

1948.4(5)

A. Ferguson

IN THE
COURT OF KING'S BENCH.

LORD ELGIN *versus* FERGUSON.



AN
AUTHENTIC ACCOUNT
OF THE
PROCEEDINGS

UNDER A
WRIT OF ENQUIRY OF DAMAGES,

IN AN
ACTION

IN THE COURT OF KING'S BENCH,

IN WHICH

THE RIGHT HON. THE EARL OF ELGIN

WAS PLAINTIFF,

AND

WILLIAM FERGUSON, ESQ.

DEFENDANT,

For Criminal Conversation

With the Plaintiff's Wife:

EXECUTED BEFORE THE SHERIFF OF MIDDLESEX, AND
A SPECIAL JURY,

On the 22d of December, 1807:

VERDICT £.10,000.

Counsel for the Plaintiff.

MR. GARROW, MR. DAMPIER, AND THE HON. MR. STUART.

Counsel for the Defendant.

MR. TOPPING, MR. NOLAN, MR. HORNER, AND MR. ADAM, JUN.

LONDON:

PRINTED FOR J. HATCHARD,

**BOOKSELLER TO HER MAJESTY, OPPOSITE ALBANY,
PICCADILLY.**

1808.



LAURISTON CASTLE
LIBRARY ACCESSION

Brettell & Co. Printers, Marshall-Street, Golden-Square.

PROCEEDINGS, &c.

LORD ELGIN *versus* FERGUSON.

The Declaration was opened by the Honourable
MR. STUART.

MR. GARROW.

Gentlemen of the Jury;

I HAVE the honour of attending you on the part of the noble Plaintiff on this enquiry, upon which you are now called to assess the damages. We have all had, in the course of the last twenty or thirty years, too much experience upon this subject. I have been concerned in a great number of causes that have come before Juries at Westminster Hall, and before Gentlemen sitting in this place, in the manner in which you are at present

assembled, and I think I may venture to state, that on the consideration of all the melancholy cases, which I have had occasion to witness, this far exceeds them all; whether we look at the rank and station of the parties, at the manner in which they have lived, (a perfect example of conjugal and domestic felicity, down to the period when that happiness was broken in upon by the present Defendant,) or at the arts by which a system of deliberate seduction was carried on, aimed first to break down the most virtuous principles which have ever inhabited the human breast, and after having destroyed that barrier of the Lady's honour and virtue, to get possession of her person. In whatever view one looks at this subject, I think that I shall be found in the final result to be entitled to say, that this is the most melancholy of all the cases that have ever been presented to a Jury.

The Plaintiff is the representative of one of the most ancient houses of nobility in the United Kingdom; he inherited a large estate from his ancestors, and he was the heir to virtues that had never been excelled; he married the Lady whose misconduct brings us here to-day, when she was of the age of twenty-one; he was somewhat older, but there was no disparity that could have made it at all an unfit union; it was a marriage with the entire consent and appro-

bation of the friends, parents, and relations of the parties. Previous to this union taking place, which was upon the 11th of March 1799, Lord Elgin had been appointed the representative of this country at the court of the Sublime Porte, and he was so much attached to Lady Elgin, so much devoted to the prospects of domestic happiness, which he had contemplated, that he immediately, without the least reluctance, proposed to abandon all the splendid prospects which such an embassy holds out to a young man entering upon life, in order that he might remain at home, and cultivate those affections, and enter upon those scenes of happiness, which he had promised to himself. This was resisted, not only upon the part of the Lady's friends, but upon her own. One need not go far to discuss the reasons of it; it could not but have been a flattering situation into which she was going to be introduced.

They passed some time, about three years, at Constantinople; during which time, I will prove to you, that there never was an example of more rigid attention to every thing that could recommend the Husband to the Wife, and the Wife to the Husband, or that could recommend them, as examples and patterns to every body who had the opportunity of coming within their reach. Unseduced and untainted

by the follies, the frivolities, or the vices, which surrounded them, this family exhibited the best pattern of the best English manners; there never passed a Sunday in which the service of the Church of England was not regularly performed in the house; unless the Chaplain being accidentally from home, prevented it, there never was an occasion on which this was omitted. Trifling circumstances become important to be taken into consideration in the discussion of such a subject as this; at a time when it required some fortitude, particularly in the mind of a beautiful and perfectly accomplished female, to resist the batteries of ridicule, Lady Elgin had the fortitude, whilst all around her were giving card-parties and other entertainments upon a Sunday; rigidly to adhere, as I expressed it before, to the best pattern of British manners, and she refused to permit any of those things: these may be thought to be trifling circumstances, but they shew this, that this couple found in themselves, and as children came, they found in their children, all that they wished of happiness; it was unnecessary for them to seek it in the ways to which the world in general are obliged to resort for felicity.

After a residence, I think, of about three years at Constantinople, Lord and Lady Elgin returned with their children; at that time I be-

lieve three had been born of the marriage; the third child was born in 1802, another was afterwards born in 1804, and another in 1806; they have at present four children living, three of them females; a circumstance which you will not fail to take into your consideration. About the year 1803, they left Constantinople and were returning to this country. When they arrived in Italy, they sent the children on, properly attended, by sea, and they purposed to pass through France, and to come to this country.

You all know, Gentlemen, the events which took place in that country about that period, in breach of all attention to the rights of hospitality, to courtesy, and to the rights of nations; one hardly knows how to find words to express oneself upon such a subject, not only every private individual of the British nation, but this Ambassador from a foreign court, coming home passing through France, where in better times he would not only have found reception and security, but a splendid and hospitable reception, he, with his attendants, was placed in a state of imprisonment and captivity.

At this time, Mr. Ferguson likewise was one of the prisoners detained at Paris, and you will easily believe, that all the English of rank and fashion readily resorted to and were well received by Lord Elgin. In Mr. Ferguson he recog-

wized a friend of his family, a neighbour of his estate in the country, and it was natural, that there should be a renewal of a friendly and affectionate intercourse between them.

Lord and Lady Elgin were after this removed from Paris to Barege, in the Pyrenees, from whence Lady Elgin having obtained a passport to England, was called by order of the French Government to Paris, in order to receive it, and to cross by Calais. Immediately after Lady Elgin's departure, Lord Elgin was thrown into prison at Lourde, and nobody expected, that he would very soon obtain his release. You will find by some of the letters, which I shall have occasion to state to you presently, that Lady Elgin conducted herself upon this occasion in the most meritorious manner possible, that she refused going alone to England, that she was unceasing in her endeavours to secure first his discharge, and having procured the good offices of Monsieur Talleyrand, who was then, and continues to be, high in the favour of the First Consul, she obtained the favour, that if the British Government would consent to it, Lord Elgin should be exchanged for General Boyer. When she had occasion to write upon this subject, you will find it was in language the most affectionate that could possibly be expected from the most affectionate wife:—

—“ My letter of yesterday will be a great
 “ comfort to you, to know that the First Consul
 “ agrees to your being exchanged with General
 “ Boyer. I have just sent off a letter to my
 “ mother, mentioning this, and I shall send
 “ Molwitz in a day or two. I have written
 “ a letter for the First Consul, which I shall
 “ shew M. de Talleyrand; if he approves of it,
 “ he will give it, and if it goes I will send you
 “ a copy. May God bless my dearest Elgin. I
 “ am much more comfortable here, than if I had
 “ been with you when this order arrived; be-
 “ cause I should have had a thousand uncom-
 “ fortable ideas. Now I am perfectly persuaded
 “ that this measure is in no wise personal against
 “ you; it is merely reprisal; that you may be
 “ certain of.

“ Pray write to me as often as you can. My
 “ No. 13 was the last letter; mention all my
 “ Nos. you have received.

“ I have not lost a minute in doing every
 “ thing possible for you; it was lucky I set to
 “ work as soon as I did. Had I listened to ad-
 “ vice, I should not have done half what I have;
 “ I find I was right.

“ I have written to M. de Talleyrand; I have
 “ written to England; I have written to the
 “ First Consul; I have written to our Barege

“ Commandant, and this to you : I have not
 “ lost my time, have I ?
 “ Pray take the greatest care of *damp*, my
 “ dearest Elgin. Are you confined to the cha-
 “ teau entirely ? I dread the cold from the
 “ mountains more than I can express ; for hea-
 “ ven’s sake take care of yourself. To be sure,
 “ as you say, we have not had *much* comfort
 “ since our marriage ; but we have got over the
 “ worst, and the good is now to come, and it
 “ will come, Elgin, I am sure.”

Lady Elgin’s situation at that time was indeed the most cruel and uneasy. She was delivered of a child, and afterwards returned to Lord Elgin at Barege, to which place he had at that time been again sent ; that child was born in March 1804, and Lady Elgin, in a manner not common for a person of her rank, actually returned to her husband with her infant, and continued to suckle it herself, to become its nurse, and the scenes of domestic happiness they had enjoyed before were so far from being at all broken in upon, that they were considerably increased. It was found at this time, that it was impossible for Lord Elgin to procure leave to return to England. Mr. Ferguson, the Defendant, was about to return : he had procured his passport. Lord Elgin had important concerns of his own of a

private nature to settle, for he had been five years absent from England, and from Scotland, where most of his estates lie,—after he had been so long in that embassy, Lord Elgin had very important business to settle with the Government, if he should return home, or to settle by some confidential agent, if that should still be refused to him. This confidential agent was Mr. Ferguson ; he was entrusted with all Lord Elgin’s secrets, entrusted with all his concerns, and he undertook the management of them all ; he was so entirely in his confidence, that Lord Elgin requested him to become the guardian of his children. No person, who was at that time in confinement in France, being able to calculate the hours he might have to live ; and under these circumstances, the person confided in was Ferguson.

Some time after this, the situation of Lady Elgin (she being again pregnant, and in a state of ill health) seemed to render it the imperious duty of Lord Elgin, at any rate, to procure her permission to return to her native country ; that permission was obtained, and Lady Elgin returned home, and was expected to have gone to her father’s, Mr. Nesbitt’s, when, to Lord Elgin’s surprise, (we now see how that happened, certainly in consequence of an unfortunate attachment between her and Mr. Ferguson,) instead

of going to her Father's house, Lady Elgin took a small house in Baker-street, in this town.

Gentlemen, it will be unnecessary for me, in this stage of the proceedings (as the Defendant has wisely retired from defending himself against the charge of his guilt), to go through, either in statement, or in evidence, any detail of interviews, which took place in Baker-street.—The judgment which has passed by default (I need not tell you), admits that criminalities have passed between the Parties; and the course I shall take in stating this Case, and proving it, will be to restrain myself,—to keep within bounds,—not to press it, but to indulge the feelings of Lord Elgin's mind, now that he is suffering cruelly by the base and infamous conduct, (for I must give those names to it,)—by the base and infamous conduct which has deprived him of all that was dear to him in life! he still wishes, as far he can do it, consistently with his own honour, not to wound the feelings of this Lady, upon whom he doated more than any man ever doated upon a Wife!—for whom he feels most anxiously; and I shall endeavour to avoid inflicting any unnecessary wound upon the respectable Parents of this Lady, who must have felt most deeply, on account of her misconduct, and the disgrace she has brought upon the whole family.

When residing in Baker-street, it will appear to you the most natural thing, that Mr. Ferguson should have ready access there.—She was introduced to him, for the first time, at Paris: she knew he was charged with all her Lord's most important interests.—This gave him an access which no other person could have obtained. It was the unceasing object of Lord Elgin's friends to endeavour to procure his discharge, upon any terms; and, therefore, Mr. Ferguson, I have no doubt, was earnestly endeavouring to promote that object; at least, he had the opportunity of representing, that it was a part of his daily, and almost hourly, employment. So that, without exciting suspicion in Lady Elgin's attendants, or in any other, he had frequent access to her, representing sometimes, that he had been with Mr. Fox,—at others, that he had been with Sir Joseph Banks, who was supposed to have an influence with the First Consul, through the means of the French Institute. Mr. Ferguson had, by these means, access to the house and conversation of Lady Elgin, under circumstances, which certainly to any other person could not have been tolerated. I am afraid it is impossible to doubt, that he used these opportunities to alienate her affections, and to possess her person.

Lord Elgin himself, I think, returned to this Country in the month of June, 1806;—he had previously received a communication from Lady Elgin, after her confinement here, (for she was delivered of a child here); she had represented, that Baker-street was a convenient situation, and absolutely necessary in her delicate state of health; she certainly always suffered so much in that period, that retirement and quiet were absolutely necessary to her; and after her confinement, she wrote a letter which surprised Lord Elgin, expressing a wish that, in future, intercourse between them might be so restricted, that she might not be subjected to the inconveniences of pregnancy again. Lord Elgin considered, as any other man would have done, that this request was the effect of suffering in child-birth,—that it would pass over; and that it was better to treat it, as if it had not been made, and to take no notice of it; concluding, whenever they should meet again, this request would very soon be abandoned.

Upon Lord Elgin's return to England, he was surprised to find that this, which was before only hinted as a request, had grown into something of a resolution; and Lady Elgin insisted upon their having separate beds. At this moment, Lord Elgin had not the least idea, that this Lady, who, down to the time of quitting

France, was writing the most affectionate letters it was possible for a woman to write, he had not the most distant idea, that any thing had happened which could disturb his repose; he consented that she should go to her Father's house in Scotland, and he remained here,—Lord Elgin was necessarily detained here, as we all know he must be, upon important concerns;—he finished them as soon as he could, and then found that this, which he considered as a foolish resolution, was still pressing upon Lady Elgin's mind;—he told her, that for the present he would certainly give way to it; but that he had no doubt, when they should return to their former habits, she would be convinced that this was an improper course to take; or that he should be convinced by her, that it was absolutely necessary to her happiness, to which he should be disposed to conform.

