you will take into consideration—for I have such confidence, I declare unaffectedly, in the gentlemen I have the honor to address, that I will not regret if I forget to put forward anything in behalf of my client. This, gentlemen of the jury, is a question exclusively for your consideration; being a question of damages it saves me a great deal of trouble on this occasion. As this case stands, no question of law can arise. Gentlemen of the jury, it appears that the ages of the parties are thus—Mr. Hawkes is five-and-thirty, and Mrs. Hawkes is about the same age; while Mr. Penrose is a young man, at the utmost, as the witness said, six-and-twenty. The transaction occurred about a year ago, in the month of May, 1841, when he was then but 25. A young man had a fascinating woman left in his society, intimate with him, and this intimacy acted on him, and he did yield, I cannot deny it, to a temptation which nature at that time of life could not withstand. Gentlemen of the jury, I admit he must pay the consequences of it; but when you are estimating your damages you must not act on a vindictive feeling—no such feeling must be exercised in this case. The plaintiff must have damages—the defendant put him to no proofs—my client followed the advice of his counsel, and judgment has gone by default. This would have prevented the necessity of a public disclosure in this court—the sheriff with a jury could in private assess the damages, by which a fair and proper result could have been arrived at between the parties. But no, this would not satisfy the plaintiff—he must have the inquiry before your lordship and a jury here, probably to increase the damages against my client in a case which he would be glad was buried in oblivion, whatever expenses might follow. I shall receive your verdict as the result of calm and cool deliberation, but whatever it is I am bound to respect and submit to it. (Here there was a burst of applause in the galleries and body of the court, which was immediately repressed.)

His Lordship then charged the jury. [The jury then retired, and brought in a verdict for the plaintiff—2,000l. damages, and 6d. costs. Daniel Meagher v. Benjamin Peeble. This was an action for slander, the defendant having called the plaintiff a perjurer at a meeting of the Cork Board of Guardians. After the case had been fully entered into, the plaintiff took a verdict for 10l. damages, Mr. Ex-sheriff Peeble making a full retraction of the offensive words, and paying all the costs as between attorney and client, and the trial closed.]

IRELAND.

The following communications were read at the meeting on Thursday:—

From Brighton, England, 1l. from 20 Repealers, making in all 7l. 9s. per Mr. T. Cavenay. Mr. M. Gunning admitted member. From Mr. Domigan, Paradise-row, 15s., in addition to 5s. before. Mr. Domigan was admitted member. From the coal-porters, per T. Hanlon, R.W., 5s. Per Mr. H. Gribbin, R.W., Scaford, 2s. From Killenmore, county Galway, per the Rev. Mr. Greene, R.C.C. and R.W., 3l. 10s. Messrs. Christopher Gibbons, William Ivers, John Erewood, and Michael Clarke, were admitted members. He also enclosed a petition for Repeal from that parish, containing 1,500 signatures. Per Mr. James Hennessy, R.W., Leicester, 6s. TO THE RIGHT HONOURABLE DANIEL O'CONNELL, M.P., LORD MAYOR OF DUBLIN.

"Dundalk, 23d March, 1842.

"My Lord—I beg leave to forward you the annexed order for 6l. 5s., the sixth remittance of the Loyal Trades' Repeal Association of this town. At the request of the subscribers I have drawn the order in your favour. I beg to assure your lordship that in no part of Ireland are the Repealers more alive to the necessity of a domestic legislature than here, and are determined to persevere steadily, under the illustrious guidance of your lordship, until old Ireland is again restored to her ancient rank among the nations of the earth. Wishing your lordship many happy years to fight the battles of your long-oppressed country, please have Mr. Patrick O'Hanlon enrolled a Volunteer—no Irishman deserves it better; his services to the Repeal cause have been most liberal; and have Messrs. Thomas M'Kinley, Patrick Gallagher, Patrick Ward, Owen M'Keowne, John Mathews, and James O'Hara, enrolled as members, having each collected twenty Repealers. The present remittance makes 60l. 5s., within six months, from Dundalk.—I remain, my Lord, your most obedient servant, "DANIEL MOLONY."

E. J. M'Donnell, Esq., M.D., Glasgow, writes—"I feel much pleasure in stating that the petition of the inhabitants of Glasgow, praying for a Repeal of the Legislative Union between Great Britain and Ireland, was duly forwarded to the House of Commons on Tuesday last. It was adopted at a public meeting, called by placard, held in the Lyceum Rooms, on the 25th ultimo, and was signed by upwards of thirty thousand in the space of a few days; many more might have been obtained had it been allowed to remain a day or two longer, but the committee wished it to be presented before the Easter Recess. In accordance with a resolution passed at the aforesaid meeting, it is entrusted to John Dennistoun, Esq., the city member, for presentation; James Oswald, Esq., and the Right Hon. the Lord Mayor of Dublin being requested to support its prayer. I have, accordingly, written to each of these gentlemen."

