MASSY *v.* HEADFORT.

[FOR CRIMINAL CONVERSATION.]

ENNIS SUMMER ASSIZES.

July 27th, 1804.

The Rev. Charles Massy, second son of Sir Hugh Massy, Bart., was a clergyman, deriving a large income from church livings. In March, 1796, he married, against his father's wish, a Miss Rosslewin, then eighteen years of age, and of remarkable beauty. By her he had one son. He was residing, in 1803, at Doonas, on the Clare bank of the Shannon, about five miles above Limerick. The Marquis of Headfort, with his regiment of Meath Militia, was then quartered in Limerick, his lordship residing in the Earl of Limerick's house. Mr. Massy, when at one time a rector in Meath, had known the dowager Lady Bective and the Headfort family; so, when his wife became acquainted with Lord Headfort in Limerick, he very naturally asked the Marquis to Doonas—his wife was rather fond of society and display, but, then, Lord Headfort was fifty years old.

The result of the visit was, that on a Sunday morning after the Christmas of 1803, while Mr. Massy was performing service in his church, Mrs. Massy eloped with Lord Headfort, and for this the action was brought. Damages were laid at £40,000, and the case was tried at the Clare Summer Assizes before Baron Smith and a special jury.

An immense bar was employed for the plaintiff; they were—John Philpot Curran, Bartholomew Hoare, Henry Deane Grady, Thomas Carey, John White, Amory Hawksworth, William O'Regan, Thomas Lloyd, William M'Mahon, and George Bennet, Esqrs.; agent, Anthony Hogan, Esq. The Counsel for the

defence were George Ponsonby, Thomas Quin, Thomas Goold, John Francks, Charles Burton, Richard Pennefather, Esqrs.; agent, James Simms, Esq.

Mr. George Bennet opened the pleadings. Mr. Hoare stated the case, describing Lord Headfort as "this hoary veteran in whom, like Etna, the snow above did not quench the flames below." His speech throughout is masculine, original, and to the point; while his Cornish plunderer has been cited as an instance of the highest eloquence. Here it is:—

"The noble lord proceeded to the completion of his diabolical project, not with the rash precipitancy of youth, but with the most cool and deliberate consideration. The Cornish plunderer, intent on spoil, callous to every touch of humanity, shrouded in darkness, holds out false lights to the tempest-tossed vessel, and lures her and her pilot to that shore upon which she must be lost for ever, the rock unseen, the ruffian invisible, and nothing apparent but the treacherous signal of security and repose; so this prop of the throne, this pillar of the state, this stay of religion, the ornament of the peerage, this common protector of the people's privileges and of the crown's prerogatives, descends from these high grounds of character to muffle himself in the gloom of his own base and dark designs, to play before the eyes of the deluded wife and the deceived husband the falsest lights of love to the one, and of friendly and hospitable regards to the other, until she is at length dashed upon that hard bosom, where her honour and happiness are wrecked and lost for ever; the agonized husband beholds the ruin with those sensations of misery and of horror which you can better feel than I describe; she, upon whom he had embarked all his hopes and all his happiness in this life, the treasure of all his earthly felicities, the rich fund of all his hoarded joys, sunk before his eyes into an abyss of infamy, or if any fragment escape, escaping to solace, to gratify, to enrich her vile destroyer."

Five witnesses proved the marriage and elopement, the happiness of Mr. Massy's home, and the fortune of Lord Headfort.

Mr. Quin opened the defence, not denying the fact, but the injury. He alleged that Mrs. Massy's character was so light that it was gross folly or worse of her husband, to have thrown her into Lord Headfort's way. To prove this he examined Colonel Pepper, Captain Charleton, and Mr. George Evans Bruce.* Mr. Ponsonby followed on the same side, with great skill, and then CURRAN said:—

NEVER so clearly as in the present instance have I observed that safeguard of justice, which Providence hath placed in the nature of man. Such is the imperious dominion with which truth and reason wave their sceptre over the human intellect, that no solicitations, however artful, no talent, however commanding, can reduce it from its allegiance. In proportion to the humility of our submission to its rule, do we rise into some faint emulation of that ineffable and presiding divinity, whose characteristic attribute it is, to be coerced and bound by the inexorable laws of its own nature, so as to be all-wise and all-just from necessity, rather than election. You have seen it in the learned advocate,† who has preceded me, most peculiarly and strikingly illustrated. You have seen even his great talents, perhaps the first in any country, languishing under a cause too weak to carry him, and too heavy to be carried by him. He was forced to dismiss his natural

* Struck at for (amongst other things), his evidence in this case, by Harry Deane Grady in the "Nosegay," a once celebrated, but now happily forgotten satire.