Gentlemen, I cannot do better now than to read some of those Letters, from which the conduct and character of Lady Elgin towards her Lord, and the state of happiness which they had enjoyed can be collected, and collected without the possibility of any person entertaining a doubt about it,—they are the Letters of a person, torn by necessity from her Husband, who was then obliged to live in confinement in a foreign land, and pouring out the

genuine feelings of her heart; and you will find they are down to the moment of her leaving France. Some of these letters will be extremely important, from this circumstance, that they will be found to be joint letters of Mr. Ferguson and Lady Elgin; that he sometimes commences a letter, which she continues: whilst this proves the entire state of confidence in which Mr. Ferguson was in this family, it proves, at the same time, the exemplary conjugal affection of this Lady towards her Husband down to the period of her embarking from Morlaix to England.

The first of these letters, which I shall state to you, is dated the 2d of December, 1803, which is commenced by Mr. Ferguson, and finished by Lady Elgin.—Mr. Ferguson says,—

—“I will write you a few lines, my dear Lord, as I fear Lady Elgin will have hardly time herself by this post. By her last letters you must have seen that we expected to hear confirmed that you were arrested.”— [This was when he was thrown into prison at Lourde]—“Your letters to her and to Crawford yesterday, at last acquainted her with your destination, which we could not discover here.”

“Let us hope the best: let us see, in this act of severity, a means of your at last get-

ting away. As certainly you will not be deprived of the letters addressed to you, you will see that Lady Elgin did not lose a moment, to take the necessary steps on this occasion. M. Talleyrand has been so obliging as to speak to the First Consul, and has his authority to say, that he will permit that Lord Elgin should be exchanged against General Boyer;—this is an immense point gained.—She was assured of this before the certainty of your arrestation, and the hopes it inspires of your being soon liberated, keep up her spirits at present. Your reflections were just, and are confirmed by M. Talleyrand's conversation with the First Consul.”— [I believe that refers to an opinion Lord Elgin had entertained, contrary to that which many persons supposed, that there was something personal in the order of the First Consul to arrest him.] “This consent of the First Consul to an exchange likewise proves, that there is no personality towards you on this occasion, farther than the honour done you of looking upon you as the most distinguished prisoner in France. How lucky, that Lady Elgin did not leave this!—After to-morrow, Molwitz [a messenger Lady Elgin had dispatched to England,] sets out for England by Holland with the necessary letters. After

" what has been said by the high authority al-
 " ready mentioned, your liberation must now
 " depend on your own Government. Don't let
 " us suppose that you either want interest, or
 " that they are to be so inhuman as not to
 " consent to the necessary means on this occa-
 " sion. General Boyer ought to be imme-
 " diately sent over, with an offer of being ex-
 " changed against you, and the thing is done.
 " Endeavour to be as comfortable as possible;
 " and look down from your now high eleva-
 " tion with modesty on the miseries *de ce bas*
 " *monde*" [of this lower world].—" I trust
 " and hope that your present situation is the
 " fore-runner of your liberty."

Now, Gentlemen, this letter you will be so
 good as recollect, is of the 2d of December,
 1803; this marks the extraordinary confiden-
 tial situation in which Mr. Ferguson was pla-
 ced in this family; it marks under his hand,
 almost as if he had published a notarial act
 upon the subject; it marks an attestation upon
 the part of Mr. Ferguson, that there never
 were a more happy couple than this; it marks,
 that the Lady was a person, to deprive any man
 of whom, was to deprive him of a treasure never
 to be recovered; that she was labouring for-
 ever for his liberation; and he gives this absent
 friend of his, reason to believe that he was

labouring for the same purpose. It is impossible
 for any man more fully to endeavour to persuade
 another that he was engaged most faithfully in
 his service.

The letter is then taken up by Lady Elgin;
 she says:—

"—Your Letter, my dearest Elgin, was
 " the first information (*positive* I mean) of your
 " new atrestation. Dearest Elgin, keep up
 " your spirits, I will soon be with you. Willy"

—[This was their darling Infant, which was
 born at Paris, whom I told you the Lady
 suckled; whom they afterwards lost,—a most
 lovely child; I cannot say more so than the
 surviving children, for they are, I understand,
 the most beautiful and lovely children any per-
 sons were ever blessed with.] "Willy will
 " really be a little prisoner, but, together, I
 " don't mind any thing. Though I was pre-
 " pared for this news, yet, I own, it was a
 " shock to me. I am very well this morning,
 " though I was exceedingly ill in the night;—
 " just such an attack as I had at Constantino-
 " ple, the last visit I paid the Pasha; but I
 " feel better for it to-day. I have written to
 " beg M. de Talleyrand will receive me to-
 " day."

Gentlemen, I entreat you to mark this: it
 is impossible for any person to shew more

address;—but in order to procure, what?
In order to procure the possibility of her return-
ing to her native land, in company with her
Husband.]—

I have written to beg M. de Talley-
rand will receive me to-day. I have not yet
got the answer; my letter of yesterday will,
however, be of great comfort to you, to know
the First Consul agrees to your being ex-
changed with General Boyer. I have just
sent off a letter to my Mother, mention-
ing this, and I shall send Molwitz in a day or
two. I have written a letter for the First
Consul, which I shall shew M. de Talley-
rand; if he approves of it, he will give it;
and if it goes, I will send you a copy. May
God bless my dearest Elgin! I am much
more comfortable here, than if I had been
with you, when this order arrived; because
I should have had a thousand uncomfortable
ideas; now I am perfectly persuaded, that
this measure is in no wise personal against
you, it is merely reprisal;—that you may be
certain of.—Pray write to me as often as you
can; my N^o. 13 was the last letter: men-
tion all my numbers you have received.

I have not lost a minute in doing every
thing possible for you; it was lucky
I set to work as soon as I did.—Had I lis-

tened to advice, I should not have done half
what I have, but I find I was right, and as
M. de Talleyrand was so obliging to say,
I might consult him upon every thing, I
shall do nothing without his advice. He has
been most polite to me.—God bless you, my
beloved Elgin!

I have written to M. de Talleyrand—I
have written to England—I have written
to the First Consul—I have written to our
Barège Commandant, and this to you:— I
have not lost my time; have I?

Pray take the greatest care of *damp*, my
dearest Elgin. Are you confined to the
Château entirely? I dread the cold from the
mountains more than I can express, for
Heaven's sake take care of yourself.—To be
sure, as you say, we have not had much com-
fort since our marriage, but we have got over
the worst"—[God knows they had had a great
deal of sufferings after their marriage,—they
had been out of their own country, separated
from their friends, and had been in this cruel
confinement and suspense for some time]—“and
the good is now to come, and it will come,
Elgin, I am sure.”

How little did this unfortunate Lady, at that
time, foresee her fate; that she was to be sepa-
rated from her Husband; and that a confidential

bosom-friend of that Husband, should become her seducer,—that he should deprive that Husband of such a Wife as this,—that he should break up all his prospects of domestic happiness,—that he should deprive these infant daughters, and a son the heir to an immense estate, of the protection of a Mother,—and that he should entail upon them all the infamy that has belonged to her disgrace and dishonour! How little, at this time, could she have foreseen this; for this, Mr. Ferguson is answerable; at this time this Lady's mind was pure, at this time her affection unalienated from her Husband; she appears by this letter which is the genuine effusion of her heart, to have doated upon him,—to have been devoted to her domestic duties; she seems to have had nothing else in view; that all her happiness grew out of this,—all her prospects of happiness in future life grew out of it; for the breach of all this must Mr. Ferguson be accountable, who, by a deliberate and very artful plan of seduction, has accomplished his purpose.

Gentlemen, I shall not fatigue you with many more of these joint letters; I will read a short one of the 9th of October 1805, this is after she had left Paris, and was on her way to Morlaix, in order to come to this country:—

—“ May God Almighty bless my beloved

“ Elgin, and may we soon, soon meet again, and,
 “ oh, never to part more! Elgin, I love you
 “ more tenderly than ever. I am miserable and
 “ wretched beyond description at leaving you;
 “ but let us take courage; good comes out of
 “ bad. I am sorry I ever tormented you, dear-
 “ est Elgin; say you forgive me, and that you
 “ know my heart is good.

“ I wish to know what you are doing, dear
 “ Elgin; have you got any body with you, or
 “ are you alone? I hope you will write me at
 “ Morlaix. Tell me all about yourself, that's
 “ all I care for. God bless you, my dear Elgin.
 “ It is half past one, and I have promised to be
 “ off at eight. God bless you.”

In another letter she says:—

—“ Pray God bless my dearest Elgin. I
 “ have thought of you all day; never miss an
 “ opportunity of writing, dear Elgin. God
 “ bless you.”

In another letter she says:—

—“ How does my beloved Elgin do? does
 “ he think of his Mary? does he say, ‘God bless
 “ her?’ does he regret her absence? I should
 “ like to know all that; but who can answer my
 “ questions? alas, nobody! and my imagina-
 “ tion is not the most tranquil in the world. If
 “ I thought you could forget me one moment,

“ Elgin, what would become of me? I feel as
 “ low as a cat at the joyful prospect of being so
 “ soon at home. My Elgin, I would much
 “ rather have staid with you. Elgin, I hate to
 “ say, good-bye, but it is half past one. I trust
 “ you will not write to my people, to prevent
 “ my returning to you. Write to me what you
 “ please; but depend upon it, somehow or
 “ other, if I live, I will get away. I have sa-
 “ crificed every feeling of my heart. Miserable
 “ I am, and shall remain. My friends will be
 “ wretched at seeing me. Elgin, dear Elgin,
 “ I do not expect to live. My mind is too
 “ much impressed with horror. Some day we
 “ must part, and indeed, my dearest Elgin, I would
 “ be happy to be sure, that I should be the first.
 “ May every happiness attend my own Elgin,
 “ and may we some day or other meet in comfort.
 “ How far is that word from me now? God Al-
 “ mighty bless you. I trust I shall hear from
 “ you at Morlaix. Pray, Elgin, take care of
 “ your health, for my sake; do not sit up late,
 “ reading; get up early and ride, pray, pray.”

Another:—

—“ Just as I finished writing to you,
 “ dear Elgin, last night, I was taken ill. I really
 “ was very much alarmed. I am sorry, to be
 “ separated from you, very sorry, dearest Elgin.

“ But if any thing is to happen, I would rather
 “ it happened here, than in England. I ima-
 “ gine, a few days will decide one way or
 “ other.

“ To be assured of your regard and love, my
 “ Elgin, is all I wish. I have sacrificed every
 “ thing. Others have decided my fate, not
 “ myself. In England, I shall be as miserable
 “ as I am now. Why marry, if one is to be se-
 “ parated on the first appearance of difficulty?
 “ I never was frightened when I was with you,
 “ and I have gone through a great deal, but
 “ you were with me.

“ God Almighty bless you, my dear dearest
 “ Elgin.

“ A week to-day since we parted.”

She writes in this style down to the latest mo-
 ment of her departure from France. I am now
 about to read the last letter she wrote, dated
 Morlaix, 17th October:—

—“ I have this moment received yours of
 “ the 11th of October; my ever dearest Elgin, I
 “ hope I shall hear from you again whilst I am
 “ here, but I am afraid of your taking it into
 “ your head I have sailed. The agony I felt on
 “ leaving Paris it is impossible to tell. I am very
 “ ill, and look very ill; but I do not care much
 “ about myself. I believe you have acted as
 “ you thought best in forcing me away; but

“ you have destroyed me. With you, I could
 “ go through any thing, and never should have
 “ complained; but now indeed I am quite un-
 “ happy. I have dined, Elgin, a miserable
 “ solitary dinner; but I drank my beloved
 “ Elgin’s health.

“ May God bless him.”

Gentlemen, it would be wearying you to go through more of these letters, which are all precisely in the same strain. In this temper of mind, then, with this sense of her duties, with this determination to perform them all to the utmost, Lady Elgin arrived in England, and I have told you what happened upon that arrival. I have carried Lord Elgin into the North, where I told you he remained for about a fortnight, I think, with Lady Elgin; during which period a letter fell into his hands, written and made up in a vulgar manner, as if it came from some person of low condition, with a vulgar seal upon it, and in a bad hand, addressed “ Me Lade Elgin.” It so happened, not by any design, but by an accident, which every one of us must have experienced, in the course of our lives, that when persons seal an enclosure with wax, and afterwards seal an envelope with wax too, it often melts the inner one, and they adhere together; in taking off the envelope, the letter opened, and Lord Elgin, to his utter astonishment, disco-

vered that this was a letter from his most intimate and confidential friend, in terms so impassioned, as that it was impossible to doubt but that there had been certainly great advances towards a criminal intercourse, if that criminal intercourse had not actually taken place; some other letters afterwards came into Lord Elgin’s hands, and I purpose to read them to you.