"Paradise Chambers, Liverpool, 18th March, 1842.

"MY DEAR SIR—Enclosed you will find an order for 3l. from the Repealers of Liverpool, and also a list of those who, by contributing each 1s. and upwards, have qualified themselves to be proposed associate members of your association.

"The season for emigration has commenced here, and thousands of the Irish poor, of every age, sex, and condition, have reached this place, pursuing their melancholy career of wandering in search of "a home and a country" upon some spot on the other side of the Atlantic. They are now crowding to this port for final embarkation, as if they were hurrying from a country half depopulated by a plague; and if one may judge from their woe-worn appearance—if the human countenance or the human form indicates what suffering the mind or body has endured, there is nothing more reasonable than the conclusion, that they have to the present term of their existence been the victims of a system of persecution more formidable to the patriot, and more devastating and deplorable in its effects than any pestilence which ever yet visited the earth. Last year 48,000 emigrants sailed from this port for various parts of the new world. I may, without any exaggeration, assert, that of this number 40,000 were Irish. If, then, I compute the cost of conveying these 40,000 emigrants thither at 6l. per head, I find that Ireland not only loses the industry of her children, and suffers the pangs of sorrow and affliction which their everlasting absence and final leavetaking create, but pays, in addition, 240,000l. in this port every year, one-half of which sum is expended in sea store, and the other for their passage fare in ships belonging to the United States of America."

From Thomas M'Dermott, Lakeview, Esq., enclosing 1l., subscriptions to the Repeal Rent by persons in that district, in addition to 1l. 10s. sent last month. Mr. M'Dermott says—"I am sorry circumstances, as well as absence from home, prevented me from sending any Repeal rent those three or four weeks past. Please send a member's card for Mr. John Kelly, and associates cards for those whose names I give below.

"I am happy to be able to state that Repeal principles are extending more widely every day amongst us, and while we feel severely the effects of the unfair and unjust treatment which is now being dealt out to Ireland, we only turn with more intense longing to the day when we shall have a parliament of our own—a parliament which will frame laws to cherish and improve, not edicts to crush and desolate the beloved land of our forefathers. When we consider the tendency of those severe measures which are impending over us, overwhelming us with crushing taxation, and depriving us of the power to sustain it—when the protection our produce enjoyed is removed, not on the grand and pre-eminent principle of free trade, but for the purpose of maintaining a heartless monopoly, by the sacrifice of Irish interests—when this is done by a British parliament in opposition to the wishes of both Whigs and Tories in Ireland, it is time for us, Repealers, to laugh to scorn the fool or madman whose diseased vision can behold a hope for Ireland but in the restoration of legislative independence. There is now no other hope for this unfortunate land, no other remedy for suffering unparalleled in the history of civilized nations. Whether we seek the abolition of the ensanguined tithes—the change of an absurd and inefficient poor law—an extension of the elective franchise—an equitable agrarian system, or any other measure of justice for Ireland, we look in vain to the mercy, charity, or justice of British gentlemen; a parliament of Irish gentlemen must do us justice yet."

MEMBERS' NAMES.—Owen Hannon, Patrick Hannon, William MacDonnell, John Taylor, Thomas Clarke, Mark Conyngham, Patrick MacDonogh, Dominick Shirlock, Dominick Caveny, Patrick Morrisroe, Patrick Quinan, and Patrick MacDonogh.

From Swinford, per Mr. Charles O'Connell, 1l. Mr. Patrick O'Connell was admitted a member.

From Derby, per Mr. James O'Connell, R.W., 1l. Mr. Patrick Garvey was admitted a member. He observes—"Signatures are procuring here for the Repeal petition with as much promptitude as possible. It will be sent in a week or thereabouts."

Mr. James Savage, Gourrock, Scotland, enclosing a post-office order for 1l., being the subscription of twenty Repealers, all Irishmen, from the Black North—"Our reason for doing so is, when we see a Tory administration back into power again, and the Orange faction that we thought was suppressed, rising and murdering their Catholic neighbours, with the strong opposition that is made in the English House of Parliament against the Lord Mayor and the other Liberal Irish members, with their measures for the good of Ireland, so that we are sure that nothing but a domestic parliament will be of any service to her; we also think that he must be a recreant Irishman that will not step forward now at this awful crisis, and become a Repealer.

"We expect to remit as much more in the course of a week from the inhabitants of the town."

Mr. John Reilly was admitted a member.