† Mr. Ponsonby.

candour and sincerity, and having no merits in his case, to substitute the dignity of his own manner, the resources of his own ingenuity, against the overwhelming difficulties with which he was surrounded. Wretched client! unhappy advocate! what a combination do you form! But such is the condition of guilt, its commission mean and tremulous, its defence artificial and insincere, its prosecution candid and simple, its condemnation dignified and austere. Such has been the defendant's guilt, such his defence, such shall be my address, and such, I trust, your verdict.

The learned counsel has told you, that this unfortunate woman is not to be estimated at forty thousand pounds. Fatal and unquestionable is the truth of this assertion. Alas! gentlemen, she is no longer worth any thing—faded, fallen, degraded, and disgraced, she is worth less than nothing! But it is for the honour, the hope, the expectation, the tenderness, and the comforts that have been blasted by the defendant, and have fled for ever, that you are to remunerate the plaintiff, by the punishment of the defendant. It is not her present value which you are to weigh, but it is her value at that time, when she sat basking in a husband's love, with the blessing of heaven on her head, and its purity in her heart: when she sat amongst her family, and administered the morality of the parental board: estimate that past value, compare it with its present deplorable diminution,

and it may lead you to form some judgment of the severity of the injury, and the requisite extent of the compensation.

The learned counsel has told you, you ought to be cautious, because your verdict cannot be set aside for excess. The assertion is just; but has he treated you fairly by its application? His cause would not allow him to be fair—for, why is the rule adopted in this single action? Because this being peculiarly an injury to the most susceptible of all human feelings—it leaves the injury of the husband to be ascertained by the sensibility of the jury, and does not presume to measure the justice of their determination by the cold and chilly exercise of his own discretion.

In any other action it is easy to calculate. If a tradesman's arm is cut off, you can measure the loss which he has sustained; but the wound of feeling, and the agony of the heart cannot be judged by any standard with which I am acquainted. And you are unfairly dealt with, when you are called on to appreciate the present suffering of the husband, by the present guilt, delinquency, and degradation of his wife. As well might you, if called on to give compensation to a man for the murder of his dearest friend, find the measure of his injury, by weighing the ashes of the dead. But it is not, gentlemen of the jury, by weighing the ashes of the dead, that you would estimate the loss of the survivor.

The learned counsel has referred you to other cases, and other countries, for instances of moderate verdicts. I can refer you to some authentic instances of just ones. In the next country, £15,000 against a subaltern officer. In Travers and M'Carthy, £5,000 against a servant. In Tighe against Jones, £10,000 against a man not worth a shilling.

What then ought to be the rule, where rank, and power, and wealth, and station, have combined to render the example of his crime more dangerous—to make his guilt more odious—to make the injury to the plaintiff more grievous, because more conspicuous? I affect no levelling familiarity, when I speak of persons in the higher ranks of society—distinctions of orders are necessary, and I always feel disposed to treat them with respect —but when it is my duty to speak of the crimes by which they are degraded, I am not so fastidious as to shrink from their contact, when to touch them is essential to their dissection. In this action, the condition, the conduct, and the circumstances of the party, are justly and peculiarly the objects of your consideration.

Who are the parties?

The plaintiff, young, amiable, of family, and education. Of the generous disinterestedness of his heart you can form an opinion even from the evidence of the defendant, that he declined an alliance, which would have added to his fortune

and consideration, and which he rejected for an unportioned union with his present wife. She, too, at that time, was young, beautiful and accomplished; and felt her affection for her husband increase in proportion as she remembered the ardour of his love, and the sincerity of his sacrifice.

