





EXETER ASSIZES—JULY 30.

JOHNSON v. FRANKS.—Mr. Tucker opened the pleadings. Mr. Sergeant Wilde, with whom was Mr. Sergeant Coleridge, stated the case. This was an action to recover compensation for the seduction of the plaintiff's wife. The plaintiff was a beneficed clergyman, residing in the County of Devon, and related to families of the first respectability in that part of the country. The defendant was a Lieutenant in the 10th Regiment of Foot, and was also a native of the same place, and highly connected. In 1820 the plaintiff married a Miss Thornhill, a lady of much personal attraction, of fascinating manners, and of respectable connections in the neighbourhood of Mallow. He was then about 24 years of age, and she was between 10 and 17 years old, so that there was no disparity in their ages. The result of the marriage was the birth of eight children, of whom six are now living. They lived very happily together. He was an indulgent and an affectionate husband, and their attachment was reciprocal. Her mother (Mrs. Roach) resided within a short distance of his residence, near Mallow. There being some disturbances last year in that neighbourhood, on account of the hostility manifested against the payment of tithes, and the plaintiff's cottage being thatched, it was not deemed secure for her to remain there, as it might be set on fire, and she consequently removed to her mother's house, where she took up her residence for a short time (the plaintiff occasionally visiting her there). It happened that at that period the defendant was quartered with a detachment of his regiment at Fermoyle, a town not very far distant from Mallow. Being formerly acquainted with the family of the plaintiff's wife, he availed himself of the opportunity of being stationed there to renew his acquaintance, and the consequence was that he paid frequent visits to Mrs. Roach's while Mrs. Johnson was residing there. After some time an alteration in her conduct towards her husband became obvious, whereby a suspicion of improper intercourse between her and the defendant was excited. However, the defendant's regiment having been removed to Plymouth, the subject was dropped, and the plaintiff and his wife continued to live on happy terms. Shortly afterwards she began to complain of her health, and it was arranged she should go to a watering place. Cove, near Cork, was fixed upon as the place. The plaintiff proposed to accompany her, but in consequence of some excuse which she made, her brother only accompanied her. When they arrived at Cork, she contrived to get on board a vessel, unknown to her brother, and set out for Plymouth, where the defendant was quartered. There they lived for some time as man and wife. After a short time they removed into Cornwall, where they cohabited in a similar manner. These were the facts which would be presented for the consideration of the Jury. As the defendant had taken up his residence here, it was necessary that the action should be brought in this County, whereby the plaintiff was subjected to much inconvenience, as he could not compel the attendance of witnesses from Ireland (a proceeding from this country not being compulsory there). It was for the Jury to say what damages should be awarded to the plaintiff for the loss of his wife, who was the mother of his six children. The defendant's father and brother were men of considerable property; what property the defendant himself possessed the plaintiff had no means of knowing; but the Jury should not be influenced in assessing the amount of damages by the property of the defendant. The injury which the plaintiff sustained was the proper measure of the compensation to which he was entitled. It was by the amount of the damages only that the Jury could manifest their sympathy for the affliction brought upon him and his children. The learned Sergeant having concluded a very pathetic address, the following witnesses were called:— Captain Johnson, father of the plaintiff, was present at the marriage on the 20th of September, 1820; Miss Thornhill was then about sixteen years of age, and Mr. Johnson, the plaintiff, 24; she was the daughter of M. Thornhill, of Castlekiven, in the County of Cork; she was a fine girl; she gave birth to eight children, of whom six are now living, the youngest of whom is only 16 months old; the plaintiff is Rector of the parish of Clonfert; he is grand-nephew of the Bishop of Cloyne, whom we