Gentlemen, I feel a good deal of difficulty in performing this part of my task; they shew most undoubtedly that Mr. Ferguson, who had determined to gratify his own passions, at all hazards, and notwithstanding all the ruin which that gratification was to bring upon this noble Family, was perfectly impressed with the character of the person he was to approach; he knew that she had been educated in the best principles, that she had had the best examples of domestic conduct, and of domestic happiness, necessarily growing out of such conduct; he knew she was not a person to be taken by storm; that any direct attempt upon her virtue would probably only alarm her, and put her more upon her guard, and therefore the attack was to be made by degrees and by artifice; my Lord Elgin’s conduct, his views and his objects were all to be misrepresented; some of his most intimate friends were to come in for their share of this misrepresentation; his conduct, as a private

man, and his conduct, as a public man, were all to be made the subjects of discussion; and by these means Lady Elgin was to be by degrees brought down from that high affection, I had almost said (for so it was at a certain period) adoration, which she had for this Husband of hers; she was by degrees to be brought down from it, until it should be fit to make advances in a more direct mode; and when that has once been accomplished, when the confident affection and attachment that subsists in the female mind towards a husband is broken in upon, I am afraid that the interval between that and the destruction of their peace, by the ruin of the honour of the wife, is not a very large one; so it appears to have been the case here, and we shall find Mr. Ferguson, (for what is it, that for such purposes men will not condescend to? what is there too mean for them to stoop to?) in order to accomplish this most extraordinary purpose, had seduced some of the servants of this noble Lady; that letters were to be sent, under cover to a French woman of the name of Christiane; others were to be sent, under covers, to a person of the name of Gosling, a female in the family; and their plan was to return answers under cover to certain friends, one a most intimate confidential friend of Lord Elgin, the last man in the world, who ought to have taken the part he has, (if Mr. Ferguson has

told the truth to Lady Elgin in these letters,) who was under the greatest obligations to Lord Elgin; who had been recommended by him to a station of high and honourable importance, who had passed his time in the house, and who appears by these letters of Mr. Ferguson to be the main instrument in carrying on the intrigue: the covers of an honourable gentleman in a public office, (who certainly knew nothing of the contents of these letters,) were used for the purpose of facilitating the correspondence between Lady Elgin and Mr. Ferguson.

Gentlemen; This is the part in regard to which I told you, I found myself under some difficulty in discharging my duty to Lord Elgin. I must speak of the character of Mr. Ferguson, as I find it, presenting itself upon the Evidence: I must say it presents a most insidious artful plan, long continued to seduce this Lady. I would read these letters from the beginning to the end, because every line of them goes to make out that to be their characteristic: but I wish, as far as I can, to spare the feelings of others; I wish as far as I can, consistently with an honourable discharge of my duty, even still to spare Mr. Ferguson. I should be extremely sorry that, by unnecessarily stating passages in these letters, which relate to other persons than Lord and Lady Elgin, I should

make explanations necessary, which would be extremely painful and distressing to Mr. Ferguson. I wish more to avoid giving unnecessary pain to the Lady that brings us here; and still more than that, I wish to avoid giving unnecessary distress to her unfortunate Parents; it depends much upon the discretion of my Friend on the other side, of whose discretion I have had great experience; it depends upon his discretion, and his instructions, what course I shall take. The course I should wish to take, would be to read only certain passages out of these letters, to abstain from reading a great part of their contents, and carefully to avoid reading passages, such as I have alluded to; but as I take it for granted, Gentlemen do not keep copies of such letters as these,—for I think if they had to write them twice over, both the original and the copy would be thrown into the fire; as I do not suppose there are copies kept of these impassioned letters, and that therefore my Friends have not the contents of them in their briefs; it may be, they may say, we cannot have partial extracts read, we must have them all read. If my friends insist upon that, they have a right to it. I know the ability and discretion of my Friend; he knows me pretty well; and I think he may probably tell you, that I am conducting myself with sincerity and candour, when

I state that this is my object, and what the reasons are for my taking this course. It is open for him, if he chooses it, to have the whole of these letters read; he will have one advantage from that course, that I shall not have an opportunity of observing upon them again; as I suppose that will be the course my Friends will take.

Gentlemen, I will just state to you some of these letters. The first is dated Wednesday night, the 10th of December.

—“ To repeat for ever, and to feel from
 “ the bottom of his heart, that he feels how he
 “ possesses every affection of the truest heart
 “ which ever beat, and that he loves his Mary
 “ with an ardour, a truth, a fidelity, which none
 “ ever surpassed, is, and shall ever be, my now
 “ constant support and comfort till I breathe
 “ my last. Mary, I can boast of loving you
 “ with a passion never felt before; for with all
 “ the violence of our feelings, which may be
 “ found perhaps in others, never, never was there
 “ at the same time such a perfect, complete
 “ unison in our souls. How every feeling,
 “ every wish, every thought is alike; yes, my
 “ own beloved Mary, we were made for one
 “ another; and, tremendous as every thing
 “ now is, from the fatal trial you have submit-
 “ ted to, I yet dare hope that the time of union

“ approaches. Yes, Mary, it is full time for us
 “ to act; full time to put an end to those fet-
 “ ters, which, if not broken, will sink us to
 “ the grave.”

Gentlemen; I have pages upon pages to the same effect, but I will take the liberty of pausing upon this passage, and making an observation or two upon it:—who is the writer of it, and to whom is it addressed? The writer of it, is the confidential friend of Lord Elgin, the Husband of the Lady to whom it is addressed; it is addressed to her, then living with her Husband; living not only as he believed, but all the world believed, in a state of conjugal felicity not to be surpassed; and this letter dares to propose to her to dissolve that union, which can only be dissolved by her crime, in order that this gentleman may form a new union with her; and he proposes to her to forget from that hour all her duties as a Wife, and as a Mother; to make orphans of her four children, to destroy all the fairest prospects of her infant son, the heir to an immense entailed estate; and it proposes to erect upon the ruins of all this domestic happiness, that, of which he states the value; it proposes to form a new union of a matrimonial nature with himself; what is it that Lord Elgin is to lose? he tells you, it is what he is to gain, which is beyond any contemplation

the mind has ever formed yet of human happiness.

This friend of this injured Husband has the courage in plain terms to make this proposition:— You are to break your fetters, you are to escape from your present attachment to your Husband, you are to force him to repudiate you, you are to become criminal, in order that you may become my wife, and that we together may have an opportunity of forming heirs to supplant the children of your present marriage: this is the proposition he makes; then, in order to bring this about, (for it was not to be accomplished all at once,) Lord Elgin is to be represented to her as an object of disgust and detestation.

—“ Gracious God! how endure conversation, language like his? is it not insulting
 “ you? can you submit to it? he has no right
 “ to offend your feelings thus; and if he does,
 “ I expect from you the same determined conduct as if he attempted to plague you; the
 “ one is an attack on your feelings, the other
 “ on your person, both most totally inconsistent
 “ with the *compact* made, and both most horrible to your own feelings, and to *friend*, as
 “ long as our love is pure and unalterable.
 “ O Mary! with the *friend* you love and
 “ live in, what may we not do and say? all is
 “ then affection, and love; every feeling opens;

“ all is concentrated in the total mass of tender feelings which animate us. But with him, so disgusting to you in every respect, are you to allow what then becomes gross allusions, vulgar conversation? No, they are too offensive, they ever act on forbidden ground, and must be treated as such. Yes, you are most totally disgusted with it. But it is not sufficient, you must prove it, and act upon it.

“ Your love and friend calls loudly for it, and you will obey.”

Gentlemen; This passage begins with an appeal in the words “ gracious God!”—I borrow from the letter-writer and I say, gracious God, where are we? When such language as this can be committed to paper, to be sent to a Wife;—“ You are living with your Husband, you are protecting your Children, you are shewing to the world a brilliant example of every virtue; your Husband’s conversation is insulting to you, it is abhorrent to you;”—a man whom I will prove by the most respectable witnesses, to have been the most indulgent and affectionate Husband that the Sun ever shone upon:—“ Can you submit to it, can you endure this? You must break this, you must get rid of him;” and here is an allusion to the earnest solicitude of Lord Elgin, to be restored to all his conjugal rights. The writer of this takes all the pains he can to prevent

the possibility of her returning to her duty, he tells her it is to be the effect of a compact, that she is to refuse to her Husband that which ought to belong to him alone:—for what purpose? That the Husband might be supplanted, and this gentleman might step into his place; this is a proposal made by the friend of the injured Husband to the Wife, living at that time under the roof of her Husband, seeing her children under the protection of her own venerable parents, all the world believing her at that time to be pure and immaculate; people looked at her and pointed to her as an example for the rest of her sex to imitate. He states then, that the solicitations of Lord Elgin to be restored to this intercourse are all solicitations to return to forbidden ground, and must be treated as such.—“ Yes, you are totally disgusted with it.”—It was not his fault, if she was not.—“ You must prove it and act upon it.”—How is she to prove it and act upon it? She is to disgust her Husband; she is to bring about a separation, if possible; she is to make Lord Elgin the instrument of bringing about that separation, because patience may be exhausted upon such a subject, if a Husband who dotes upon a Wife sees no reason for a conduct, which every feeling of our nature prompts us to remove, when it finds its way into the female mind.—“ You must act

“ upon it, you must consider it as a violation
 “ of your person. Your love and friend calls
 “ loudly for it, and you will obey;”—force him
 to a separation, then our plan is complete, then
 all will be well.—Your lover and friend calls
 loudly for it, and you will obey him.—What
 does this friend call for? It is an odd designa-
 tion by-the-bye; a man writing this letter to
 the Wife of his Friend, to call himself, *friend*;
 I cannot help thinking that *demon* would be
 the best designation of the writer of such
 a letter as this. He goes on: “ Adored angel,
 “ come to my heart, let me devour it with
 “ kisses!”—Can you conceive any thing so pro-
 fane as this? Then he goes on: “ Almighty
 “ God preserve and support you; your agitated
 “ friend shall now say, God ever bless you, and
 “ fling himself into his miserable bed, but it
 “ depends on his Mary to become two of the
 “ happiest of mortals.” And then there are some
 hieroglyphical marks—“ for ever and for ever.”—
 The Gentleman is agitated; what is he agitated
 about? is he agitated with a consciousness of
 his own deep guilt, is that the thing which agi-
 tates him? is he agitated with a nice sense of
 honour? or is he agitated by those feelings, which
 ought to restrain a man from making such wide
 spreading mischief as this, which he is endea-
 vouring to bring about? No, he is agitated, lest
 he should not yet have found the way to this

Lady's affections; lest still he should not be able
 to accomplish his purposes.

Now, Gentlemen, I will read you another
 passage in the same letter; he says:

—“ You may come cheerfully to my
 “ heart—there read it—judge every feeling in
 “ it; I shall not blush; *eternal confidence* you
 “ will there find for you,—but a horrible feel-
 “ that you could be destined to continue much
 “ longer near him! Oh God, it cannot be!
 “ How horribly disgusting his mind, his
 “ conduct! Yes, more and more you must
 “ hate him, more and more sigh for total
 “ emancipation: I exist only in that hope, in
 “ that certainty. No; neither you nor ———
 “ would ever have said, Try it; unless you
 “ felt that you could soon free yourself for-
 “ ever from him, on strong solid grounds, which
 “ he never dare again attack.”

At a period when, with the most sedulous
 affection, he is endeavouring to restore you
 to a sense of your duties, endeavouring to
 restore you to all the comforts of which you
 are depriving yourself, from what he believes
 to be a caprice, but which I hope arises from
 my having succeeded, to a considerable degree,
 in finding my way into your affections; it
 is necessary for my purpose; for, till I can bring
 you to hate him, till I can bring you to abhor
 and detest him, all the rest is nothing;

therefore more and more you must hate him, more and more sigh for total emancipation; that is the thing at which we are to aim. We can do nothing unless we have a total emancipation; I cannot supply this hated Husband's place, unless you get rid of him; I exist only in that hope. "No; neither you, nor" — (the person I will not name, unless it becomes necessary) "would ever have said, Try it; unless you felt you could soon free yourself from him, on strong solid grounds, which he never dare attack again."