Look now to the defendant!—I blush to name him! I blush to name a rank which he has tarnished—and a patent that he has worse than cancelled. High in the army—high in the state—the hereditary councillor of the king—of wealth incalculable:—and to this last I advert with an indignant and contemptuous satisfaction, because, as the only instrument of his guilt and shame, it will be the means of his punishment, and the source of compensation for his guilt.

But let me call your attention, distinctly, to the questions you have to consider. The first is the fact of guilt. Is this noble lord guilty? His counsel knew too well how they would have mortified his vanity, had they given the smallest reason to doubt the splendour of his achievement. Against any such humiliating suspicion he had taken the most studious precaution by the publicity of the exploit. And here, in this court, and before you, and in the face of the country, has he the unparalleled effrontery of disdaining to resort even to a profession of innocence.

His guilt established, your next question is, the

damages you should give. You have been told, that the amount of damages should depend on circumstances. You will consider these circumstances, whether of aggravation or mitigation.

His learned counsel contend, that the plaintiff has been the author of his own suffering, and ought to receive no compensation for the ill consequences of his own conduct. In what part of evidence do you find any foundation for that assertion? He indulged her, it seems, in dress—generous and attached, he probably indulged her in that point beyond his means; and the defendant now impudently calls on you to find an excuse for the adulterer in the fondness and liberality of the husband.

But you have been told, that the husband connived. Odious and impudent aggravation of injury, to add calumny to insult, and outrage to dishonour. From whom, but a man hackneyed in the paths of shame and vice—from whom, but from a man having no compunctions in his own breast to restrain him, could you except such brutal disregard for the feelings of others; from whom, but from the cold-blooded veteran seducer—from what, but from the exhausted mind, the habitual community with shame—from what, but the habitual contempt of virtue and of man, could you have expected the arrogance, the barbarity, and folly of so foul, because so false an imputation? He should have reflected, and have blushed, before he

suffered so vile a topic of defence to have passed his lips.

But ere you condemn him, let him have the benefit of the excuse, if the excuse be true.

You must have observed how his counsel fluttered and vibrated, between what they call connivance and injudicious confidence; and how, in affecting to distinguish, they have confounded them both together.

If the plaintiff has connived, I freely say to you, do not reward the wretch who has prostituted his wife, and surrendered his own honour; do not compensate the pander of his own shame, and the willing instrument of his own infamy. But as there is no sum so low to which that defence, if true, ought not to reduce your verdict, so neither is any so high to which such a charge ought not to inflame it, if the charge be false.

Where is the single fact in this case on which the remotest suspicion of connivance can be hung? Odiously has the defendant endeavoured to make the softest and most amiable feelings of the heart the pretext of his slanderous imputations. An ancient and respectable prelate, the husband of his wife's sister, is chained down to the bed of sickness, perhaps to the bed of death; in that distressing situation, my client suffered that wife to be the bearer of consolation to the bosom of her sister; he had not the heart to refuse her, and the softness of his nature is now charged on him as a

crime. He is now insolently told, that he connived at his dishonour, and that he ought to have foreseen, that the mansion of sickness and sorrow would have been made the scene of assignation and of guilt. On this charge of connivance I will not further weary you or exhaust myself; I will add nothing more, than that it is as false as it is impudent, that in the evidence it has not a colour of support; and that by your verdict you should mark it with reprobation.

The other subject, namely, that he was indiscreet in his confidence, does, I think, call for some discussion, for I trust you see that I affect not any address to your passions, by which you may be led away from the subject—I presume merely to separate the parts of this affecting case, and to lay them item by item before you, with coldness of detail and not with any colouring or display of fiction or of fancy. Honourable to himself was his unsuspecting confidence, but fatal must we admit it to have been, when we look to the abuse committed upon it. But where was the guilt of this indiscretion? He did admit this noble lord to pass his threshold as his guest. Now the charge which this noble lord builds on this indiscretion is, "Thou fool! thou hadst confidence in my honour, and that was a guilty indiscretion: thou simpleton! thou thoughtest that an admitted and cherished guest would have respected the laws of honour and hospitality, and thy indiscretion was guilt: thou

thoughtest that he would have shrunk from the meanness and barbarity of requiting kindness with treachery, and thy indiscretion was guilt."