visit; I had frequent opportunities of seeing how the plaintiff and his wife had lived together and it appeared to me that no couple could be happier; he was kind, affectionate and indulgent; she was a good mother, fond of her children; I saw her a fortnight before she eloped, and they appeared to me to be on the best of terms up to that period; I saw the defendant once. Cross-examined by Mr. Erle—I never heard that a proposal had been made for a separation between them before that time; I never was applied to to reconcile their differences; if they quarrelled it was concealed from me; I visited them frequently; I saw some ladies there occasionally; I saw Mrs. Hume, a widow lady, residing at Mallow, at dinner there; I never saw the plaintiff drunk at Mrs. Roach's; I dined there along with him; I have been often drunk myself; I was thirty years in his Majesty's service, and I could not well avoid being drunk frequently during that period—(laughter)—I never saw the plaintiff drunk at all; I never was carried home in a donkey cart from Mrs. Roach's; several of the neighbouring gentlemen visited the plaintiff. Re-examined—Mrs. Roach is plaintiff's mother-in-law. Catherine Kilhear resided in the capacity of nurse for seven years with the plaintiff; he and his wife were always on the happiest terms; she was what I considered a great beauty; they resided sometimes in his cottage, and sometimes at Mrs. Roach's; they always slept together; she used to go sometimes alone to Mrs. Roach's; I remember seeing the defendant sometimes paying her visits in the absence of the plaintiff; he often came on Sundays when the plaintiff was from home; I was then generally sent out to walk with the children, and he used to go away before

I returned; on the 24th of August she went to Cork with her brother to go to a watering-place; Mrs. Hume, her daughter, Mrs. Jeppson (the wife of the member for Mallow), and Mrs. Bradley, used to visit them. Cross-examined—Mrs. Johnson never staid a long time at Mrs. Roach's except once, when Mrs. Roach was unwell; the plaintiff used to go to her there, and often slept with her at Mrs. Roach's; I never knew any difference to exist between them except once, when he brought home some man at night, who slept in the servant's bed; she did not tell me that they quarrelled then, but she slept in the spare bedroom and refused to sleep with him that night, as she was angry with him; but I saw them laughing together the next morning; she never complained to me that he struck her that night; she never showed to me the mark of a blow on her head; I never saw the plaintiff drunk; I consider that a man is not drunk who can walk or ride; I saw him sometimes tipsy when he came home from dining out, but I never saw him in a state to which he was incapable of doing business; at home he used to drink but one tumbler between himself and the children after dinner; I never heard her complain of his conduct respecting Norry McDonnell, the cook, who became in the family way there, and was discharged on that account; I saw the servant boy go into Norry's bedroom one night, and I told my mistress, and she was discharged, and when she recovered she was sent for again by my mistress, and has been since in the house; I never heard the plaintiff call my mistress any names; he never spoke indecently to me. Henry Thornhill, brother of Mrs. Johnson, (having deposed as to the happy terms in which they lived) said—In consequence of something which excited my suspicion, I said in the presence of the defendant, my mother, and sister, that I would lay a whip over his shoulders; he made no reply to me then, but in a short time after he said to me that if I wished it he would never again speak to my sister, but that he would do nothing for that jealous dog Johnson, meaning the plaintiff. The defendant was in the habit of coming frequently to my mother's; I thought that he was paying his addresses to my mother; he never appeared to me until the period that I have mentioned, to be paying attention to Mrs. Johnson. Cross-examined—When I said that I would lay a whip over his shoulders he was standing within two yards of me; I can't say that he heard me; if he did he took no notice, but he might have heard me; I never heard the plaintiff call my sister any names. James Thornhill, brother-in-law of the plaintiff, took her to Cork on the 24th of August, in plaintiff's jaunting-car; the plaintiff proposed to accompany