Now, Gentlemen, this develops the whole plan. I had reason therefore, (the letter might have said,) I had reason to expect, that the frequent and unreserved intercourse I had with you, whilst you were in Baker-street, had gone a good way towards undermining that virtue, which at first I had reason to apprehend was unpregeable. You are now under the roof of your parents, performing your duty of attention to them, and protection of your children; You have your Husband restored to you, after a long absence and much suffering; you have him come down to his possessions in a country, where the attachment to those in possession of large estates especially, accompanied with such conduct and character as have marked his Lordship's ancestors and himself, is enthusiastic; you are now in a place in which you will soon see the

affection with which he will be received by a large circle of his dependents, and his friends: all these scenes are likely to make an impression upon your mind, to repair all the damage I have done, whilst I had you so much to myself in Baker-street; and I am in a state of alarm upon that subject; you must not be restored to your Husband; I have no peace, no prospect of happiness, but by your breaking your conjugal vow; I cannot prevail upon you to do that, but by prevailing on you to hate your Husband; you must hate him more and more, and sigh more and more for complete emancipation. I exist only in that hope, and neither you nor our confidential friend, and partaker in the intrigue, would have advised you to pass your time under the same roof with your Husband, but in the hope, that by your conduct you may bring about a final separation, that, whatever becomes of him, you may rush immediately into my arms, and he can in future make no complaints; or, in the words of the letter, "you will free yourself for ever from him on strong solid grounds which he dare not again attack."—He then says, "But at this moment, how dreadful, oh! how you must feel it yourself: yes, you must hate him more and more; his horrible presence must eternally disgust and poison every comfort of being alone; I dare not, my

“ mind cannot in peace give way to its dreams
 “ of bliss, while you are under his roof. I
 “ bear up in agitated suspence, and only exist
 “ in the hopes of your announcing to me, with
 “ joy and gladness, that you have been able *at*
 “ *last, to leave him for ever.*”

I pass on, Gentlemen, to another passage in the same letter. After some rapturous expressions of the bliss which he promised himself, when this Lady should have accomplished the purpose of final emancipation from her Husband, he says; “ Then again talk of the end of our sufferings and the period that is at last to unite us;—then, and then only, dare I come back and say, O Mary, I sink into your arms, expiring with unheard-of bliss. I am thy *Fou*, thy dear *Fou*. Oh God, when freed from him, then can we again give way to all our feelings; then in illusion conceive ourselves together, and almost in one another’s arms: but, oh God! as you *now* are, how horribly the idea of his presence poisons and destroys every feel of giving way to our dreams of bliss; oh, do you not feel it, Mary? does not his disgusting presence destroy every comfort? Oh God! how endure it much longer!”—This to the woman, who had written the letters I read to you, from Morlaix; who had only seen her Husband, as he was passing through London to the North, and

spent only one fortnight with him. Was there any thing in the anxious solicitude which the Husband expressed upon his arriving at home, and finding that she persisted in that, which had now grown into a resolution in her mind, to endeavour, if possible, to refuse him the rights of a Husband? It points out his object to be, to make Lord Elgin the object of her horror and aversion.

Again:—“ If I could for one instant imagine you could fail me; if ever love in all its purity, in all its unalterable fidelity, reigned in the human heart, it does in ours; and if it never has, then we shall shew the example.”

I will tell him where it reigned in all its purity; it reigned in the mind of Lady Elgin from the moment of her marriage, until she had the misfortune to meet with Mr. Ferguson in Baker-street; “ If ever,” (to use his expressions,) “ love in all its purity reigned in any hearts,” it reigned in the hearts of Lord and Lady Elgin, till Mr. Ferguson destroyed it in the heart of one of them; and he has the confidence to say in this letter to the Wife of his friend, that if ever it has reigned, since the world was created, in the human heart, it did in theirs; and if it never had, then they should shew the example of it. To shew the example

of it, after, by their mutual crimes she had destroyed the peace and happiness of this respectable Family, for the purpose of Mr. Ferguson's gratification!; then he says: "Mary, let me be destined never to see you more, to linger far from you and separate: But, oh God! and the Almighty knows the truth I utter, that my heart and soul shall ever be concentrated in you, sink into the grave most true, most faithful to you: O Mary, that feel is my now happiness; to feel how I am yours, how I eternally belong to you." [One could hardly believe, that such language as this would be committed to paper.]—"I shall brood over thy affectionate pages, hug thy adored image to my heart, moisten it with my tears, and if fate condemns us to complete misery, I shall die with thy image in my arms, in my heart; I shall hold up my face to heaven,"—[You will expect, Gentlemen, I suppose, in penitence and prayer,]—"I shall hold up my face to Heaven, and declare the truest passion, the most faithful love has animated me ever for my own Mary; I shall expire pronouncing her adored name. Mary, my whole existence is devoted to you, my whole comfort and support is to be true to you, as you to me: no, never, never shall I ever approach any human being but my Mary."

Gentlemen, without fatiguing you with the rest of these letters, which are all in the same strain; I shall proceed to one, which I think it is extremely important to state to you; it is a letter dated Stilton, seven in the evening, 17th December; my object in reading this letter to you is, to shew, that after this attempt at seduction had proceeded a considerable length, it appears, that Lady Elgin was not so abandoned as not to feel compunction at it, and that she had expressed to Mr. Ferguson a virtuous determination, that there must be an end of all correspondence between them; he persevered notwithstanding for a considerable length of time. I will trouble any one of you who has a pen to take this date; he is now on his journey southward, after having been in the North; he had been at the house of Mr. Nisbet but once; he is writing in December of an adventure which had happened to him on the 15th of March at Stilton; he says he had nearly fallen upon the floor; what had occasioned that? he goes on to tell you—"Here I got a letter from my Mary, telling me she could love me no more." Here her sense of honour, her virtue, her sense of her duty, her regard for her family, seem to have got the ascendancy over all Mr. Ferguson's passionate endeavours to debauch her; and upon the 15th of March, or about that day, she ap-

pears to have written a letter, which he received at Stilton, discarding him for ever; this produced the effect of making him almost fall upon the floor. One would have hoped, that this would have been an admonition to him to desist from this worthless course, to abandon this pursuit, which he must, if he had reflected for a single moment, have seen could end only in the ruin of the parties that had any connection with it. You will see whether that was the effect produced upon him; it produced much uneasiness, great agitation; he was ready to fall upon the floor; "she told me then she could love me no more;" what more she wrote, he does not communicate, but it is impossible but that she must have reflected and communicated to him her sense of horror for having indulged him in the use of language, which no married woman ought to have permitted for a moment; he tells her, "I shall have no more correspondence of that sort; here I am again with the most solemn, sacred, everlasting conviction, that my Mary loves me more than ever, will love me, will live, but in *friend*, till she sinks into the grave." What had brought about that conviction? A consciousness of the arts he had been practising, of the correspondence in which he had been engaged, of the horror he had endeavoured to excite in her mind against

Lord Elgin, and the alienation, for which he gave himself credit, and might well give himself credit; considering what the human mind is, for the success which he had attained in the accomplishment of that great object of his life, of destroying her attachment to her family and her Husband, and enabling him to supplant it.—"Here I am again returning southward, with a smiling countenance;" here I was in the month of March, dispirited, all my hope of seducing you cast off for ever, for you had told me you could love me no more; you had driven me to the brink of despair; but—"Here I am again returning southward, with the most solemn, sacred, everlasting conviction, that my Mary loves me more than ever, will love me, will live, but in friendship, till she sinks into the grave."

How had this conviction been brought about? It had been brought about by this infamous clandestine correspondence, carried on by an intriguer of station, and rank, and suborned servants, employed for the purpose of carrying on this intrigue. "Yes, most adored of beings, whatever our sufferings yet may be, we shall forever, and long already we have enjoyed that delight, that happiness, which only hearts united like ours can feel, in the blessed certainty of loving and adoring one another, in the per-

fect total conviction, that to one another we now eternally belong."

Gentlemen; the language of this letter reminds one of what one has heard of persons selling themselves to the devil; it presents such a picture of what this man states to her, as her lost condition, that it almost drives her to despair; it is hardly possible to look even to God's mercy for restoration, from such a state as he describes here; --- "Yes, most adored of beings, whatever our sufferings yet may be, we shall for ever, and long already we have enjoyed that delight, that happiness which only hearts united like ours can feel, in the blessed certainty of loving and adoring one another, in the perfect total conviction that to one another we now eternally belong."—If she had to that hour never felt any disgust to Lord Elgin, if to this moment she had doted upon her children, if she had performed her sacred duty to her venerable Parents to that time, if those duties had constituted all the happiness of her life;—after she had read this letter, and after she had been told by the man, who now triumphed over her virtue, that she had committed herself by some unhappy promise, that she would devote herself to him, as she must have done; all these scenes must have been converted immediately into horror and disgust, and she could only have looked upon

her Parents, as the parents of a miserable wretch, now an outcast, or about to become an outcast, to every thing proper, and to be thrown into the arms of her seducer; she must have looked upon her Children, who, without any fault of their own, are deprived of the comfort their Mother was to introduce them into, as the bright example of every virtue; she must have looked round upon every establishment, as a scene of horror and desolation, produced by her guilt; she could hardly expect the forgiveness of Lord Elgin; one would almost say, that a mind in such a state, could hardly hope to expect the mercy of a forgiving God. He goes on: "The total conviction that no power on earth can ever encroach on our unalterable affections, that they will raise us superior to our miseries, and at last ultimately guide us into one another's arms, never, never more to part." Then he breaks out again, "Oh Almighty God, let the awful agitations about a change in our hearts be for ever and ever banished." He is still alarmed, lest the scene of the 15th of March might be renewed; he is still alarmed, lest this Lady should in some happy moment be restored to her sense of her duty, and of her honour, and that they might still have some difficulties in accomplishing their guilty purpose, and therefore he exclaims to his God, "Let the awful

"agitations about a change in our hearts be for
 "ever and ever banished. Yes, Mary, they
 "have been long at an end, and never are they
 "to disturb us more. We shall now enjoy that
 "feel of belonging to one another with a love,
 "with an adoration never surpassed. United by
 "the tenderest ties of the human heart, by every
 "feeling of our natures, we shall thus brave
 "every suffering we have yet to encounter, and
 "in the midst of it, feel a delight which mutual
 "and true love like ours can only inspire.
 "I feel agitated at the idea of having done
 "wrong to you." Then there is some non-
 sense about some letter he had sent before. Then
 he goes on: "I now proceed, feel supported in re-
 "peating my everlasting love to my own Mary,
 "and ever, ever confiding in her alone; yet
 "look forward with hope.—I shall probably go
 "on all night, and see — in the forenoon.
 "The last time I likewise went on all night;
 "he received me agitated and cast down; he
 "pitied me from the bottom of his heart; he
 "will now support me—now speak comfort and
 "courage; ever repeat to me that my *Mary*
 "lives but in me, loves me beyond example, and
 "will ever, ever prove it; will effectuate
 "her escape the moment she can; and then we
 "shall venture to look forward to bliss unheard-
 fore by man or woman.

"of." He says he should probably travel all
 night; he did so upon his adventure, on
 the 15th of March; and when they arrived in
 town, their mutual friend perceived him agitated
 and cast down; they had been labouring toge-
 ther for a considerable time to accomplish this
 virtuous object; the one had been writing, and
 the other facilitating the means of conveying
 the correspondence. When the Principal arrives
 in town, he finds his Agent, and communicates to
 him, that at Stilton he had received a letter, which
 made the Agent's occupation cease, and which
 destroyed all the hopes of the Principal; and,
 as might naturally be expected, the Gentleman
 who had embarked himself in such a transaction
 as this, perceived him agitated and cast down;
 both Principal and Agent were much affected by
 finding, that the resolution of the Lady was too
 stubborn for their attack,—"he pitied me from
 "the bottom of his heart;" he pitied a man
 who had not succeeded in debauching the Wife
 of their mutual Friend, the Wife of a man to
 whom both of them owed (I speak it advisedly)
 more of obligation, but especially the Agent,
 than almost any man ever owed to another: he
 pitied me from the bottom of his heart; he will
 now support me, because he will find that we
 had not laboured in vain; he will find that all
 his address and finesse have been well applied;

he will find that you, who, in the month of March, had got a glimmering sense of your duty, and had then discarded me, have now fallen off from virtue, and that you are now my victim; I have only to name the time when you will leave Lord Elgin, and then there will be an end, and we shall be bound to each other for the rest of our days: "He will now support me, now speak comfort and courage, ever repeat to me that my Mary lives but in me, loves me beyond example, and will ever, ever prove it, will effectuate her escape the moment she can, and then we shall venture to look forward to bliss unheard of." Is it possible for language to state any thing more profligate than this; if a man were to describe this in a drama, it would be hissed, as unnatural; it would be said you are writing for a world of demons, that nothing in human nature was ever so profligate as this, and you would not get through the first act:—picture to yourselves two persons meeting; the Principal says, you remember when I came in the month of March, I came dispirited, I travelled then all night; you remember the cause of my disquietude, it was that my friend's Wife, the Wife of your friend particularly, of your patron, and protector, the man in whose house you lived, by whom you have been introduced into situations

of great magnitude and importance in the state; my subject of disquietude then was, that after all my pious labours, that after all your kind exertions, that after all the assistance of bribed servants, still so stubborn was her virtue, still so deeply planted were those religious sentiments she had taken in almost with her mother's milk, that though I appealed to Heaven, though I made Religion subservient, in order to destroy her, you recollect that in the month of March, somehow we had mistaken our road, for she then forbade me to address her again as a lover; I come to you now, my friend, in very different circumstances; I can make my approaches with more certainty, and more deliberation; I have had an opportunity to consider my plans, and have had the advantage to have you too in the house, with the object of my guilty and unnatural affections, (for guilty and unnatural they were, between such parties as these). We have now succeeded to my wish; at the same place in which I received her admonition never to approach her again, I have received the most comfortable assurance that she is mine for ever; I wrote to her before she had time to pause upon it, before she had time to look the damnation which belonged to me in the face; I have written to her, that, which must make her feel she has no retiring place, nothing left her in this world,

but to fly to me; I hasten to tell you this, you who pitied me before, and consoled with me from the bottom of your heart, upon the ill success of our plans. I request you will say something encouraging to me; repeat to me, (you cannot too often,) that my Mary loves me beyond example, lives but in me, that she will ever prove it; and tell me this, for without this there is nothing; tell me she will effectuate her escape the first possible moment; I cannot approach her, I cannot enjoy her person, while under the protection of her parents, under the guardianship of her Husband, and in the face of her lovely offspring. Tell me, (for if you do not tell me that, you tell me nothing,) tell me that by a course of conduct, that would disgust the most amiable man that ever adorned human nature, she has effected a separation; tell her that she will have no other refuge but to me; tell her that to me she must fly, and then you will pour balm and consolation into my breast; tell me all this, and make me happy; tell me, that then we may look forward to bliss unheard of, and that then no earthly power can interrupt it.