Gentlemen, what horrid alternative in the treatment of wives would such reasoning recommend? Are they to be immured by worse than eastern barbarity? Are their principles to be depraved, their passions sublimated, every finer motive of action extinguished by the inevitable consequences of thus treating them like slaves? Or is a liberal and generous confidence in them to be the passport of the adulterer, and the justification of his crimes?

Honourably, but fatally for his own repose, he was neither jealous, suspicious nor cruel. He treated the defendant with the confidence of a friend, and his wife with the tenderness of a husband. He did leave to the noble Marquis the physical possibility of committing against him the greatest crime which can be perpetrated against a being of an amiable heart and refined education. In the middle of the day, at the moment of divine worship, when the miserable husband was on his knees, directing the prayers and thanksgiving of his congregation to their God, that moment did the remorseless adulterer choose to carry off the deluded victim from her husband, from her child, from her character, from her happiness, as if not content to leave his crime confined to its miserable aggravations, unless he gave it a cast and colour of factitious sacrilege and impiety.

Oh! how happy had it been when he arrived at the bank of the river with the ill-fated fugitive, ere yet he had committed her to that boat, of which, like the fabled bark of Styx, the exile was eternal, how happy at that moment, so teeming with misery and with shame, if you, my lord, had met him, and could have accosted him in the character of that good genius which had abandoned him. How impressively might you have pleaded the cause of the father, of the child, of the mother, and even of the worthless defendant himself. You would have said: "Is this the requital that you are about to make for respect and kindness, and confidence in your honour? Can you deliberately expose this young man, in the bloom of life, with all his hopes before him—can you expose him, a wretched outcast from society, to the scorn of a merciless world? Can you set him adrift upon the tempestuous ocean of his own passions, at this early season, when they are most headstrong; and can you cut him out from the moorings of those domestic obligations by whose cable he might ride at safety from their turbulence? Think of, if you can conceive it, what a powerful influence arises from the sense of home, from the sacred religion of the heart in quelling the passions, in reclaiming the wanderings, in correcting the discords of the human heart; do not cruelly take from him the protection of these attachments.

"But if you have no pity for the father, have mercy at least upon his innocent and helpless child; do not condemn him to an education scandalous or neglected; do not strike him into that most dreadful of all human conditions, the orphanage that springs not from the grave, that falls not from the hand of Providence, or from the stroke of death, but comes before its time, anticipated and inflicted by the remorseless cruelty of parental guilt."

For the poor victim herself, not yet immolated, while yet balancing upon the pivot of her destiny, your heart could not be cold, nor your tongue be wordless. You would have said to him: "Pause, my lord, while there is yet a moment for reflection. What are your motives, what your views, what your prospects from what you are about to do? You are a married man, the husband of the most amiable and respectable of women; you cannot look to the chance of marrying this wretched fugitive; between you and such an event there are two sepulchres to pass. What are your inducements? Is it love, think you? No, do not give that name to any attraction you can find in the faded refuse of a violated bed. Love is a noble and generous passion; it can be founded only on a pure and ardent friendship, on an exalted respect—on an implicit confidence in its object. Search your heart, examine your judgment, do you find the semblance of any one of these sentiments to bind you to her? What could degrade a mind to which nature or

education had given port, or stature, or character, into a friendship for her? Could you repose upon her faith? Look in her face, my lord; she is at this moment giving you the violation of the most sacred of human obligations as the pledge of her fidelity. She is giving you the most irrefragable proof, that as she is deserting her husband for you, so she would without a scruple abandon you for another. Do you anticipate any pleasure you might feel in the possible event of your becoming the parents of a common child? She is at this moment proving to you that she is as dead to the sense of parental as of conjugal obligation; and that she would abandon your offspring to-morrow, with the same facility with which she now deserts her own. Look then at her conduct, as it is, as the world must behold it, blackened by every aggravation that can make it either odious or contemptible, and unrelieved by a single circumstance of mitigation, that could palliate its guilt, or retrieve it from abhorrence.