her, but she said he had better not, as she did not wish to be seen on the same car with him until the quarrel between him and the defendant was made up; we set off at six o'clock in the morning; she was to reside at Cove; when we arrived at Cork, I left her in a milliner's shop, where she said she had some business to transact; she desired me to leave her there, and return at one o'clock; I returned at that hour; she was not there, but she left word for me that she had gone to her sister's about three miles off, and would be back at six; about six I met the plaintiff in Cork, who told me that she had gone off in a boat; that he had traced her as far as a place called Passage; he appeared to be raving mad, and blamed me very much for having left her; I don't know where my mother is now. Cross-examined—I have three brothers and three sisters; we had a servant man with us going to Cork. George Paynter—Resided in Plymouth; the defendant took lodgings of me in Plymouth, in September last, for a lady; I saw a lady there, who was called Mrs. Johnson; they said she was the widow of a clergyman; the defendant used to visit her daily, and remain with her from one to four, and from seven to ten o'clock; I afterwards put her on board a steamer, for Falmouth, by the desire of the defendant. Cross-examined—Saw her mother there once; she was introduced by the defendant, whom I saw walking arm-in-arm with her; I believe that the mother went from Plymouth to Beistol. Foster Delany—Knew the defendant's family; his brother has a beautiful place in the county of Cork; I reside near Mallow; about a fortnight before the elopement I saw the defendant walking with Mrs. Johnson; my suspicion was excited, and I made a communication on the subject to the plaintiff; I was intimate with the plaintiff; I used to collect some tithes for him; he and his wife lived very happily; after the elopement I went to inquire for her; I found her at Mrs. Oats's, in Plymouth; the defendant was there, and he said that there was no occasion to make any noise about it; that they lived together as man and wife; he often said so to me afterwards, as we walked together. Cross-examined—She was of a highly respectable family; she was very lady-like; several ladies visited her; I cannot say that I did not complain to Mrs. Roach of the improper conduct of the plaintiff, but I don't recollect that I did; I never told her, or any person else, that he lived with prostitutes in Cork; the plaintiff is now in Exeter; he accompanied me to Plymouth when I went to inquire respecting her; he showed me a letter of her's that he intercepted on the day that she left home; I never saw a man more distracted than he was; he said that he did not know what to think of the letter, but he had never suspected that she would go abroad; he was in hopes that when matters cooled he should join her at Cove; I did not understand from him that he had intercepted the letter before she left home, and that he knew before she left home that she was to come to England. Re-examined—No person avoided the society of the plaintiff out of an objection to his conduct. Eugenia Elvin saw the defendant and Mrs. Johnson living as man and wife at Mrs. Lowry's, in Plymouth. Mr. Delany recalled—I have no reason to think

that the plaintiff's company was avoided, nor did I ever hear anything to affect the reputation of Mrs. Johnson before the elopement; she mixed in the most respectable society in that part of the country, and at Mallow they are exceedingly precise. This being the case on behalf of the plaintiff, Mr. Erle, with whom was Mr. Pollett, addressed the jury for the defendant. After the evidence which they had heard, he could not deny that a verdict must pass for the plaintiff. He put it to the jury if ever there was a case where the conduct of a defendant was more free from reproach than that of the present defendant up to the period when Mrs. Johnson came to Plymouth—until then there was not a little of evidence of the smallest breach of duty. He submitted that it was not a case for heavy damages. The defendant had no property but his pay as Lieutenant. Lord Deane observed that there was no evidence of the plaintiff being guilty of improper conduct, or addicted to vicious habits. The defendant had the advantage of the society of the plaintiff's wife for some time back, who, it was evident, from the nature of the cross-examination, disclosed several things