Gentlemen, if you were to see such a scene as this represented on the stage, you would say, I hope, at least, these are not English manners; you should lay your scene in some other country, for no

two such men are to be found in this, who have had any thing of a British education. This is the scene the gentleman describes, the scene too which he is designing with his confidential agent in the intrigue. Then he goes on: "Almighty God protect and for ever bless you. Oh! let me press that adored image to my lips; I have, I now go. No; never two hearts loved as true as ours. — gave me thy ever-beloved page; he said, 'Read and see what an enviable being thou art;' hear me, adored angel, oh listen to me; he enters into all my feelings; he says they are most natural with the unspeakable love I feel for you; that you must not only feel so too, but love me more for having them: oh God, Mary, do they imply want of confidence in my Mary? *God forbid!* No, were that a feeling within me, may I be eternally crushed with misery! Our Friend— says, No; that I love you with all the full confidence that love like ours is entitled to; but well he feels how horrible my misery must be, at your being even under *his* roof; how horrible it must be to *yourself*. For ever, and long already we have enjoyed that delight, that happiness which only hearts united like ours can feel, in the blessed certainty of loving, of adoring one another, in the perfect total conviction that to one another we now eternally belong; that no power on earth can ever

" encroach on our unalterable affections; that
 " they will raise us superior to our miseries, and
 " at last ultimately guide us into one another's
 " arms, never, never more to part. Oh Almighty
 " God, let the awful agitations about a change
 " in our hearts, be for ever and ever banished.
 " Yes, Mary, they have been long at an end,
 " and never are they to disturb us more. We
 " shall now enjoy that feel of belonging to one
 " another, with a love, with an adoration never
 " surpassed; united by the tenderest ties of the
 " human heart, by every feeling of our natures;
 " we shall thus brave every suffering we have
 " yet to encounter, and in the midst of it feel
 " a delight which mutual true love like ours
 " can alone inspire. Mary, I feel agitated at
 " the idea of having done you wrong, in send-
 " ing off my No. 3. from Newark this morning
 " to Gos.; but cruelly anxious as I know you
 " must be about the state of poor Friend's mind,
 " I could not resist sending to you the assu-
 " rances how your blessed No. 3. had supported
 " and revived me; surely, surely the letter will
 " arrive safe, and she will find the means of con-
 " veying this to you; I thought it safer than
 " sending it to Christ; for letters may be stopt,
 " you may be no longer there; it would be
 " put in at — by Simon's friend, and thus
 " have that post-mark on it. G. should re-

" ceive it on Saturday morning. Angel, I have
 " stopt here to get a little dinner; I now pro-
 " ceed, feel supported in repeating my ever-
 " lasting love to my own Mary, and, ever ever
 " confiding in her alone, yet look forward with
 " hope. I shall probably go all night, and
 " see — in the forenoon. The last time I
 " likewise went all night, he received me agi-
 " tated and cast down, he pitied me from the
 " bottom of his heart; he will now support me,
 " now speak comfort and courage, ever repeat
 " to me that my Mary lives but in me, loves
 " me beyond example, and will ever ever prove
 " it; will effectuate her escape the moment she
 " can, and then, we shall venture to look for-
 " ward to bliss unheard of.

" Almighty God protect and ever bless you!
 " Oh, let me press that adored image to my
 " lips.—I have; I know you; no, never true
 " hearts loved so true as ours, for ever and
 " ever and ever."

Gentlemen; What more have I to say to you
 upon such a subject as this? I who ask nothing
 of you but Justice; I who ask nothing from
 your passions; I who desire nothing but what
 strict rigid Justice gives me. Who is it that asks
 it? I ask it, in the name of a much-injured
 Husband, upon whose conduct it is impossible
 for any stain or reproach to be cast, if the at-

tempt should be made; but I shall anticipate it, for I will call to you, until you shall be tired of hearing them, until my learned Friend shall cry out, Mercy, mercy, mercy!; I will call all those who have had the opportunity of seeing how this couple lived in this and in foreign countries, till Mr. Ferguson had the access, to blast their hopes:—I shall prove them a perfect example of every thing that could make the marriage state happy: I, for that Husband, ask, against the deliberate seducer and debaucher of that Woman, what Justice demands at your hands.

I am not sure that my friend Mr. Stuart told you what the Record upon your table demands at your hands; I will tell you, that it demands 20,000*l.* Is there any man who thinks *that* too much! This injury cannot be compensated for money. If any man had offered to Lord Elgin 20,000*l.* twenty-thousand times told, to have put him in the miserable state in which he at this hour is;—to have deprived him of all the comforts of the society of this Woman, whom he adored;—to put his Children in the peculiar condition, in which the children of any rank, and particularly persons of high rank and of their large expectancies, are placed;—if he could have been offered 20,000*l.* twenty-thousand times told, he would have rejected it, to have been deprived, for one single moment of his life,

of his confidence in Lady Elgin's virtue. You cannot compensate him, but you can make the Defendant feel. The Law has said, (many persons think unwisely said,) that the state of morals in this country, after all the experience we have had, still makes it possible, that we may go on without punishing the seducer, who comes into your houses and lays every thing waste. It has said so; upon what grounds? Upon a confidence that you will do your duties, that it is unnecessary to have corporal punishments; and if there be any sense in the arguments of those who say so, it is this, that there is no corporal punishment equal to such delinquency.

There is no penalty that could be written with propriety in the letter of a statute, that could be equal to such an offence; such offences must always vary in their nature and degree; they must depend upon the situation of the parties; and the aggravations of the offence, must be left to the good sense of a Jury, and they will scourge the Defendant. Do not be afraid that seduction will be a thriving plant in Great Britain; do not think that seducers will walk abroad, and that this gentleman will, as he expresses it, walk with an upright head;—do not fancy, this is a thing that will be encouraged; trust to the good sense, the integrity, to the honour, and discretion of your Juries; they will take

care to prevent this. Those who have said it is unnecessary to have any new laws upon this subject, have said that. A person very high in our Profession, and high in the State, the present Chancellor of the Exchequer, brought in a bill for this purpose; but it was said, it was unnecessary; those who argue for penalties and corporal punishment, say, This is growing upon us; we see the peace of the first families broken in upon; something must be done to suppress this, something must be done for the national character; libertines of the worst and most profligate description are going about, "seeking whom they may devour," and what ruin they can occasion. On the other side it was answered, You will want nothing of this sort; as far as example goes towards the suppression of crimes, the Law is equal to all the purposes you require. Where am I to find it, I ask? In the good sense, integrity, and justice of your Juries. Present to them a fit case, and they will never fail to do their duty.

What is there in this case, what that has ever been urged in any other? The breach of friendship has never been considered a thing to be passed over lightly; the breach of hospitality has never been considered a thing Juries would not punish severely. Where have you had the breach of friendship and invasion of hospitality

equal to that I present to you? Here, a person of high rank is imprisoned by arbitrary power, against all justice and propriety; torn from his Wife; she, with a bleeding heart, torn from him, deprecating even the return to her parents, and her country, at the expence of leaving him she adores; she is placed under the protection of the Defendant; he becomes the confidential agent of her Husband, entrusted with the management of his most minute concerns;—he avails himself of that situation, for the seduction of his Wife. What of the breach of friendship and hospitality have you had that approaches in any degree towards this?

Gentlemen, I mentioned that Lord and Lady Elgin had a son, who died at Paris; a lovely infant; born there; afterwards taken by Lady Elgin to her Husband at Barege; nurtured by her there, with the most tender and affectionate care; and, to their mutual and agonizing affliction, he was taken from them! In the course of all these letters, if it shall be the pleasure of my Friends to hear them read, you will find, that the writer never mentions, nor hints in the most distant degree, at the surviving children of Lord Elgin. I told you that he has four objects of admiration to every body who sees them, idolized by their Mother;—they are never mentioned in any one of these letters. Mr. Ferguson knew

too well what he was about, to remind Lady Elgin of her duties by pointing in the most remote way to these helpless infants, whose hopes of happiness were to be destroyed in a great degree by the crime he was seducing their Mother to commit.

My Lord Elgin, upon the death of that infant, had the body embalmed, and sent to England. Who was the person that attended this corpse to the family vault of the illustrious House of which the Plaintiff is now the Head? Mr. Ferguson, the Defendant, in the absence of the Parents, stood in the Parents' place; he it was, that whilst the Father was in prison, and could not pay the last sad melancholy duties to his deceased Child, stood in the place of the Father, and attended it to the grave. To this Child indeed we do find allusions; but of what sort are they? of the same sort as the whole of his system; the same art and caution which induced him to abstain from reminding Lady Elgin, that she had Parents and Children. Finding she had a settled purpose in her mind to visit the tomb of her departed Infant, he addresses her in this language:—"I beg you will resist one thing you mention;" (she had mentioned her purpose of having the last sad consolation that parents can have, after they have lost a child which they doted;) "I beg you will resist one

"thing you mention,—on my knees I beg it;" — (this must be something of great importance in this scheme of seduction, that he was to beg of her;) "on my knees I beg it: Oh, do not go to visit poor William's tomb; the place does not admit of such a visit; you cannot descend; oh, forgive me, but in the situation *you are in*, do, do resist it;—I know you will obey me; I shall tell you my feeling on it another time; think that your dear Friend laid his innocent head to rest."

Gentlemen; This is the last passage from this letter that I shall trouble you with. It will depend on my learned Friends, whether you have more of them. Does not this bear me out in every observation I have made? does it not shew that, down to the last moment, these persons were afraid (I was about to use an odd phrase) of a relapse to virtue, which should disappoint all those hopes; and they thought, and thought wisely, that it would not be safe to trust her on a visit to the tomb of her dear departed Infant; and then mark the art with which this is introduced—I will shew you my ascendancy over you, how lost and undone but for me! I will shew you, you have no other refuge; I entreat you to remember, "who placed that beloved Infant's head to rest." Yes, Gentlemen, the man that placed that beloved Infant's

head to rest, was the intimate bosom-friend of the Father of that departed Infant;—he was the man, who, at the time when he is invoking his God to give success to this scheme of more than diabolical mischief and ruin, is calling to her recollection, that she had been blessed with such a son, and marking, that he had been entrusted with the sacred office of committing his remains to the tomb. Of the surviving children he takes care to say nothing, lest he should awaken her sentiments of duty.

I say then, that he is a seducer, of the basest and most deliberate kind; that he has destroyed the peace of his dearest Friend, who had a right to expect he should have protected him, against the advances of any other person to disturb his repose, if any other person had attempted it. To your justice I commit the case of Lord Elgin. I know that when I address you, expecting that you will, for the sake of example,—that you will, for the sake of making this Defendant feel, and for the sake of making as much of atonement as the Law of the land will allow you to make to an injured Subject, give the Plaintiff the justice he seeks:—I know, when I make that address, I make it to men of honour, integrity, and conscience; and that I cannot possibly make it in vain.

EVIDENCE FOR THE PLAINTIFF.

*William Hamilton, Esq. sworn.—Examined by
Mr. Dampier.*

Q. I believe you were in some station with Lord Elgin on his embassy?

A. I acted as his private Secretary.

Q. Did you sail with him?

A. I did.

Q. At what time was that?

A. On the 3d of September, 1799.

Q. How long did you continue with him in that character?

A. I continued with him till he got to Sicily; there I left him for two or three months. I joined him afterwards at Constantinople; where I remained with him about a year altogether.

Q. Was Lady Elgin with him at that time?

A. She was.

Q. I believe she had been married in the March before?

A. She had.

Q. Did you live with them so as to be able to observe the demeanour of Lord and Lady Elgin as Man and Wife?

A. I did.

Q. Were you habitually at their table?

A. Constantly.

Q. Were you, from your situation, in the house with them?

A. I was.

Q. In what manner, during the whole time of your being with them, did they conduct themselves towards one another, as Man and Wife?

A. His was the conduct of the most affectionate tender Husband I ever witnessed, and hers of the most affectionate and dutiful Wife.

Q. Was there a Chaplain attached to the Embassy?

A. There was.

Q. In what manner was the family conducted as to regularity, and the offices of religion?

A. With great propriety.

Q. Was the service of the Church performed?

A. Every Sunday, and regularly attended by the whole family.

Q. Had you an opportunity of observing whether her affection to him led her to take interest as well in his public as private concerns?

