

COURT OF EXCHEQUER, Guildhall, Dec 21.

MULLETT V. LLOYD—CRIM. CON.

This was an action to recover compensation in damages for criminal conversation with plaintiff's wife. The damages were laid at 2,000l.—Defendant pleaded not guilty.

Mr. Sergeant TALFOURD said it was his duty to lay before the jury the various facts and circumstances of this extremely painful case. As in all cases of similar character, there would be found in this matter for grave consideration; for whilst on the one hand the plaintiff had to complain of an aggravated grievance, so on the other, the defendant, if guilty, had committed gross violation of moral duty, which had deprived the plaintiff of all hope of happiness until his removal to another world. The plaintiff was young gentleman of about thirty years of age, and was a paper manufacturer and a wholesale stationer in extensive way of business in the city of London. The defendant was some years his senior, and was one of those persons who had taken upon themselves, or had assumed to themselves, the position of public instructors—he was the proprietor of several newspapers. One was published under the title of *Lloyd's Weekly Newspaper*, a threepenny affair, he believed, *Lloyd's Penny Sunday Times*, and *Lloyd's Penny Miscellany*. He now resided at a villa on Forest-hill. The plaintiff was married on the 9th Sept 1836. He was then a young man of 22 years of age, whilst the unhappy lady was some three or four years younger. The marriage had been one of sincere affection and strong attachment. At the period of his union the plaintiff was in salaried employment, but shortly afterwards he had commenced business on his own account, and, being successful, he had looked forward to that full enjoyment of his domestic comforts towards which all men with a family were accustomed naturally to yearn. Up to the time, within a very brief period, when this lamentable event came to pass, there had never been a breath even that could interfere with that happiness—a happiness which had been increased and added to by the fact his wife having borne him four children. The defendant also, he regretted to say, was a

married man, with three children. The connection between the plaintiff and the defendant had not simply been of the most intimate character, but it had amounted to brotherly friendship. The defendant had dealt with the plaintiff for paper to the extent of 12,000l. per annum, and at the moment when this affair took place was then a debtor to him the extent of upwards of 4,000l. That sum it was, however, but fair that he should state, had been regularly paid as the bills had severally arrived at maturity. He had merely mentioned the fact in order to show the extent of the transactions which had been carried on between the parties. The plaintiff, too, had been one of the securities for the defendant at the Stamp-office. Such, then, it would be seen, were the relations in which these persons stood the one towards the other. They were those of the closest friendship. They were on the most intimate and friendly and cordial footing. Some time after the plaintiff had married he became the proprietor of two mills, the one at Bristol and the other Tonbridge, and until that period he had never slept away from home. Then, however, such a course was absolutely necessary, for he could not carry on his business without; but upon no occasion had he left his wife without a female companion. At the commencement of the present year the plaintiff's wife was labouring under indisposition, and, fearing that it bore the appearance of consumption, he had requested his medical friend to see her, but not to explain the nature of his apprehensions, lest they might create an alarm in her own breast, and then to let him know at his counting-house what his opinion was as to state of health. This was done, and eventually she was taken to Sir James Clark, who agreed in the opinion of the surgeon that she ought to have as much air and out-door exercise as possible. It happened that the defendant kept an open carriage, and he proffered, therefore, to drive her out. The offer was gladly accepted, and upon many occasions the plaintiff and his wife and the defendant and his wife took rides together. In some time after, however, a friend of the plaintiff being on the outside of an omnibus in the Bermondsey-road, was surprised to see the defendant driving

the plaintiff's wife alone; but was still more astonished when the defendant, in less than a minute afterwards, drove back again alone, because there had not been sufficient time to have taken the lady to her own home. At one time the two families, with some other friends, had gone to Tonbridge together. In the course of time Mrs. Mullett appeared to be improving in health—an event which, as would be easily conjectured, afforded the highest delight to her husband. Subsequently to this period the defendant, it was remarked, had become a frequent visitor at the house when the plaintiff was from home, and that took rides with him alone. Whether the ruin of the lady had been accomplished at this period he was not in a condition to prove, but it was not altogether unreasonable that such suspicion should have obtained. In the month of April, however, the matter was seen by the servants, for Mrs. Mullett was often observed to go out in the absence of her husband, and to remain away for some time, but to contrive in most instances to reach home before her husband's return. On the 27th of April, at length, she went out, and never returned, leaving all her trinkets, and even her watch behind her. It was not by any means difficult to conceive the dreadful state of mind of the plaintiff when he found that she did not come home at night; and so great was his alarm that, finding her absence continued for several days, he was on the eve of advertising her, when some circumstances of suspicion reached him which induced him to direct his attention to defendant. In the meantime, however, defendant had consoled with him on the painful bereavement of the cherished partner of his breast. Plaintiff, in the end, went to the defendant's house, where he had seen Mrs. Lloyd, to whom he communicated his conviction that his wife had gone off with her husband. The learned serjeant entered into description of the scene and conversation which ensued upon this occasion, as detailed in the evidence of Mrs. Lloyd's sister, Mrs. Dribble, below, and commented in warm terms upon the behaviour of the defendant, and then went on to say that of course all acquaintance between the plaintiff and defendant instantly ceased on the one hand, the security at the