respecting the plaintiff's conduct, and the terms on which they had lived; but if the imputations were well founded, it was competent for the defendant to prove that. He might have produced her mother, or other persons who were well acquainted with them. If the conduct of the plaintiff was such as the defendant would represent it, it would go a great length in mitigation of damages. But there was not a little of evidence to affect the conduct of the plaintiff. It was admitted on the part of the defendant that the plaintiff was entitled to a verdict—consequently the only question for their consideration was the amount of damages, of which they were the proper judges. The jury having deliberated for a few minutes, returned a verdict for the plaintiff—Damages £1,000. STATIONS OF THE BRITISH ARMY ON THE 4TH OF AUGUST, 1834. [Where two places are mentioned, the last named is that at which the Reserve Companies of the Regiments are stationed.] 1st Life Guards, Windsor. 2d, Regent's Park. Royal Horse Guards, Hyde Park. 1st Dragoon Guards, Dorchester. 2d, Ipswich. 3d, Dublin. 4th, Cork. 5th, Manchester. 6th, Glasgow. 7th, Cahir. 1st Dragoons, Brighton. 2d, Plerahill. 3d, Hounslow. 4th, Bombay. 6th, Nottingham. 7th, Hussars, York. 8th, Coventry. 9th, Lancera, Newbridge. 10th, Hussars, Dundalk. 11th, Light Dragoons, Bengal. 12th, Lancera, Birmingham. 13th, Light Dragoons, Madras. 14th, Longford. 15th, Hussars, Dublin. 16th, Lancera, Bengal. 17th, Leeds. Grenadier Guards, (1st batt.), the Tower. Do. (2d batt.), Portman-street. Do. (3d batt.), Westminster. Coldstream Guards, (1st batt.), Windsor. Do. (2d batt.), Knightsbridge. Scotch Fusilier Guards, (1st batt.), St. George's Barracks. Do. (2d batt.), Dublin. 1st Foot, (1st batt.), Barbadoes; Londonderry. Do. (2d batt.), Dublin. 2d, Bombay; Chatham. 3d, Bengal; Chatham. 4th, New South Wales; Chatham. 5th, Gibraltar; Templemore. 6th, Bombay; Chatham. 7th, Malta; Drogheda. 8th, Jamaica; Sunderland. 9th, Mauritius; Youghal. 10th, Corfu; Plymouth. 11th, Zante; Brecon. 12th, Winchester. 13th, Bengal; Chatham. 14th, Athlone. 15th, York, U. C.; Carlisle. 16th, Bengal; Chatham. 17th, N. S. Wales; Chatham. 18th, Dublin. 19th, Trinidad; Newcastle. 20th, Bombay; Chatham. 21st, V. Diemen's Land; Chatham. 22d, Jamaica; Hall. 23d, Gibraltar; Fermoyle. 24th, Montreal; Kinsale. 25th, Demerara; Armagh. 26th, Bengal; Chatham. 27th, Mullingar. 28th, Manchester. 29th, Mauritius; Kinsale. 30th, Bermuda; Clonmel. 31st, Bengal; Chatham. 32d, Quebec; Waterford. 33d, Newcastle-under-Lyne. 34th, New Brunswick; Stockport. 35th, Dublin. 36th, Antigua; Newport. 37th, Jamaica; Clare Castle. 38th, Bengal; Chatham. 39th, Madras; Chatham. 40th, Bombay; Chatham. 41st, Madras; Chatham. 42d, Malta; Aberdeen. 43d, Cork. 44th, Bengal; Chatham. 45th, Madras; Chatham. 46th, Weodon. 47th, Dublin. 48th, Madras; Chatham. 49th, Bengal; Chatham. 50th, N. S. Wales; Chatham. 51st, Buttevant. 52d, Ennistymon. 53d, Malta; Plymouth. 54th, Madras; Chatham. 55th, Madras; Chatham. 56th, Jamaica; Cork. 57th, Madras; Chatham. 58th, Ceylon; Plymouth. 59th, Har-dock Lodge. 60th (1st batt.), Gibraltar; Limerick. Ditto, (2d batt.), Kilkenny. 61st, Ceylon; Sheerness. 62d, Madras; Chatham. 63d, Madras; Chatham. 64th, Jamaica; Boyle. 65th, Barbadoes; Portsmouth. 66th, Kingston, U. C.; Plymouth. 67th, Grenada; Cashel. 68th, Edinburgh. 69th, St. Vincent; Tralee. 70th, Gibraltar; Cork. 71st, Bermuda; Perth. 72d, Cape of Good Hope; Paisley. 73d, Corfu; Dover. 74th, Belfast. 75th, Cape of Good Hope; Plymouth. 76th, St. Lucia; Clonfert. 77th, Portsmouth. 78th, Ceylon; Dundee. 79th, Quebec; Stirling. 80th, Blackburn. 81st, Birt. 82d, Glasgow. 83d, Halifax, N. S.; Newry. 84th, Jamaica; Gosport. 85th, Galway. 86th, Demerara; Gosport. 87th, Mauritius; Portsmouth. 88th, Corfu; Chatham. 89th, Fermoyle. 90th, Naas. 91st, Limerick. 92d, Gibraltar; Fort George. 93d, Canterbury. 94th, Malta; Spike Island. 95th, Corfu; Templemore. 96th, Halifax, N. S.; Kinsale. 97th, Ceylon; Portsmouth. 98th, Cape of Good Hope; Devonport. 99th, Mauritius; Portsmouth. Rifle Brigade (1st batt.), Halifax, N. S.; Jersey. Do. (2d batt.), Zante; Guernsey. Royal Staff Corps, Hythe. COLONIAL CORPS.—1st West India Regiment, Trinidad. 2d, Nassau, New Providence. Ceylon Rifle Regt., Ceylon. Cape Md. Riflemen, Cape of Good Hope. Royal African Colonial Corps, Sierra Leone. Royal Newfoundland Vet. Comps. Newfoundland. Royal Malta Fencibles, Malta.