"Mean, however, and degraded as this woman must be, she will still (if you take her with you,) have strong and heavy claims upon you. The force of such claims does certainly depend upon circumstances; before, therefore, you expose her fate to the dreadful risk of your caprice or ingratitude, in mercy to her, weigh well the confidence she can place in your future justice and honour: at that future time, much nearer than you think, by what

topics can her cause be pleaded to a sated appetite, to a heart that repels her, to a just judgment in which she never could have been valued or respected? Here is not the case of an unmarried woman, with whom a pure and generous friendship may insensibly have ripened into a more serious attachment, until at last her heart became too deeply pledged to be reassumed. If so circumstanced, without any husband to betray, or child to desert, or motive to restrain, except what related solely to herself, her anxiety for your happiness made her overlook every other consideration, and commit her history to your honour; in such a case, the strongest and the highest that man's imagination can suppose, in which you at least could see nothing but the most noble and disinterested sacrifice; in which you could find nothing but what claimed from you the most kind and exalted sentiment of tenderness, and devotion, and respect; and in which the most fastidious rigour would find so much more subject for sympathy than blame; let me ask you, could you even in that case, answer for your own justice and gratitude?

"I do not allude to the long and pitiful catalogue of paltry adventures, in which it seems your time has been employed; the coarse and vulgar succession of casual connexions, joyless, loveless, and unendeared: but do you not find upon your memory some trace of an engagement of the

character I have sketched? Has not your sense of what you would owe in such a case, and to such a woman, been at least once put to the test of experiment? Has it not once, at least, happened that such a woman, with all the resolution of strong faith, flung her youth, her hope, her beauty, her talent, upon your bosom, weighed you against the world, which she found but a feather in the scale, and took you as an equivalent? How did you then acquit yourself? Did you prove yourself worthy of the sacred trust reposed in you? Did your spirit so associate with hers, as to leave her no room to regret the splendid and disinterested sacrifice she had made? Did her soul find a pillow in the tenderness of yours, and support in its firmness? Did you preserve her high in her own consciousness, proud in your admiration and friendship, and happy in your affection? You might have so acted; and the man that was worthy of her would have perished rather than not so act, as to make her delighted with having confided so sacred a trust to his honour. Did you so act? Did she feel that, however precious to your heart, she was still more exalted and honoured in your reverence and respect? Or did she find you coarse and paltry, fluttering and unpurposed, unfeeling, and ungrateful? You found her a fair and blushing flower, its beauty and its fragrance bathed in the dew of heaven. Did you so tenderly transplant it, as to preserve that

beauty and fragrance unimpaired? Or did you so rudely cut it, as to interrupt its nutriment, to waste its sweetness, to blast its beauty, to bow its faded and sickly head? And did you at last fling it like 'a loathsome weed away?' If then to such a woman, so clothed with every title that could ennoble, and exalt, and endear her to the heart of man, you would be cruelly and capriciously deficient, how can a wretched fugitive like this, in every point her contrast, hope to find you just? Send her then away. Send her back to her home, to her child, to her husband, to herself."

Alas! there was no one to hold such language to this noble defendant; he did not hold it to himself. Bnt he paraded his despicable prize in his own carriage, with his own retinue, his own servants; this veteran Paris hawked his enamoured Helen from this western quarter of the island to a sea-port in the eastern, crowned with the acclamations of a senseless and grinning rabble, glorying and delighted, no doubt, in the leering and scoffing admiration of grooms, and ostlers, and waiters, as he passed.

In this odious contempt of every personal feeling, of public opinion, of common humanity, did he parade this woman to the sea-port, whence he transported his precious cargo to a country, where her example may be less mischievous than in her own; where I agree with my learned colleague in heartily wishing he may remain with her for ever. We are

too poor, too simple, too unadvanced a country, for the example of such achievements. When the relaxation of morals is the natural growth and consequence of the great progress of arts and wealth, it is accompanied by a refinement that makes it less gross than shocking; but for such palliations we are at least a century too young. I advise you, therefore, most earnestly to rebuke this budding mischief, by letting the wholesome vigour and chastisement of a liberal verdict speak what you think of its enormity.

In every point of view in which I can look at the subject, I see you are called upon to give a verdict of bold, and just, and indignant, and exemplary compensation. The injury of the plaintiff demands it from your justice; the delinquency of the defendant provokes it by its enormity. The rank on which he has relied for impunity calls upon you to tell him, that crime does not ascend to the rank of the perpetrator, but the perpetrator sinks from his rank, and descends to the level of his delinquency. The style and mode of his defence is a gross aggravation of his conduct, and a gross insult upon you.

