

CORK ASSIZES.

BREACH OF PROMISE OF MARRIAGE.
Clerk v. Molony.

Shortly after the sitting of the court on Tuesday this case was called upon. The grand jury gallery was thronged with fashionably dressed ladies, who appeared to take a deep interest in the proceedings, as did indeed every one in the court, which was crowded to excess in every part.

Mr. Atkins opened the pleadings, and Mr. Henn, Q.C. stated the case. He read several letters written by the defendant to plaintiff, all which, save one, breathed the most fervent attachment for the plaintiff; the one which did not was that which he appeared to have written to her from Dublin, whence he had gone en route to Galway, where he had been ordered. While staying at the metropolis, he visited an aged and infirm uncle, at whose death he expected to come in for a fortune, and at whose particular request he visited Dublin in order to meet a young lady to whom the old gentleman wished to see him married. The interview with this lady caused the estrangement of the defendant's affections from his first love, and the result was the letter alluded to, and his marriage with the lady, which he said he was compelled into rather than offend his uncle, who died soon after, and left him £600. to be paid him at the death of his aunt. It appeared by the statement of counsel that the defendant first met plaintiff at a boarding house in this city; paid her marked attention for nine months, and won her affections, held her in an engagement not to marry for a space of nearly seven years, at the end of which time he married another. The plaintiff's sister deposed to the attachment existing between the parties; the affliction of the parties at the departure of defendant for Galway, and the state of ill health into which she had fallen from anxiety of mind, and her doubts of defendant's sincerity. Doctor Bullen deposed that the plaintiff was now in a hopeless state of illness brought on by nervous anxiety and disturbed state of mind.

Mr. Bennett spoke at great length in mitigation of damages, after which the learned judge charged the jury, who retired, and after a lapse of twenty minutes, brought in a verdict for the plaintiff, £400 damages and 6d. costs.

O'KEEFE v. WALLIS—Mr. Clarke opened the pleadings, and Mr. Bennett stated the case. It was an action of assumpsit on an I O U, for the sum of £100, which it was alleged the defendant, John Cooke Wallis, of Mine Hill, Esq., passed to the plaintiff for cash lent and services performed to him in the capacity of servants. The case was of no importance, but after Mr. Henn had addressed the jury for the defendant,

Mr. Bennett said that as it was now seven o'clock, he begged his lordship to adjourn the case until the following morning.

His Lordship objected to do so, being of opinion that it was better to go on with the case.

Mr. Bennett said he was unable—he was distressed from his exertions, and with justice to his clients it was impossible he could remain so long in court.

One of the jury said if counsel for the defendant only examined two witnesses to prove the state which the defendant had been in when the I O U was signed, it would satisfy the jury in returning a verdict for defendant.

His Lordship said that a case might be shortened or lengthened by the course counsel would adopt. This case might have been shortened in the first instance, by counsel for defendant stating what witnesses he intended to bring forward to rebut the evidence for the plaintiff; but instead of that a long cross examination of witnesses was gone into.

Mr. Henn replied that he felt it necessary to adopt that course, in order that the jury might see what sort of evidence it was by which one of the witnesses attempted to sustain the case.

Mr. Freeman said it was impossible for counsel to sit so long in court and at the same time to attend to the interests of their clients. That was the only object the bar had in view.

His Lordship said there was but little business done that day. Only one record was tried, and now it was wished he should adjourn in the middle of another.—Counsel had better go on.

Mr. Bennett replied that six records had been tried that day—four in the county court and two in this.

His Lordship said that proved to him that there might have been more business done in his court than there had been.

Mr. Bennett—Well, my lord, if you go on in this way you will be the death of me, and you will have to provide for my wife and children.

His Lordship intimated that counsel had better go on. Mr. Bennett instantly rose and left the court, remarking that he would not kill himself for any judge.

The remaining members of the bar immediately followed Mr. Bennett's example, and left the court.

Mr. Collins, who was engaged for the defendant, being the last counsel leaving the bar box, his lordship called on him to know if he intended to call any witnesses?

Mr. Collins—No, my Lord. We respectfully submit the necessity of adjourning the court.

His Lordship said he saw how it was, and in all his experience he never knew an instance where such an attempt was made to control the court; but he would not submit to it, and while he had the honor of a seat on the bench he would assert its authority. He would advise Mr. Collins to call his witnesses.

Mr. Collins replied that his seniors had left court, and he did not like to act without them. He considered that it would answer all parties better to defer calling witnesses until the morning. The bar was jaded after the day—the jury was jaded, and he thought an adjournment was necessary.

His lordship said that it rested at all times with the court to judge of the propriety of adjourning the court or not. He would not submit to be dictated to, and it would remain with the court above to decide whether he was right or wrong.