LONDON CORN EXCHANGE, Aug. 4.—The price of all kinds of grain appears now to be entirely influenced by the weather, which proving unfavourable for the last fortnight, has caused an advance upon the finest quality of Wheat of 3s. 6d. per qr. from this day week, and of 3s. upon inferior descriptions. The supply of Wheat is moderate. In Barley there is no alteration in prices. Although there is a very large supply of Oats on show this morning, this grain may be quoted fully 1s. per qr. dearer.—Wheat, 52s. to 62s.; Barley, 24s. to 30s.; Oats, Potato, 22s. to 25s.; Poland, 20s. to 22s.; Feed, 18s. to 21s.; Flour, per sack, 46s. to 48s. LIVERPOOL MARKETS—MONDAY. PROVISIONS.—We continue to have an animated demand for most descriptions of dry Butter, at fully our quotations. For pickled the demand is limited. The demand for Beef and Pork is steady. Hams and Bacon are in good request, for the latter particularly, the stock of which is unusually light at this period of the season. There is little doing in Lard. Butter, per cwt.—Belfast, now, 77s. to 78s.; Banbridge 70s. to 72s.; Colerain, 73s. to 74s.; Sligo, 71s. to 72s.; Derry, 56s.; Limerick, 72s. to 74s.; Waterford, 68s. to 70s.; Cork, 70s. to 74s.; Ditto, Pickled seconds, 73s.; Ditto, Dry thirds, 61s. to 62s.; Newry, 71s. to 72s.; Carlow, 70s. to 76s.; Bladder Lard, 46s. to 50s.; Firkin ditto, 43s. to 48s.; Hams, dry, 46s. to 48s.; Beef, per tierce, 100s. to 115s. Pork, per barrel, 48s. to 55s.; Bacon, now, 30s. to 38s. GRAIN.—The imports of each article in the trade continue moderate. The weather having been fine for the past week, millers and dealers purchased sparingly of Wheat, chiefly of the best samples of English and Irish, at about the rates of the previous week. In Oats, there has been little done; 2s. 10d. to 2s. 11d. per bushel the highest price of the best meal samples. Good fresh Flour has been in demand, and for some well known marks higher prices have been obtained, while middling qualities have been difficult to move off at 1s. per sack reduction. Oatmeal dull, and little change in the value. Barley continues scarce and in demand. Wheat, per 70lbs, Irish red, old, 7s. to 7s. 6d.; Irish red, new, 6s. 4d. to 6s. 4s.; Irish white, 1833, 6s. 3d. to 6s. 8d. Oats, per 45lbs.—Irish, old, 2s. 8d. to 3s.; Irish, 1833, 2s. 6d. to 3s. 1d.; Foreign, in bond, 2s. 1d. to 2s. 3d. Barley, imp. mea.—English, 35s. 6d. to 36s. 4d.; Irish, 60lbs., 3s. 6d. to 4s. Malt, imp. mea.—English, 53s. 4d. to 56s.; Irish, 51s. 6d. to 55s. Flour, per 280lbs.—Irish 2s, 3s, to 36s.; English, 35s. to 39s.; Canadian, 32s. to 33s. Cattle imported into Liverpool from Ireland, from the 29th ult. to the 2d instant inclusive.—Cows, 1053; Calves, 77; Sheep and Lambs, 3,631; Pigs, 1,341; Horses, 32. TUESDAY, TWO O'CLOCK.