Look upon the different subjects of his defence as you ought, and let him profit by them as he deserves. Vainly presumptuous upon his rank, he wishes to overawe you by that despicable consideration. He next resorts to a cruel aspersion upon the character of the unhappy plaintiff, whom

he had already wounded beyond the possibility of reparation: he has ventured to charge him with connivance. As to that, I will only say, gentlemen of the jury, do not give this vain boaster a pretext for saying, that if her husband connived in the offence, the jury also connived in the reparation.

But he has pressed another curious topic upon you. After the plaintiff had cause to suspect his designs, and the likelihood of their being fatally successful, he did not then act precisely as he ought. Gracious God! what an argument for him to dare to advance! It is saying this to him:—"I abused your confidence, your hospitality; I laid a base plan for the seduction of the wife of your bosom; I succeeded at last, so as to throw in upon you that most dreadful of all suspicions to a man fondly attached, proud of his wife's honour, and tremblingly alive to his own; that you were possibly a dupe to the confidence in the wife, as much as in the guest. In this so pitiable distress, which I myself had studiously and deliberately contrived for you, between hope and fear, and doubt and love, and jealousy and shame; one moment shrinking from the cruelty of your suspicion; the next, fired with indignation at the facility and credulity of your acquittal; in this labyrinth of doubt, in this frenzy of suffering, you were not collected and composed; you did not act as you might have done, if I had not worked you to madness: and upon that very madness which I have inflicted upon you,

upon the very completion of my guilt, and of your misery, I will build my defence. You will not act critically right, and therefore are unworthy of compensation."

Gentlemen, can you be dead to the remorseless atrocity of such a defence! And shall not your honest verdict mark it as it deserves.

But let me go a little further; let me ask you, for I confess I have no distinct idea—What should be the conduct of a husband so placed, and who is to act critically right? Shall he lock her up, or turn her out, or enlarge or abridge her liberty of acting as she pleases? Oh, dreadful Areopagus of the tea-table! how formidable thy inquests, how tremendous thy condemnations! In the first case, he is brutal and barbarous; an odious eastern despot. In the next; what! turn an innocent woman out of his house, without evidence or proof, but merely because he is vile and mean enough to suspect the wife of his bosom, and the mother of his child! Between these extremes, what intermediate degree is he to adopt? I put this question to you—Do you at this moment, uninfluenced by any passion as you now are, but cool and collected, and uninterested as you must be, do you see clearly this proper and exact line, which the plaintiff should have pursued? I much question if you do. But if you did or could, must you not say, that he was the last man from whom you should expect the coolness to discover, or the steadiness to pursue

it? And yet this is the outrageous and insolent defence that is put forward to you. My miserable client, when his brain was on fire, and every fiend of hell was let loose upon his heart, should then, it seems, have placed himself before his mirror; he should have taught the stream of agony to flow decorously down his forehead; he should have composed his features to harmony; he should have writhed with grace, and groaned in melody.

But look farther to this noble defendant, and his honourable defence. The wretched woman is to be successively the victim of seduction, and of slander. She, it seems, received marked attentions. Here, I confess, I felt myself not a little at a loss. The witnesses could not describe what these marked attentions were, or are. They consisted, not, if you believe the witness that swore to them, in any personal approach, or contact whatsoever, nor in any unwarrantable topics of discourse. Of what materials, then, were they composed? Why, it seems a gentleman had the insolence at table to propose to her a glass of wine; and she, oh, most abandoned lady! instead of flying like an angry parrot at his head, and besmirching and bescratching him for his insolence, tamely and basely replies, "Port, sir, if you please."

But, gentlemen, why do I advert to this folly, this nonsense? Not surely to vindicate from censure the most innocent and the most delightful

intercourse of social kindness, or harmless and cheerful courtesy, "where virtue is, these are most virtuous." But I am soliciting your attention, and your feeling, to the mean and odious aggravation, to the unblushing and remorseless barbarity, of falsely aspersing the wretched woman he had undone.