Mr. Collins left the court and his lordship directed the case to be entered on, and the record was resumed.

The Rev. Mr. Sergeant was sworn, and Mr. F. Herrick, agent for the defendant, inquired of his lordship whether the agents on both sides were to examine and cross examine?

His Lordship—Certainly.

The examination having concluded, Mr. James Nash was sworn, and after a few questions, the jury said that they were perfectly satisfied, and there was no occasion to pursue the examination of witnesses further.

His Lordship addressed the jury, who instantly returned a verdict for the defendant, with 6d. costs.

His Lordship said that they had now concluded the record without the jury being kept to any very extraordinary late hour (half past seven o'clock.) He would now discharge them, requiring their attendance at half past nine o'clock in the morning.

We understand that a meeting of the bar was held on Tuesday morning in the bar room, in obedience to a summons from Mr. Bennett, Q.C. father of the Munster bar, at which a resolution was passed in approval of the conduct of Mr. Collins, Q. C., on the previous evening, thereby censuring the course taken by the learned baron.

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 the plaintiff's wife by the defendant. Damages were laid at £10,000. The defendant had suffered damages to go by default, and therefore, it would rest with a jury of the sheriff of the County of Cork to assess the amount of damages.

The Right Hon. D. R. Pigot stated the case. He said—Gentlemen of the jury, I have, from time to time, in the course of this assizes addressed you on subjects of disputed title—on questions of claims of property—on matters in which parties either may have a right, on the one hand to establish, or on the other to deny some right of possession to property, and in the assertion of whose claim I might have been the advocate. But, gentlemen, I am not now claiming from you the restitution of any property in your power to restore—the establishment of any right to a disputed debt—or of lands or possessions denied or refused. I am placed before you under circumstances in which I am to call upon you to consider an injury that, gentlemen, you cannot possibly repair, that species of loss that it is not in your power to restore, and to detail to you an injury which you may, in the exercise of the powers vested in you by the law, visit, in your attempt to give compensation, with whatever amount of damages you may estimate the extent of injury to the feelings—for what you may consider the ruined happiness—the peace of mind gone for ever—the loss of the possession of a virtuous wife, corrupted and led away from her home by the seduction of him by whom she would ever be regarded as a sister. 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: and I shall just briefly state to you the circumstances under which the connexion commenced, and to which their attachment led—the enjoyment that followed their marriage—and then it will be for you to form some estimate of the extent of the injury my client has sustained, and for which he now asks reparation. Mr. Hawkes, before he attained his majority, was left a moderate but competent fortune—competent at least in reference to the circle in which he moved. Ancient I believe his family is—respectable it was and is. They resided in the neighbourhood of a place called Nettleville, in which neighbourhood there also resided a gentleman who had long been intimate with Mr. Hawkes's family, and who upon the approach of my client to manhood was the father of an interesting family, and amongst others, of the lady who subsequently became the wife of the plaintiff. Mr. Hawkes and she contracted an early acquaintance; they knew each other for years—had become possessed of a thorough knowledge of each others temper, habits, and inclinations. In the year 1829, when Mr. Hawkes was then only twenty years of age, and this young lady, Fanny, only sixteen or seventeen, a mutual attachment had 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 1829. Mr. Hawkes was at that time the absolute owner of a property amounting to about £1,100 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 Kilcrea, where they continued to reside until the occurrence of the transaction which has laid to this proceeding. Mr. Hawkes resided at his house at Kilcrea for 11 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 11 years old. It will be proved to you by the evidence, that the attachment on the part of Mr. Hawkes for his wife, was of a very strongest & warmest nature. Gentlemen, when I was first engaged in this case, I asked for any letters that might have passed between Mr. Hawkes and his wife during those temporary separations which frequently take place between husband and wife, and during which, the letters that pass between them would indicate the terms of cordiality or the contrary, upon which they live; but what was my surprise when I was told there were none? I asked why, and what think you, gentlemen, was the reply? It was this, and it will be proved to you in evidence, that for the 11 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. That, gentlemen, at once accounts for the absence of the correspondence I looked for. 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. 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.—It will appear in evidence that the intimacy and friendship subsisting between my client and the defendant was much more like that of members of the same family than friends of the same social circle. If there is a being on this earth whom Mr. Hakes could suppose incapable, by whom he would say it is impossible could be inflicted this deadly wound on his peace and home, that individual was Mr. Penrose.—And let me here frankly and cordially say, that in all the conduct of Mr. Penrose, except in this unhappy invasion of my client's happiness, not the slightest cause on his part had been given to create a different sentiment in the mind of Mr. Hawkes. 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 had been first abused—when it was that it had been 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, 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 heard that she had eloped; and who was the adulterer. And yet we are in the position that we not but at the very time 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. It will appear in evidence, 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 reappear 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. That circumstance alone proves that while every confidence was reposed