Stamp-office was withdrawn, and, as a natural result, the orders for paper were withheld by the defendant. The plaintiff was left to seek where he best could consolation for the deprivation of the partner in his best hopes, in his best wishes, in his best expectations, and, above all, the mother of his children, whilst the defendant, deserting his own wife, had taken to his arms a paramour in the wife of his most intimate friend. With that paramour he now living Forest-hill, where she was known Mrs. Lloyd, a name to which she had no legal title, instead of that of Mullett. To his partner and paramour in guilt he daily flew to bury those feelings which such act of perfidy, as well of moral guilt, could not but have engendered. Everything that could have been done by the defendant in order to prevent the identity of his paramour being discovered had been attempted. The house, it appeared, stood back from the road, and was approached through a gateway leading into the front garden. That gate, since the plaintiff's wife had flown there, had been kept locked, so that, contrary to all former custom, even the tradespeople were not permitted to come up to the house. But this difficulty, it would be proved, had been overcome by the plaintiff, and the identity of the female now living and passing as Mrs. Lloyd, being in reality Mrs. Mullett, the plaintiff's wife, would be most clearly established by evidence which could not be impeached, for that lady had herself come down without her bonnet, and spoken to gentleman who well acquainted with her. There could not, therefore, be any dispute as to the fact of the supposed Mrs. Lloyd being the real Mrs. Mullett. It chanced, from the circumstances of this case, that it was an exception to the general rule in such cases, for the whole of the evidence was of that character that it might be listened to by all classes of society. But what would the jury—what would the world say, allow him to ask, when they heard that the man who thus had robbed a man of his wife—the man who had deprived four young children of the care and attention of a mother, that care and attention which a mother only can bestow upon her offspring—the fruits of her love and attachment and devotion

to a fond and ardent husband—and the man who had turned his own wife from her natural home in order to receive as her substitute his partner in the crime of adultery, his paramour; what would all the world say when they learnt that that man had set himself the instructor of the lower and the middle classes of society? What could they say of such man, whose duty and study ought rather to have been to advocate and to inculcate all that was virtuous and good, all that was moral and religious? He would defy his learned friend to point out or to prove a single act of the plaintiff which could weigh as a palliative to the unhallowed crime of which the defendant had been guilty. This was not the ordinary case of man who, as casual visitor, had violated the hospitality of his acquaintance by possessing himself of his wife; but it was one where, under the colour of friendship, the parties had all been upon brotherly terms, the defendant had availed himself of that fact to seduce one who was not alone the partner of his all but brother, but one who was also the mother of four young and innocent children—who by every law of nature had been taught to look up to that parent for instruction in everything that was good—to look up to her for her care and guidance during their education in morals and religion, and ultimately to her judgment and assistance in their usherment into life. He had filched away from the arms of her husband one who had been fondly loved and cherished—one for whom, as years rolled on, he had anticipated his love and attachment would have increased, until they had either or both passed into that state which alone ought to separate those who were bound by the holy and solemn vows which both had pronounced at the altar. For this grievous injury it was that the plaintiff sought reparation at the hands of a jury, and he doubted not but that, when they heard the case he was prepared to make out, they would agree with him that no ordinary extent of damages could be regarded even as a balm, much less as a compensation for the injury inflicted.

Witnesses deposed to the usual proofs of the marriage, and how the parties lived together.