One good he has done, he has disclosed to you the point in which he can feel; for how imperious must that avarice be, which could resort to so vile an expedient of frugality? Yes, I will say, that, with the common feelings of a man, he would have rather suffered his thirty thousand a year to go as compensation to the plaintiff, than have saved a shilling of it by so vile an expedient of economy. He would rather have starved with her in a gaol, he would rather have sunk with her into the ocean, than have so vilified her—than have so degraded himself.

But it seems, gentlemen, and indeed you have been told, that long as the course of his gallantries has been, and he has grown grey in the service, it is the first time he has been called upon for damages. To how many might it have been fortunate, if he had not that impunity to boast? Your verdict will, I trust, put an end to that encouragement to guilt, that is built upon impunity.

The devil, it seems, has saved the noble Marquis harmless in the past; but your verdict will tell him the term of that indemnity is expired—that

his old friend and banker has no more effects in his hands—and that if he draws any more upon him, he must pay his own bills himself. You will do much good by doing so: you may not enlighten his conscience, nor touch his heart; but his frugality will understand the hint. It will adopt the prudence of age, and deter him from pursuits, in which, though he may be insensible of shame, he will not be regardless of expense. You will do more—you will not only punish him in his tender point, but you will weaken him in his strong one, his money. We have heard much of this noble Lord's wealth, and much of his exploits, but not much of his accomplishments or his wit; I know not that his verses have soared even to the "poet's corner." I have heard it said, that an ass laden with gold could find his way through the gate of the strongest city. But, gentlemen, lighten the load upon his back, and you will completely curtail the mischievous faculty of a grave animal, whose momentum lies, not in his agility, but his weight; not in the quantity of his motion, but the quantity of his matter.

There is another ground on which you are called upon to give most liberal damages, and that has been laid by the unfeeling vanity of the defendant. This business has been marked by the most elaborate publicity. It is very clear that he has been allured by the glory of the chase, and not the value of the game. The poor object of his pursuit could

be of no value to him, or he could not have so wantonly, and cruelly, and unnecessarily abused her. He might easily have kept this unhappy intercourse an unsuspected secret. Even if he wished for elopement, he might easily have so contrived it, that the place of her retreat would be profoundly undiscoverable.

Yet, though even the expense, a point so tender to his delicate sensibility, of concealing, could not be one-fortieth of the cost of publishing her, his vanity decided him in favour of glory and publicity. By that election, he has, in fact, put forward the Irish nation, and its character, so often and so variously calumniated, upon its trial before the tribunal of the empire; and your verdict will this day decide whether an Irish jury can feel with justice and spirit upon a subject that involves conjugal affection and comfort, domestic honour and repose, the certainty of issue, the weight of public opinion, the gilded and presumptuous criminality of overweening rank and station.

I doubt not but he is at this moment reclined on a silken sofa, anticipating that submissive and modest verdict, by which you will lean gently on his errors; and expecting from your patriotism, no doubt, that you will think again, and again, before you condemn any great portion of the immense revenue of a great absentee, to be detained in the nation that produced it, instead of being transmitted, as it ought, to be expended in the splendour

of another country. He is now probably waiting for the arrival of the report of this day, which I understand a famous note-taker has been sent hither to collect. Let not the gentleman be disturbed.

Gentlemen, let me assure you, it is more, much more the trial of you, than of the noble Marquis, of which this imported recorder is at this moment collecting materials. His noble employer is now expecting a report to the following effect:—"Such a day came on to be tried at Ennis, by a special jury, the cause of Charles Massy against the most noble the Marquis of Headfort. It appeared that the plaintiff's wife was young, beautiful, and captivating; the plaintiff himself, a person fond of this beautiful creature to distraction, and both doating on their child. But the noble Marquis approached her; the plume of glory nodded on his head. Not the goddess Minerva, but the goddess Venus, had lighted up his casque with 'the fire that never tires, such as many a lady gay had been dazzled with before.' At the first advance she trembled; at the second, she struck to the redoubted son of Mars, and pupil of Venus. The jury saw it was not his fault (it was an Irish jury); they felt compassion for the tenderness of the mother's heart, and for the warmth of the lover's passion. The jury saw on the one side, a young, entertaining gallant; on the other, a beauteous creature, of charms irresistible. They recollected that Jupiter

had been always successful in his amours, although Vulcan had not always escaped some awkward accidents. The jury was composed of fathers, brothers, husbands, but they had not the vulgar jealousy, that views little things of that sort with rigour; and, wishing to assimilate their country in every respect to England, now that they are united to it, they, like English gentlemen, returned to their box, with a verdict of 6*d.* damages, and 6*d.* costs."