A. Perfectly so; she took an interest in every thing that concerned him.

Q. Were there any Children whilst you were with my Lord Elgin?

A. The eldest Son was born before I arrived at Constantinople, a month or two, I believe.

Q. I think you said you were at Constantinople a year?

A. Yes.

Q. Had you an opportunity of observing her conduct as well towards that Child as towards her Husband?

A. Yes; it was that of the tenderest Mother continually.

Q. Was her conduct during the time that you observed her, that of a virtuous woman, educated in virtuous principles?

A. Most perfectly so.

Q. What was her conduct towards her Husband during an indisposition he had?

A. Extremely interested, and very attentive that every care should be taken of him.

*William Hamilton, Esq.---Cross-examined by
Mr. Topping.*

Q. In September, I think you say you sailed?

A. Yes.

Q. Lord Elgin had been married a few months before that time, I think?

A. Yes.

Q. You remained at Constantinople about a year?

A. Yes.

Q. You left them then at Constantinople in the year 1800?

A. No; I did not arrive at Constantinople till the Spring of 1800. I left them in June, 1801, at Constantinople?

*John Philip Morier, Esq. sworn.---Examined
by the Hon. Mr. Stuart.*

Q. I believe you accompanied Lord Elgin to Constantinople in the year 1799?

A. I did.

Q. In what month?

A. In the month of September.

Q. In what capacity did you accompany Lord Elgin?

A. As private Secretary to him.

Q. Upon your arrival at Constantinople, did you continue with Lord Elgin; and how long?

A. We arrived in November, and I quitted Constantinople the 22d of November; I returned the September or August following to Constantinople.

Q. What stay did you make?

A. Till our own Expedition came to Egypt, which was, I think, the end of December, 1800; and returned to Constantinople in the month of February, 1801.

Q. How long after you returned, did you continue your stay at Constantinople?

A. I staid till the first of June that year; then I came to England with dispatches, and returned again to Constantinople; I staid there, with the interval of a journey I took to meet Lord and Lady Elgin at Smyrna, till 1803, when the Embassy ended.

Q. Did you live in the same house with Lord Elgin while at Constantinople?

A. I did.

Q. Had you an opportunity of observing the conduct of Lord and Lady Elgin towards each other as Man and Wife?

A. I had.

Q. How did he conduct himself?

A. As an affectionate Husband, and she as an affectionate Wife.

Q. Was he regular in the discharge of the public duty of prayer on Sundays?

A. Yes; on Sundays it was regularly performed, when the Chaplain was there.

Q. Were you at Constantinople when Lady Elgin was brought to bed of her first Child?

A. I was not.

Q. Were you there after the Child was born?

A. Yes.

Q. How did she conduct herself, as a Mother, towards her Child?

A. Most tenderly and affectionately.

Q. What, upon the whole, was her conduct?

A. As a dutiful Wife, towards a tender and affectionate Husband.

Q. Did you conceive her principles to be those of a virtuous woman?

A. I did to the last moment I was there.

John Philip Morier, Esq.---*Cross-examined by Mr. Nolan.*

Q. When did you leave Constantinople?

A. The 23d of January, 1803. I came overland to Vienna; and then sailed in a frigate to Italy, I believe.

Charles Stirling, Esq. sworn.---*Examined by Mr. Garrow.*

Q. Be so good as to state to the Sheriff and the Jury, where you first became acquainted with Lord and Lady Elgin?

A. I met with Lord and Lady Elgin at Paris, the day on which the British prisoners were arrested,---on the 22d of May, 1803.

Q. Was the Defendant, Mr. Ferguson, one of the British who were at that time arrested?

A. I saw Mr. Ferguson very soon after that time.

Q. After you, by this circumstance, became acquainted with Lord and Lady Elgin, did you pass much of your time with them?

A. I saw them every day.

Q. State the impression their conduct made upon your mind respecting their attachment towards each other.

A. I never had an opportunity of seeing any couple who appeared to me to live more happily together, than Lord and Lady Elgin appeared to do.

Q. Was Lord Elgin an indulgent and affectionate Husband?

A. Perfectly so.

Q. Was Lady Elgin conducting herself with the utmost propriety in all respects?

A. Yes.

Q. I take for granted, that most of the British of rank and station were much at Lord Elgin's after his arrest?

A. No; they were but few.

Q. Was Mr. Ferguson frequently there?

A. He was.

Q. You never saw any thing that gave you the least reason to doubt of there being the most perfect happiness between them?

A. No; on the contrary, the most perfect happiness.

*Charles Stirling, Esq.—Cross-examined by
Mr. Adam.*

Q. Did you live in the same house with Lord and Lady Elgin?

A. I did not; they visited frequently at the house where I was, of the late Mr. Oliphant; the British prisoners were but few whom he visited.

Q. When did you leave Paris?

A. The 18th of January, 1804.

Q. When did Lord Elgin leave Paris for Barege?

A. I apprehend about the middle or towards the end of June, 1803.

Mr. Garrow. You remember his Lordship being afterwards separated from Lady Elgin, and thrown into prison?

A. Perfectly so; that was upon Lady Elgin's coming back from Barege to Paris.

Q. Did that produce the effect you would expect upon an affectionate Wife, anxious for the safety of her Husband?

A. Perfectly so; she expressed the greatest anxiety for Lord Elgin, and the greatest misery at his fate.

Q. So as to impress you perfectly that the attachment had continued unaltered to that time?

A. Perfectly so; nothing could exceed it, in language and expression.

*Captain Donellay sworn.—Examined by
Mr. Dampier.*

Q. I believe you commanded the *Narcissus*?

A. I did.

Q. Were Lord and Lady Elgin on board your ship together?

A. They were.

Q. How long?

A. I fancy nearly two months, but I cannot charge my memory.

Q. In what year was that?

A. I think in the year 1802, between May and July.

Q. Where were you sailing from, and where to?

A. We sailed from Athens to visit the Grecian Islands, and part of Greece.

Q. Being on board the ship, and with persons of that description in your cabin, you had the opportunity of seeing the whole of their conversation and behaviour one to another?

A. I certainly had.

Q. What was their conduct towards one another, in respect to that affection, that seemed to prevail between them?

A. There seemed to be a great union of sentiment, and a reciprocal affection, between Lord and Lady Elgin.

Q. Was that continued during the whole of the time they were under your observation?

A. During the whole of the time, we lived in one cabin; and I had frequent opportunities of observing them.

*Mrs. Jane Lind, sworn.—Examined by
Mr. Garrow.*

Q. I believe you were at the Pyrenées in 1803 and 1804?

A. I was.

Q. Were you there acquainted with Lord and Lady Elgin?

A. Particularly so; we lived entirely in the same house, during that period, and were extremely intimate.

Q. You had an opportunity then of seeing how they conducted themselves towards each other?

A. I had; we passed one or two days each week with Lord and Lady Elgin, on terms of the greatest intimacy.

Q. Did you ever see any couple who appeared to live more happily together?

A. Never in my life.

Q. Did they appear to have a mutual affection to the highest possible degree?

A. The strongest possible; I never saw a more attentive, affectionate Husband, nor a Wife more happy than Lady Elgin.

Q. Their conduct towards each other was not only perfectly unexceptionable, but meritorious in the highest degree?

A. It appeared so to me: the greatest degree of confidence subsisted between them.

Q. And that down to the last moment of your intimacy with them?

A. Quite so; I never saw more perfect harmony in my life.

*Mrs. Jane Lind.—Cross-examined by Mr.
Horner.*

Q. When did you cease to be upon this footing with Lady Elgin? When did she return to Paris?

A. I believe in October or November, 1804: I have never seen her since, but have had letters from her.

Q. At that time Lady Elgin left Barège, in November, 1804?

A. I do not know whether it was October or November.

*William Hamilton, Esq. called again.—
Examined by Mr Garrow.*

Q. You were here, I believe, when Lady Elgin returned, Lord Elgin being still detained a prisoner in France?

A. I was.

Q. Were you at time in any official situation in the Secretary of State's Office?

A. I was.

Q. Did it come within your knowledge, that, upon her arrival here, Lady Elgin was extremely assiduous to endeavour to procure the liberation of Lord Elgin?

A. I frequently saw her; and we scarcely ever talked upon any other subject; and she desired me to speak to Sir Joseph Banks upon the subject.

Q. Sir Joseph Banks was supposed to have an interest with the French Institute, and she thought through that channel something might be done?

A. She did.

*William Hamilton, Esq. — Cross-examined
by Mr. Topping.*

Q. When did Lady Elgin come over?

A. I think in 1806.

Q. When did Lord Elgin arrive?

A. I think last Summer.

*General John Murray sworn.—Examined by
Mr. Stuart.*

Q. You were acquainted with Lord and Lady Elgin?

A. Perfectly.

Q. Did you see them at Constantinople in 1801 or in 1802?

A. I passed the winter between 1801 and 1802 with them at Constantinople.

Q. Were you in their house at the time?

A. During the whole time.

Q. Did you accompany Lord Elgin when he went to Athens?

A. I went with him to Athens, when he went there in the Spring of 1802, for the recovery of his health.

Q. What impression did you receive of the domestic union that seemed to subsist between Lord and Lady Elgin?

A. It always appeared to me, that Lord El-

gin was most extremely attached to Lady Elgin, and that she was an affectionate and most exemplary Wife.

Q. During that period what was Lady Elgin's conduct?

A. Extreme anxiety for his recovery, and the greatest possible attention.

Q. Did Lord Elgin seem to pay every proper attention to morality, and the duties of religion in his family?

A. I have long known Lord Elgin, and considered him as an extremely moral man. At the time I was there, the Chaplain was absent upon some mission my Lord had sent him upon, and I had not, therefore, the opportunity of seeing the regular family devotion.

Mr. Topping. When did you leave the Country?

A. In May, 1802, when Lord Elgin went to Athens.

*Mr. Charles Duff sworn.---Examined by
Mr. Garrow.*

Q. I believe you were many years in the employ of my Lord Elgin?

A. I was.

Q. Did you accompany Lord and Lady Elgin to Constantinople?

A. I did.

Q. Did you remain with them during their stay there?

A. No; I went away from Constantinople soon after their arrival. I afterwards returned to them.

Q. How long was you with them after their marriage?

A. From their marriage, 'till their arrival at Constantinople, and for a little time afterwards.

Q. Did you resume your situation again?

A. I went away in 1799,—came back again in 1800,---I came home with dispatches to England, and returned in 1800, and was in the family 'till I was sent back again with dispatches to England.

Q. How long was that?

A. Till about the month of July.

Q. Then, except being dispatched upon particular duties occasionally, you resided with Lord Elgin?

A. Yes.

Q. Did you ever see persons conduct themselves with more propriety, attention, and affection towards each other than Lord and Lady Elgin did?

A. Never.

Mr. Topping. The question is not put quite regular.

Garrow. In what manner did they conduct

themselves, and what impression did it make upon your mind ?

A. I thought I never saw a happier couple in my life.

Q. Had they a child born abroad, that was christened by the name of William ?

A. I heard so : I was not with them in Paris.

Q. That child died ?

A. It did.

Q. Was the body embalmed ?

A. It was, and sent over to England ; it was sent directed to me.

Q. Where was it interred ?

A. In the family-vault of Lord Elgin.

Q. Who attended the funeral ?

A. Mr. Ferguson met me at Dunfermline, Mr. Witherspoon, and Doctor Davidson, and several other friends of the family.

Q. But Mr. Ferguson attended the funeral ?

A. He did.

Q. At that time Lord Elgin was detained in France ?

A. Yes.

Q. And Lady Elgin was still in France ?

A. She was.

Q. After Mr. Ferguson came home, and before Lord Elgin came from France, had you occasion to know, from any intercourse with

Mr. Ferguson, whether he managed my Lord Elgin's concerns for him ?

A. Yes.

Q. Do you know that from Mr. Ferguson ?

A. Yes, from Mr. Ferguson ?

Q. What do you know from your intercourse with Mr. Ferguson ?

A. Mr. Ferguson, frequently in conversations he had with me, seemed interested greatly in Lord Elgin's affairs, with regard to his horses, and other concerns in his family.

Q. Concerns that Lord Elgin would have himself attended to, if he had been here ?

A. Yes.

Q. With respect to confidential communications with Government, you had nothing to do with them ?

A. No, I had not.

*Mr. Charles Duff. — Cross-examined by
Mr. Nolan.*

Q. You did not reside much in Constantinople with Lord and Lady Elgin ?

A. I did not.

Q. You were dispatched with Government dispatches ?

A. Frequently.

Q. You did not pass any time with them after they left Constantinople ?

A. They went on board at Constantinople, and left me there.

Q. The Child, you say, was addressed to you?

A. It was.

Q. And you took care of the funeral?

A. I took the body down to Scotland.

Q. And Mr. Ferguson seemed interested about Lord Elgin's horses?

A. He did, and other concerns.

Q. Mr. Ferguson was at that time in Scotland?

A. He was.

Q. But whether there was any confidential intercourse upon any other subject, that you of course cannot tell?

A. I cannot.

Mr. Garrow. Is Mr. Ferguson's estate in the neighbourhood of Lord Elgin's?

A. About sixteen or eighteen miles is the utmost distance, I believe.

Mr. Nolan. What estate has Mr. Ferguson in that neighbourhood?

A. His father has an estate there.

Q. But *he* has no estate there?

A. I believe it is an entail'd estate.

Q. Do you know any thing of it, of your own knowledge?

A. No further than from hear-say.

Q. Then that estate you called his estate, is his father's estate?

A. I did not call it his estate.

Mr. Garrow. Is Mr. Ferguson an only son?

A. He is not an only son.

Q. Is he the eldest son?

A. I believe he is.

Q. And the father has a large estate?

A. He has.

Mr. Nolan. As to the estate being entailed, do you know any thing of that, but from hear-say?

A. No.

Mr. Burchall. (*the Under-Sheriff.*) Do you know whether the Defendant has any estate of his own in Scotland?

A. I do not.

Mr. Garrow. Do you know whether he was a Member of the last Parliament?