The principal witness was Mary Walsh. She deposed as follows:—I was servant the plaintiff. On the 27th of April Mrs. Mullett left. I lived with them three years and half, and had opportunity of seeing the terms upon which they lived. They were most affectionate until three months before the lady went away, when they had some words about her going out so much. The plaintiff did not object to her going out at proper times in compliance with the doctor's advice. The defendant was there frequently. Miss Purkis, too, frequently was at the house for three or four weeks at time, and when the plaintiff was absent at either of his mills. About January last mistress was not in such good health as previously. The plaintiff was extremely anxious about her, and, upon his request, she went to a physician, accompanied by her own medical attendant. After this she went out great deal. My mistress said she should away on the 26th of April, and on the next day she did so. Prior to her doing so, however, she gave all her trinkets and her watch into care. The plaintiff was aware that she was going away, because she had told him she would on the preceding evening. Upon that occasion she had come home late, when he asked her where she had been, would not tell him whereupon the plaintiff said he would make her. She again refused, but he said she should tell him, or he would make her. Upon this she said she would go away from him altogether. The plaintiff, in tone of astonishment, exclaimed that "Surely she would not think doing so! Did she remember her four children? Could she abandon them?" My mistress cried very much, but persisted in her determination to leave. The plaintiff then said, if she had resolved upon adopting such step, he would place her in proper care, and make her an allowance. He would place her with her father. She said she would not go there, for her father was nothing her. The plaintiff then said, she should, if she preferred it, go to her uncle; but this proposition was rejected, with the remark that "her uncle was nothing to her." Prior to this occasion, I have heard the plaintiff remonstrate with his wife for her absence, and angry words had passed between them several times during three months before she went away. She

went off on the 27th April. A short time after this date I saw my mistress walking with Mrs. Hemmings backwards and forwards for about half an hour by St. George's church, in the Borough, and by and bye the defendant drove up and took them into his carriage, and went away.

Cross-examined—I have lived three-and-a-half years with the plaintiff and his wife. They lived in the most comfortable and affectionate manner, and with kindness and attachment to their children. I never heard any angry words pass between them until the last three months. I have never seen her cry during the whole of that period. I have known the plaintiff to come home late at night, one o'clock was the latest. I have heard Mrs. Mullett complain of his being late. But they did not have words about it, for he has explained where he has been. I never saw him strike or throw anything at her. She told me that he had thrown an apple at her because she had taken some thick water to him. She cried about his having presented a gun at her. I did not see it done, but she told me of it. She was not crying I when saw her, but she had been crying. I could see no tears. These words had been at cards. She has never complained of the plaintiff having struck her. This was about two years ago. I do not remember his coming home very drunk one night, and my mistress, after having quarrelled with him, saying that she should refuse to sleep with him, and in pursuance of her threat that she slept on the sofa. She did refuse sleep with him the night before she went off. I now recollect that the plaintiff at one time did charge her with having formed acquaintance with stranger in the streets. They had words about this. This was about a year and a half ago. When he came home that night she was in bed. She got up and went with the plaintiff to his sister's, to satisfy them all of her innocence. She returned and slept with the plaintiff that night. I remember, about two years ago, she went to flower show, and they had a few words about it afterwards. Upon my oath I have never noticed the plaintiff come home drunk. Mrs. Hemmings used to visit my mistress very much during the few preceding months to her going away. Mrs. Hemmings was living in the same house as

Mr. Purkis. That lady is separated from her husband. Miss Purkis was constantly staying the house. She is about 19, I should think. The plaintiff took the mill at Tonbridge about nine months before his wife went off. The plaintiff went there twice week, but never stopped a week at a time. She has generally had Miss Purkis with her in his absence. The plaintiff took his wife to the mill sometimes. The defendant used to bring his wife there. I have no recollection of the defendant having remonstrated with the plaintiff for leaving his wife so much. The plaintiff was very intimate with Mr. Purkis, who lived at the same house with Mrs. Hemmings. I left the plaintiff's service in June. I remember Mrs. Mullett coming home by herself at two o'clock in the morning, but I did not hear that it was in consequence of a quarrel with the plaintiff. She came home in cab. The plaintiff was not at home the time. I don't remember what hour it was at which he came home.

Re-examined—Miss Purkis is the daughter of Mr. Purkis, and resided with her father all that time. The defendant and his wife used to meet Mrs. Hemmings at the house of the plaintiff. The complaints that the plaintiff made of his wife were that she was out so much without him.

By the COURT—Mrs. Mullett was walking near St. George's church Mrs. Hemmings was with her, and when the defendant came he took them both up in his chaise.