Let this be sent to England. I promise you, your odious secret will not be kept better than that of the wretched Mrs. Massy. There is not a bawdy chronicle in London, in which the epitaph which you would have written on yourselves will not be published; and our enemies will delight in the spectacle of our precocious depravity, in seeing that we can be rotten before we are ripe. I do not suppose it; I do not, cannot, will not believe it; I will not harrow up myself with the anticipated apprehension.

There is another consideration, gentlemen, which I think most imperiously demands even a vindictive award of exemplary damages—and that is, the breach of hospitality.

To us peculiarly does it belong to avenge the violation of its altar. The hospitality of other countries is a matter of necessity or convention—in savage nations, of the first: in polished, of the latter: but the hospitality of an Irishman is not

the running account of posted and ledgered courtesies, as in other countries; it springs like all his qualities, his faults, his virtues, directly from his heart. The heart of an Irishman is by nature bold, and he confides; it is tender, and he loves; it is generous, and he gives; it is social, and he is hospitable. This sacrilegious intruder has profaned the religion of that sacred altar so elevated in our worship, so precious to our devotion: and it is our privilege to avenge the crime. You must either pull down the altar, and abolish the worship; or you must preserve its sanctity undebased. There is no alternative between the universal exclusion of all mankind from your threshold, and the most rigorous punishment of him who is admitted and betrays. This defendant has been so trusted, has so betrayed, and you ought to make him a most signal example.

Gentlemen, I am the more disposed to feel the strongest indignation and abhorrence at this odious conduct of the defendant, when I consider the deplorable condition to which he has reduced the plaintiff, and perhaps the still more deplorable one that the plaintiff has in prospect before him. What a progress has he to travel through, before he can attain the peace and tranquillity which he has lost? How like the wounds of the body are those of the mind! how burning the fever! how painful the suppuration! how slow, how hesitating, how relapsing the process to convalescence! Through what a

variety of suffering, what new scenes and changes must my unhappy client pass, ere he can re-attain, should he ever re-attain, that health of soul of which he has been despoiled by the cold and deliberate machinations of this practised and gilded seducer?

If, instead of drawing upon his incalculable wealth for a scanty retribution, you were to stop the progress of his despicable achievements, by reducing him to actual poverty, you could not even so punish him beyond the scope of his offence, nor reprise the plaintiff beyond the measure of his suffering. Let me remind you, that in this action, the law not only empowers you, but that its policy commands you to consider the public example, as well as the amount of your verdict. I confess I am most anxious that you should acquit yourselves worthily upon this important occasion. I am addressing you as fathers, husbands, brothers. I am anxious that a feeling of those high relations should enter into, and give dignity to your verdict.

But I confess, I feel a ten-fold solicitude when I remember that I am addressing you as my countrymen, as Irishmen, whose characters as jurors, as gentlemen, must find either honour or degradation in the result of your decision. Small as must be the distributive share of that national estimation, that can belong to so unimportant an individual as myself, yet I do own I am tremblingly solicitous for its fate. Perhaps it appears of more

value to me, because it is embarked on the same bottom with yours; perhaps the community of peril, of common safety, or common wreck, gives a consequence to my share of the risk, which I could not be vain enough to give it, if it were not raised to it by that mutuality. But why stoop to think at all of myself, when I know that you, gentlemen of the jury—when I know that our country itself are my clients on this day, and must abide the alternative of honour or of infamy, as you shall decide. But I will not despond, I will not dare to despond. I have every trust, and hope, and confidence in you. And to that hope I will add my most fervent prayer to the God of all truth and justice, so to raise, and enlighten, and fortify your minds, that you may so decide, as to preserve to yourselves while you live, the most delightful of all recollections—that of acting justly; and to transmit to your children the most precious of all inheritances—the memory of your virtue.

Baron Smith charged, and after a trial of twelve hours' duration, the jury at midnight found for the plaintiff, £10,000 damages, with costs.