A. He was.

Mr. Garrow. Now, Mr. Sheriff, I propose to call a Witness to prove the hand-writing to these letters. I presume they are not admitted?

Mr. Topping. I admit the letters to be of the Defendant's hand-writing.

Mr. Garrow. I propose to read these letters.—Gentlemen, you recollect I stated to you, that whether they should all be read, or only the passages I have stated, would depend upon the course my Friends would take; they have certainly a clear right to have them all read. I

have received an intimation from my Friend Mr. Topping, that he does not desire them to be read, and it would be no gratification to any body concerned in the cause to read them; I understand my Friend to admit that the statement I gave of them is correct.

Mr. Topping. Gentlemen, it is not my wish, that your time should be unnecessarily occupied. I admit that the quotations that my friend Mr. Garrow stated to you, are correct.

Mr. Garrow. I am particularly well pleased, that the Defendant's Counsel has taken this line, not merely from the circumstances of the case under discussion, but likewise in the hopes, that so good an example will be followed in other causes of a similar description: for I am convinced, that the publication to the world, of details that frequently do appear on such trials, goes a great way to debauch the morals of many, who read them, and to increase the number of such unfortunate cases.

*Mr. Robert Raper sworn.—Examined by
Mr. Dampier.*

Q. Did you ever live servant with Lady Elgin?

A. Yes.

Q. Where did she live when you lived servant with her?

A. She came to her Father's house in Portman-Square.

Q. What year was that?

A. October 1805.

Q. Was Lord Elgin then in England?

A. No.

Q. How long did she continue at her Father's house in Portman-Square.

A. I think about a fortnight.

Q. Where did she then go?

A. To No. 60, Baker-street, Portman-Square.

Q. How long did she remain there?

A. I left her Ladyship, in Baker-street the 28th day of April 1806.

Q. Do you know Mr. Feguson?

A. Very well.

Q. During the time Lady Elgin lived in Baker-street, did he use to call there?

A. Yes.

Q. Was it seldom that he called there, or frequently?

A. Frequently.

Q. At what hours did he use to call?

A. At different hours.

Q. Have you ever known him call either earlier or later than other gentlemen, who visited Lady Elgin?

A. Yes.

Q. Did he ever communicate to you the reasons why he called so early or so late?

A. Yes.

Q. What were they?

A. Saying he came on business concerning Lord Elgin.

Q. Where did you understand from him, Lord Elgin was then?

A. In France.

Q. What was the business that he said he came upon?

A. He never told me his business; he came to bring letters, and took her Ladyship's letters at the same time to Mr. Coutts, the Banker's.

Q. Did he say from what places he brought those letters?

A. I understood they were his own letters.

Q. To bring his own letters to Lord Elgin?

A. Yes.

Q. And to take hers?

A. Sometimes he left letters to be sent with Lady Elgin's own letters.

Q. Did you ever hear him mention where he had been respecting this business?

A. No other business except concerning her Ladyship's jewels, that had been new set, at the Jewellers, Rundell and Bridge's, on Ludgate-Hill, and he came to ask her Ladyship if there were any fresh orders respecting them.

Q. Did he ever say where he had been or was to go respecting those letters?

A. He did not.

Q. Did he come continually?

A. He did.

Q. And you said, I think, he came early and late?

A. He did.

Q. Did he express to you any interest respecting Lord Elgin?

A. Yes, he said he was very anxious to get Lord Elgin liberated from imprisonment in France, and hoped he would soon be at home.

Q. Was this up to the time when you left Lady Elgin?

A. Yes.

Q. Did he express himself as being employed in attempting that liberation?

A. He always said he came on that business.

Mr. Robert Raper.—Cross-examined by

Mr. Adam.

Q. I think you said it was in October 1805?

A. Yes.

Q. Do you know the period when Lord Elgin returned to England?

A. I do not know the month.

Mr. Dampier. Lord Elgin came over in June 1806.

*Hay Donaldson, Esq. sworn.—Examined
by Mr. Garrow.*

Q. I believe you are a Writer to the Signet,
at Edinburgh?

A. I am.

Q. Have you a certified copy of the entail
of the estate of Mr. Ferguson's Father upon
him?

A. I have.

Q. Is this the evidence which in the Courts
of Scotland is received as evidence of such in-
struments?

A. It is one mode of that evidence.

Q. Is the estate of the Father strictly entailed
upon Mr. Ferguson?

A. Yes---according to the terms of the en-
tail, the estate stands destined to the present
proprietor by the name of William Berry, but
in another document I have in my hand, that
William Berry is defined to be William Fer-
guson, the Father of the Defendant.

Q. Is that a certified copy?

A. It is.

Mr. Garrow. It is, after the death of his
Father, strictly intailed upon the present De-
fendant?

A. It is the Father's for life, the present Pro-

prietor, and the Heirs male of his body, the
eldest succeeding without division.

Q. Is the Defendant the eldest Son?

A. I understand so.

Q. What is the estimated value of this es-
tate?

A. I have always understood it is very consi-
derable, but I know nothing upon the subject
of my own knowledge.

*Hay Donaldson, Esq.---Cross-examined by
Mr. Horner.*

Q. Have you examined this document?

A. I have.

Q. Are there any clauses in it, prohibiting the
Heir in possession, from burthening the estate
with debts?

A. I believe there are.

Q. The usual clauses prohibiting him?

A. Yes, there are all these clauses.

Q. Of course you can state to the Jury, that
the effect of this is to prohibit and prevent Mr.
Ferguson from alienating that estate, in any
way, and from bringing any incumbrances upon
that estate; it is so, is it?

A. I understand it is so in both respects.

Q. Do you happen to know Mr. Ferguson's
Father?

A. I have had the honour to be in his company.

Q. He is a gentleman in very good health, I believe, a stout, hale old man?

A. I believe he is.

Mr. Garrow. A party cannot bring a charge upon an estate, but he may spend the annual income, may he not?

A. Yes.

Q. So, that if his Father should die, and he become the Heir, under the entail, in possession, he may spend the whole of the income?

A. He may, provided he does not encroach upon the rights of the Children.

Mr. Horner. You do not mean to say, that, under this entail, the Widow and younger Children would not have provisions?

A. No; certainly they will have.

Q. And you do not mean to say, the income of Mr. Ferguson's estate is from fifteen to twenty thousand pound a year?

A. Certainly not.

Mr. Garrow. Then, Mr. Sheriff, the letters being taken by the Jury, as I have stated them-- this is my case.

The End of the Evidence for the Plaintiff.

MR. TOPPING.

Gentlemen of the Jury;

It has fallen to my lot to have the honour of attending you this day, as Counsel on the part of the unfortunate Defendant in this case, Mr. Ferguson; and, Gentlemen, when I say unfortunate, I think I am well warranted in the use of that epithet, from the manner in which my Friend and Counsel for the Plaintiff has opened this case to you: He stated to you, that it was, as it undoubtedly is, one of the many melancholy instances of human frailty placed in a situation of temptation, which the Party had not firmness enough to resist; and I do agree with my Friend most entirely, that, if ever there was a case, in which the term *unfortunate* might be applied to the party, it is to the Party for whom I appear as Counsel; if ever there was a case of that melancholy description, which I stated, it is this case, in which you now are called upon to exercise your judgement.

Gentlemen; I certainly have no reason to complain, but, on the contrary, am very much to thank my learned Friend, for the manner in which he has opened this case to you. When

I say I have no reason to complain, but, on the contrary, very much to thank my Friend for the manner in which he has opened this case to you, it will not, I trust, be understood by any body, in this place, that I am complimenting my Friend, by the expression I have used, insinuating that he has in the least abandoned and deserted, nay, that he has not urged, to the extent of his great abilities, the cause of his Client against my unfortunate Defendant.

My Friend told you he has had great experience in cases of this kind: I know he has had great experience, not only in causes of this description, but of every description which can be agitated in Courts of Justice: not so my situation. My Friend, as you all know, certainly possesses one of the most acute and one of the most ingenious minds, that it ever pleased God to bless any of his creatures with; in addition to that, the vast experience which my learned Friend has had, enables him, in his opening, to place all his materials in the best point of view before a Jury, to take off, even if there were, a strong part in his adversary's case, by anticipation, and to cover, by the strength of his talents, any weak parts in the case of his Client: custom has made this easy to my Friend---it is not so to me; and I might use the words of the Poet, I might say---“the hand of laborious employment

hath the daintier sense.” My Client, however, I trust will not suffer from the imbecility of the Advocate, who presents his case before you, because it appears to me, and I trust will appear to you, that it is a case, which requires but very few observations to be made upon it, on the part of the Defendant; and I think those observations may be made briefly, but yet I trust powerfully to your minds.

Gentlemen, let us look a little at what is the situation of these parties, and what are the circumstances, which have been proved in evidence against the Defendant. In the year 1799, Lord Elgin, the Plaintiff, married the Lady, whose unfortunate failure from propriety has caused the present action: immediately after their marriage, they go from Scotland, where this marriage was celebrated, and where of course a marriage between the parties may be dissolved, and put an end to; they go from Scotland to Constantinople, and they pass two or three years there; without entering into a minute detail of the places to which they immediately went; till at last, in May 1803, they came to Paris, Lord and Lady Elgin then about to return to England, the mission, I suppose, on which his Lordship was sent to Constantinople, being then at an end.---It happened at that time the unfortunate Defendant was at Paris:---it is stated

by my Friend, but I think it has not been adduced in proof, if it has, it has escaped my memory, and I am sure I shall have credit with him for not attempting to mistate any thing to you, and it would be useless to do it, for it would be corrected by the learned and impartial Gentleman, who will sum up the Evidence to you;—but I think it does not appear in evidence, that till 1803, when Lord and Lady Elgin were at Paris upon their return from Constantinople, with a view to come over to England, and when Mr. Ferguson was also at Paris, both parties being detained as prisoners in France, that there was any sort of intimacy or acquaintance, or even a knowledge of each other, between Mr. Ferguson and Lord Elgin:—I see that meets the assent of my learned Friend.

Let us look at what are the dates---They meet at Paris in the month of May 1803; Lord and Lady Elgin continue at Paris only till the month of July, when the indisposition of Lord Elgin made it necessary for him to go for the restoration of his health to a place called Barege; there was therefore a period of only two months, in which Mr. Ferguson, unknown before to Lord and Lady Elgin, could possibly have an acquaintance with either one or the other of them. I do not find any evidence has been adduced, to prove that Mr. Ferguson ever was admitted

under the roof of Lord Elgin, or ever partook, as my Friend has eloquently stated, of the hospitality of his table;---I do not find any fact of that kind proved by any witness.

Mr. Ferguson remained in Paris, after Lord and Lady Elgin went to Barege:—But, without entering into a minute detail of all the particulars, it is not insinuated, nor attempted to be proved, that during the time Mr. Ferguson was with Lord and Lady Elgin at Paris, any improper connection took place between them: but the latter part of the Evidence, if I understand the thing correctly, is the period of time to which the crime of Adultery is to be imputed;—that fact of Adultery which my Client has undoubtedly admitted to have committed with Lady Elgin.---Here, I think, I may, on the part of this unfortunate Defendant, take some merit for the conduct he has pursued on this occasion. I feel, and he feels too, as much as any man, from the unfortunate situation into which his imprudence,---an imprudence brought on by its being impossible to resist the fascinating charms of this Lady, which my Friend so elegantly described; he laments as much as any man, the unfortunate situation, in which he has placed himself, and in which all the parties concerned in this transaction are placed. My Friend is lavish in the extreme, and I believe when he is

so; he is speaking only correctly, of the charms and accomplishments of this Lady.

In the month of October 1805, Lady Elgin comes to England; and it is not insinuated, that antecedent to this time, there had been any criminal intercourse between Lady Elgin and Mr. Ferguson. What then is the situation in which this unfortunate gentleman is placed, in consequence of an introduction, which he had in Paris, but which from the year 1803 to October 1805, he had never followed up by any improper conduct on his part?—what is the situation in which this unfortunate gentleman is found?—Lady Elgin comes unattended to England in the month of October or November, 1805.—Upon his accidentally being in London, he discovers that Lady Elgin was in England:—the acquaintance that he had had with her and Lord Elgin in Paris; the introduction that he had had there to them, his being a neighbour, (for so upon the Evidence it now stands, although not personally acquainted with Lord Elgin, yet his Father was the owner of property contiguous to Lord Elgin,) unfortunately again introduced him to the acquaintance of this Lady, in the month of November 1805; and that acquaintance is carried on, as you have heard from the evidence of the last Witness, from day to day till April 1806, when he leaves the service. My

Lord Elgin immediately, or soon after, arrived in London.

The Defendant has admitted, as I have stated to you, that he has committed the criminal act, which gives the cause of Action to the Plaintiff in this case;—and my Friend imputes that criminal act to have taken place between October 1805, and April 1806: for after Lord Elgin arrived in England, in the month of June, there is no proof that there was any possibility of intercourse on the part of the Defendant, Mr. Ferguson, with Lady Elgin. It is not in proof from the time of Lord Elgin's arrival in the month of June 1806, down to the period at which I have the honour of addressing you, that Mr. Ferguson, the Defendant, ever was in company with Lady Elgin.—The case, therefore, does undoubtedly stand before you, under peculiar, but certainly under melancholy circumstances.