—This day's market was moderately attended by millers and dealers. Sales of Wheat were not extensive, and barely supported the currency of last week. Oats were 3d. to 1d. per bushel lower; the demand for Flour was confined to the finest samples, at 40s. to 42s. per sack; middling qualities a slow sale at 36s. to 38s.; 23s. 6d. to 24s. per lb. is the highest quotation for Oatmeal, the sale of which was limited; no change in the value of other articles. The imports of Butter are 5,968 firkins. We continue to have a good demand at steady prices. Bacon and Hams in fair request at 1s. per cwt. advance. DUBLIN CORN EXCHANGE, AUG. 5.—There was a small supply of grain at market. Good Oats supported the currency of last week, but Wheat was dull, and rather lower. Wheat, white, 27s. to 28s. 6d.; millers' red 25s. to 27s.; inferior, 22s. to 24s.; new Bere, 11s. 6d. to 12s. 6d.; Malt, 23s. 6d. to 25s. 6d.; Oats, common, 10s. 6d. to 11s. 6d.; feeding, 12s. to 13s. 6d.; Oatmeal, 11s. to 13s.; second Flour, 13s. to 16s. per cwt. At the Galway Assizes, on Thursday week, the seduction case of O'Duberty a. Ensign Barrow, in which the Jury did not agree at the last assizes was again tried before Judge Torrens and a Special Jury. The same evidence having been gone through as on the former occasion, the Jury retired, and after being absent about ten minutes, returned with the following verdict:—"We find for the plaintiff £300 damages and 6d. costs." The verdict was received with loud cheering within and without the walls of the Court. The trial lasted the whole day. County Waterford Sessions.—Waterford, Oct. 10; Lismore, 13. County Tipperary Sessions.—Thurles, Oct. 20; Clonmel, 28. County Kilkenny Sessions.—Kilkenny, Oct. 20; Thomastown, 27. NEIGHBOURING FAIRS. COUNTY WATERFORD.—12, Athlone, Kilmac-thomas; 20, Clonmel. COUNTY KILKENNY.—11, Gowran, Johnstons, Rosbercon; 12, Castle Morris; 14, Churchlandtower; 15, Urlingford; 18, Kilkenny, Frizz. COUNTY TIPPERARY.—11, Grange, Nine Mile House; 12, Cloghordan; 14, Kilkensale; 15, Ballybrehan, Carrick on Sulr. COUNTY WEXFORD.—11, Blackwater, New Ross; 15, Ferns, Nash, Oylgate; 16, Scarawalsh. COUNTY LIMERICK.—11, Knockany; 12, Ballycanilly, Bilbo; 14, Ardgah; 15, Kilmore; 18, Dromon. COUNTY CARLOW.—12, Ballon; 15, Borris. HIGH WATER AT WATERFORD BAR. Morning. Evening. H. M. H. M. Saturday, 9, 7 35 7 57 Sunday, 10, 8 19 8 42 Monday, 11, 9 5 9 31 WATERFORD. Printed and Published by the Proprietor, RICHARD FARRELL, On MONDAYS, WEDNESDAYS, and SATURDAYS, CORNER OF THE EXCHANGE QUAY. AGENTS: NEWTON and Co. Newgate-st. W. Warwick-square, London. R. BARKER, 33, Fleet-street, London. J. K. JOHNSON and Co. No. 1. Eden-Quay, Dublin. Or, at the

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