in the defendant by my client, his seduction of his wife was not a deliberate or solitar pact, but a series of them—plain to every one who now hears my statement, that at the very time when the defendant was most trusted and confided in by client, he was carrying on a clandestine intercourse with his wife. Sometime 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 Kilcrea 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. In that month 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. 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. 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 ascertained that the defendant had gone to Dublin upon the very evening of the departure of Mrs. Hawkes for that city—that his meeting had been preconcerted and arranged between them, and that they had in fact, eloped to England. To England they went, and there delayed for some time. What further proceedings followed it is now totally unnecessary for me to detail, because the defendant has suffered judgement 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. Gentlemen of the jury, whatever amount of reparation you may award will be inadequate to the feelings of one whose happiness has been destroyed for ever. But, gentlemen, though you cannot measure the amount of compensation, it is for you to consider the extent of guilt committed—the amount of happiness blasted—what more we would claim it is impossible for you to give. Gentlemen the amount of the defendant's property shall be shown to you. I understand it is a fee simple estate, unencumbered by a debt and yielding about £1,000. 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, 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.

Several witnesses were then examined, whose testimony did not materially differ from the statement of counsel. One of the witnesses admitted that there were rumours of an improper intimacy between plaintiff's wife and defendant six months previous to the elopement.

Mr. Bennett spoke to evidence. He (Mr. B.) did not know that he need say much to the jury; this was a case that depended upon evidence and not upon lawyers. The act of the defendant had been described by Mr. Pigot as an act of unhappy indiscretion, or a "yielding to temptation," and he (Mr. B.) believed that to be the truth. The ages of the parties, he had been enabled to ascertain from the witness, were these, that the plaintiff was now about 85, and his wife somewhat about the same age, and the defendant 26. This unfortunate occurrence took place about a year ago—so then the plaintiff was about 25 years old. It appeared that he lived upon familiar terms with this lady, and that they had been thrown a good deal together, and left much in each other's society, until, unfortunately for him, he at length yielded to the temptation his nature no longer withstood, and he should pay the consequences of it. But when the jury were about to estimate the amount of damages they should inflict upon him, they should be actuated by no vindictive feeling; but to ask themselves, with a proper sense of justice, what amount of damages they would give. He (Mr. B.) would not give any evidence in this case—he should, therefore depend on the evidence before him and the jury; and therefore he called upon the jury to be careful that justice should be exercised with the coldness of ice. He sought not to save his client from damages; but he hoped he would not be visited with damages to an immoderate or unjust amount. He hoped to see the jury extend to him that heavenly mercy which they all hoped for in common; but whatever their verdict should be, he would bow with respect and submission to it.

Baron Lefroy charged the jury. He said the case, as it now stood, was one so perfectly for the consideration of the jury—was one so totally divested of all legal subtleties—that it would not be necessary for him to detain the jury with any observations upon it. There could be no doubt—if the jury believed the evidence—that the plaintiff was in some measure accessory to his own misfortune; and if they did believe that, it ought to lessen the amount of damages. It was alleged that he had been warned of rumours. Another ground relied on by the defendants counsel was, that the defendant was not the seducer, but the seduced. The only point they had before them upon that was, that she sent her brother in law to the theatre on the night of her elopement. If the jury believed that, it should go in mitigation of damages, for loss could not be so great to her husband as if her character was irreproachable. The only remaining topic with which he had to trouble the jury was the amount of damages. Probably they thought they should give suitable damages; but he should greatly violate his duty if he did not tell the jury that the damages should not be extravagant.

The jury retired at a quarter to eight o'clock.

The counsel at both sides consented that the Registrar should receive the verdict, and his lordship retired.

The jury, at ten o'clock, brought in a verdict of £2,000, and 6d. costs.—*Cork Reporter.*

Daniel Meagher v. Benjamin Deeble.

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 Deeble making a full retraction of the offensive words, and paying all the costs as between attorney and client, and the trial closed.

CLOSE OF THE CORK ASSIZES.

The Hon. Justice Torrens closed his labours on Friday in the County Court by sentencing the prisoners found guilty.

In the City Court, the Hon. Baron Lefroy was occupied from 9 o'clock in the morning until a late hour in the evening with criminal business. The majority of the cases for trial were for the crime of perjury, the most important of which were against two voters, Manly and M'Intyre, the former having voted while rates were due, and the latter having lost his qualification. They were both acquitted. The two men had voted for Colonel Chatterton at the late election for the city.

At a late hour in the evening his Lordship entered on the fiat of the presentments.