Mrs. Dibble—I am sister to the defendant's wife. They were living in Salisbury-square in April last. The defendant did not sleep at home at that time, because they had had words, and a difference in consequence. I was there few days after the plaintiff's wife had gone off from her husband, when the latter had called there. It was about seven o'clock in the evening. He saw my sister. He was not very much excited when was speaking to her. The defendant came home while the plaintiff was there. I heard the plaintiff ask the defendant for his wife. Mrs. Lloyd was crying very much, in consequence of what the plaintiff had communicated to her. I heard him afterwards say, "You are a black-hearted villain." The plaintiff said, "You have



got my wife” and the defendant said, “That is to be proved.” Afterwards the defendant said, “You may take my old wife, and I’ll have your young one.” The defendant ordered the plaintiff to leave the house, which he was about to do, when blows ensued. Mrs. Lloyd left her house to protect her life, and afterwards she left her husband altogether, in consequence of his connection and behaviour. Mrs. Lloyd left her house on the 29th of May. The defendant lives now at Forest-hill. They have two children living. Mrs. Lloyd is my sister.

Cross-examined—The defendant’s wife blamed the plaintiff for not preventing the defendant from being so much at his house. Upon the occasion when the plaintiff told my sister that he was sure his wife had gone off and was with her husband (the defendant), Mrs. Lloyd said she could not and would not believe it. The plaintiff rejoined that her husband had admitted the fact to Mr. Purkis. Mrs. Lloyd then said that she had given him warning more than once to be more careful of his wife, but he had chosen to treat her more as one who was jealous of her husband than friend who was simply giving him a caution. But, she continued, she was certain her husband never would have been so base as to take advantage of a virtuous woman and the wife his friend; and she was quite positive that her husband would never take liberties with woman of virtuous and modest mind and actions. The defendant was very much intoxicated when he came home, so much so that he was not at all able to defend himself from the assaults of the plaintiff. Prior to the blows he had desired the plaintiff to quit the house.

The Parliamentary return of newspaper stamps was produced to prove the sale of publications of which the defendant is the proprietor. This closed the case for the plaintiff.

Mr. COCKBURN then addressed the jury on behalf of the defendant, and said he was not instructed to deny the offence, of which proof had now been laid before them, A more painful case could not easily be conceived. That it was so, he could not for a moment disguise from himself, nor attempt to shield it

from the jury. Neither should he endeavour to deprive the plaintiff of the compensation to which they might consider him entitled. He had at once admitted the adultery, with conviction that such a course, under all the circumstances, was more than due to the plaintiff. If the defendant had put a plea upon the record, it had been done in order that the case should be tried by jury of intelligence and enlightenment, who were capable of distinguishing the various niceties of the facts, rather than by a jury who, however honest, had not enjoyed the blessings of such education as would enable them to arrive at a just and fair decision. The defendant must submit to a verdict being given against him, and then the only question remaining was to the amount of damages. He besought the jury not to be led into the commission of an injustice by the eloquent effusions of his learned friend, and that they would not, under the excited feelings which in their generous nature had doubtless thereby been aroused, allow themselves to be induced to give extravagant or exorbitant damages. The facts disclosed, as well as what the jury might fairly infer from what had not been disclosed, suggested many circumstances of mitigatory character. No ladies or female friends of Mrs. Mullett had been called to show the terms on which the plaintiff and his wife had lived, though such evidence might have been readily adduced if the parties had really lived in such a state of uninterrupted domestic happiness as had been described. It appeared to him (the learned counsel) that these unfortunate deviations from rectitude could never occur on the part of a married woman, that no man would ever solicit her chastity, unless something previously existed in the woman's mind, and displayed itself in her manners and conduct, showing that she was dissatisfied with her husband. Some act of neglect or indifference on the part of the husband must have previously worked on the mind and undermined the affections of the wife. He was sure the jury would not think the plaintiff's conduct wholly blameless, when they found that he had introduced to the society of the wife of his bosom, and encouraged her intimacy with Mrs. Hemmings, a married woman separated

from her husband, and living in the house with an unmarried man. That this intimacy had its effect, its natural effect, on Mrs. Mullett's mind, might be readily inferred from the circumstance that it existed after the separation, which was the foundation of the action. In considering the amount of damages the jury would also bear in mind the claims of the defendant, and that excessive damages would be inflicting deep injury on his innocent wife and children. Nor should they forget what the defendant had brought upon himself by this connection. He was bound to provide for the unfortunate person who had united herself with him, and the jury might depend that the cup they had prepared for themselves would not be without alloy, but this, as in every other case, the departure from virtue would bring its own punishment. He concluded by entreating the jury to give all the circumstances of the case patient and temperate consideration.

The LORD CHIEF BARON then summed up, leaving the question of damages altogether to the jury. The Jury, after few minutes' consultation, returned a verdict for the plaintiff.—Damages, 750l.

*Globe* — Monday 23 December 1844