This young gentleman, fascinated with the charms of this Lady, is unfortunately introduced into her society, in the absence of her Husband, and he forms that connection, which undoubtedly has subjected him to the Action before you;—he fell under circumstances, in which few perhaps, would have had virtue enough to have withstood the temptation:—I do not stand here to justify the act he has done; on the contrary,

I stand here, by his own command, expressing his deepest regret for the situation, in which he has not only placed himself, but all the parties concerned in the transaction.

Then this unfortunate person, having been led into this connection, under the circumstances I have described, appears to me from the moment he had fallen into this situation, to have lost his understanding, and his senses.—With respect to the letters, they will justify the charge my Friend has made; but there is one comment on my part, which will be an answer to the whole of them:—Did any man living, from the time of the existence of English novels, ever read such ridiculous stuff, as forms the subject of all these letters? they are the letters of a man, if I may so say, love-mad,—of a man completely in a phrenzy; he has got it into his head, after having formed a connection with this Lady, that it is utterly impossible he can live without her, and that these two are to form that, which never existed, namely, a couple, between whom it was utterly impossible disunion and disharmony should ever exist.—It would be disgracing you if I troubled you with further comments upon these letters;—it would be an idle waste of your time, and of my own strength, and yours too, Gentlemen, if I troubled you with any other comment upon them, than that it is impossible

for any man to read the language of any of them, without seeing it is extravagant, such as indeed never fell within my observation in course of reading, and such as I trust will never again make its way from the pen of any man;—such a farrago of love, nonsense, and phrenzy, it is utterly impossible to conceive, unless you had heard them read.

But where is this gentleman at this time? he is carrying on no adulterous intercourse at this time. It is not pretended that he was in Scotland with Lady Elgin at the time these letters were written:—on the contrary, these letters were written by this absent lover at a distance from the place, and intercepted by Lord Elgin at the time he was living with Lady Elgin at her Father's house.—So much for these letters. The question before you is this, and I am persuaded your attention will be drawn to it by the learned and impartial person, who sits by the side of me; you will look at the record before you, and see what is the duty, which you are, upon your oaths, to perform:—and here, I am sorry to say, I cannot agree, in what my Friend said to you in the conclusion of his address.

My learned Friend has stated to you, that it was your duty to scourge the Defendant, I deny that to be your duty, or your province; on the contrary, I assert, without the fear of

being contradicted by the gentleman who is to sum up this Evidence to you, that it is not the province of an English Jury to exercise the character of scourgers upon a Defendant before them. — You are called here, as a Jury, to give a compensation in a civil Action, for a civil injury; you are not sitting in the complex character of Judge and Jury, who are to ascertain the criminal act the party committed, and by your judgement to affix the punishment of it; you are to give the party a reparation in damages, for the civil injury he has sustained; taking, I admit, all the circumstances into consideration, the rank of the party injured, and the ability of the other to pay: but as to scourging the Defendant, I say it is a principle the Law of England does not recognize; there is no such thing known in English Law, as vindictive damages: vengeance is not the province of a Jury; we have Divine authority for that: vengeance, God has said, is his, and is not the prerogative of man; it is your duty to weigh all the circumstances of the case before you, with respect to the civil injury the party has sustained, and to give to him who has sustained it, a compensation, suitable to the injury he has sustained.

My Friend stated, and stated correctly and truly, I have no doubt, that it is not the object of the noble Plaintiff in this case to recompense

himself by considerable damages, by the verdict of a Jury; what he wants is justice. Has he not had justice? Has there been an attempt, on the part of myself or my friends, by any witness to impeach at all the character, or conduct of Lord Elgin towards Lady Elgin, from the first moment of their marriage, down to the unfortunate time of this transaction of which I am speaking? I appeal to you as men of honour, whether in any one interrogatory from us, there has been an attempt to insinuate any thing against the character or conduct of Lord Elgin? I believe Lord Elgin to be an honourable man, and my Client instructs me to urge nothing against the character of Lord Elgin. What then is the justice Lord Elgin has? He has the satisfaction of hearing it asserted, and proved, without contradiction, or insinuation to the contrary, that he acted towards the Lady, whom he had made his wife, as became a fond and affectionate husband to act; that she acted correspondently on her part, and that there existed the utmost harmony between them, 'till the unfortunate separation of these parties laid the scene for the unfortunate transaction, which you are to decide upon. Has not Lord Elgin then had justice done to him? My Friend says, all that he wants is justice, and therefore he does not seek his greatest remuneration in damages. I observe my Friend is

giving a sort of equivocal dissent to that;— Is it to be said, that Lord Elgin whom we have heard described, as a person of high character, in point of honour, of great property in point of estate; is it to be asserted before you, that Lord Elgin wishes to make merchandise of this? I cannot believe it. I believe my Friend has given the sentiments of that noble Lord most distinctly, when he said, all that Lord Elgin wishes, is to have his character cleared and established before the world, by having justice done to him.

Then my Friend following up the same idea of the administration of justice between these parties, tells you, that a gentleman, whom I have not had the pleasure of seeing before, but of whom I have heard much, tells him he had omitted to state in his opening the Declaration, what the Damages are laid at. Oh, says my Friend, the damages are 20,000*l.* and you will of course give every shilling of it. What consistency is there between this and Lord Elgin wishing only justice to be done him?, when my Friend stated from the declaration, that which my other Friend had omitted, and he followed it up with the idea, that it is your duty to scourge the Defendant: Gentlemen, it is not your duty to scourge, thank God! and I say thank God, because it is the most pleasing

consideration to yourselves, that you are sitting, not as Judges, for that is the most painful part of the administration of the Laws of England. Ask any of the twelve reverend learned Judges, who adorn the different Courts of this Country, whether, in the administration of Justice, there is any thing so painful to them, as that part of their duty, which calls upon them to inflict punishment? You will have one common consent to that. In civil cases, the duty of the Jury is to compensate the Plaintiff, not to punish the Defendant.

My Friend told us of an act, which had been brought in, or was proposed to be brought in, by the Right Honourable the present Chancellor of the Exchequer, upon this subject.— Whenever the Legislature shall think proper to make this essential alteration in the Law of England, taking from the party his right to a compensation by civil damages, and shall convert this case into a Criminal Prosecution, in which the Jury shall be called upon to decide upon the guilt or innocence of the party; it will be time enough for us to comment upon such a Law. I am an enemy to all innovations; I hope never to live to see the day, when a Jury are to be made a criminal Tribunal, with respect to criminal punishments of a party committing an offence

of this kind; that is not the Law of England; and I hope, unfortunate as the times are in which we live, that I shall never see so melancholy a day as that, in which a civil wrong which a party has committed, shall be converted into a criminal offence.

Gentlemen, there is only one remaining topic, upon which I shall offer a few words to you. What is the condition of the unfortunate Defendant before you? He is a young gentleman, without a shilling, existing merely upon the bounty and benevolence of a parent, to whom he is not an only child, as my learned Friend had been led probably to suppose he was, but which fact is contradicted by a witness, called by the Plaintiff; he is the eldest son, it is true, of a gentleman of an estate, the extent of which we know not; of a gentleman who is as likely to live as the Defendant himself is; so that if the unfortunate Defendant should not survive his father, now living, and in good health, he can never be possessed of a shilling, but must remain to the last moment of his life entirely dependent upon his bounty; but if he should survive his father, what will be his situation? Why, he will be tenant for life of the estate, and Mr. Donaldson tells you the nature of these Scotch entails of property; it is what the Law of England will

not allow, but it is allowed in the Law of Scotland, to make a perpetuity of it; but if his father were to die, and he to come into possession of the estate to-morrow, what will be his situation? He will be a mere tenant for life of the estate, subject to such charges for a Widow, and other incumbrances, as were attached upon the estate, when he came into possession of it, but without the power of burthening the estate one shilling.

This is the situation of the Defendant before you; these are the circumstances of the case; I have not offered, nor been instructed to offer, any thing in justification of this gentleman's conduct; as I have said before, he feels as truly as any of you can feel, the unfortunate situation, in which he has been placed by a temptation which he had not firmness and resolution enough to resist.

With these observations I leave my Client's case in your hands, perfectly convinced that you will consider, that your duty is, to give a civil compensation for a civil wrong; and when you give that reparation in damages, you will consider the unfortunate situation in which my Client has been placed, and the unfortunate situation in which, in point of pecuniary circumstances, he stands before you; and perfectly satisfied, that whatever verdict you give upon

this occasion, it will be that verdict, which ought to be recorded in a Court of Justice, namely, a reparation for the wrong, but at the same time, with a merciful attention to the situation, circumstances, and ability of the party who is to pay it. With these observations I conclude, and trust my Client will not have reason to complain of your verdict.

MR. BURCHELL (*the Under-Sheriff*)

Then summed up the Evidence in the following Address:
Gentlemen of the Jury;

You are now called upon to assess the damages, which you shall think due to the Plaintiff, for an injury of which he complains, certainly as great as can be committed by one man against another. I will endeavour to recapitulate to you the substance of the Evidence, and offer such observations as, in my situation, I feel myself bound to make.

The first Witness is Mr. *William Hamilton*; he says, he was with Lord Elgin on his embassy as his private secretary; he sailed with him on

the 3d of September, 1799; that he continued with him till he got to Sicily; there he left him for two or three months, and joined him afterwards at Constantinople, where he remained with him about a year altogether; Lady Elgin was with him at that time; she was married in the March preceding, and he was living with them, so as to be able to observe the demeanour of Lord and Lady Elgin to each other, as man and wife; he was constantly at their table, and in their house with them; Lord Elgin's conduct was that of the most affectionate Husband he ever witnessed, and hers, that of a most affectionate and dutiful Wife; that there was a Chaplain attached to the embassy, and the offices of religion were conducted with great propriety; the service of the Church was performed every Sunday, and regularly attended by the whole family; that her affection prevailed as well with regard to Lord Elgin's public, as to his private concerns; that they had a Son (the eldest Son the Witness alludes to) who was born before the arrival of the Witness at Constantinople, a month or two; that he was there a year; that Lady Elgin conducted herself towards that Child as a tender mother; her conduct was that of a virtuous woman, educated in virtuous principles, and very attentive to her Husband during his indisposition. Upon his

cross-examination, it appears, that he left them in June 1801, at Constantinople.

Mr. *Morier* says, he accompanied Lord Elgin to Constantinople, in the year 1799; they sailed in the month of September; he went in the capacity of Private Secretary; they arrived in November, and he quitted Constantinople on the 22d of November; and that he returned the September or October following to Constantinople; he staid till the expedition came for Egypt, which he thinks was the end of December, 1800; he joined that expedition, and returned to Constantinople in February 1801; he remained there till March, when he went again to Egypt, and returned to Constantinople in the month of May 1801, and staid there till the 1st of June in that year; then he came to England with dispatches, and returned again to Constantinople, and staid there, with the interval of a journey he took to meet Lord and Lady Elgin at Smyrna, till January 1803, when the embassy ended; he says, he lived in the same house with Lord Elgin while he was at Constantinople; that the Plaintiff was an affectionate Husband, and she an affectionate Wife; that they were regular in the discharge of the public duty of prayers on Sundays, when the Chaplain was there; that she was a tender and affec-

tionate Mother to her Child, and a dutiful Wife towards a tender and affectionate Husband; that, as he conceived, her principles were those of a virtuous woman; he came by land to Vienna.

Mr. *Charles Stirling*, the next Witness, says, he first became acquainted with Lord and Lady Elgin, as prisoners in Paris, on the 22d of May, 1803; that he saw the Defendant very soon afterwards; that he saw Lord and Lady Elgin every day at Paris; that no couple seemed to live more happily together; he was an extremely indulgent Husband, and she behaved with the most perfect propriety in all respects; that he had not the least reason to doubt of their living together in the most perfect happiness.

Upon his cross-examination, he says, he did not live in the same house, but visited them more than a common acquaintance; he left Paris in 1804; he saw Lady Elgin, during the imprisonment of Lord Elgin, at Barege; she conducted herself as an affectionate Wife; she expressed the greatest anxiety for Lord Elgin's safety, and the greatest misery at her fate.

Captain *Donnelly* says, he commanded the *Narcissus*; that Lord and Lady Elgin were on board his ship for nearly two months, in the year 1802; between May and July; they sailed from Athens to visit the Grecian Islands; that

he had an opportunity of seeing the behaviour and conversation of Lord and Lady Elgin to each other; there seemed to be a great unity of sentiment, and a reciprocal affection, during the whole of the time.

The next Witness, Mrs. *Jane Lind*, says, she met Lord and Lady Elgin at the Pyrenées in 1803 and 1804; she was particularly acquainted with them; they lived entirely in the same house during that period; that she spent one or two days in the week with them; she says, she never saw a couple live more happily together; they appeared to have a mutual affection, the strongest possible; she never saw a more attentive affectionate Husband, nor a Wife more happy than Lady Elgin; it appeared to her that there was the greatest degree of confidence between them to the last moment of her visiting them.

Upon her cross-examination, she says, the intimacy on her part ceased in October or November, 1804; they left Barege then; she had not seen Lady Elgin since.

Mr. *William Hamilton* being examined again in chief, says, he was here when Lady Elgin returned, Lord Elgin being still a prisoner in France; that he was in the office of the Secretary of State; he saw Lady Elgin frequently; she never talked on any other subject than the liberation of Lord Elgin; she appeared particu-

larly anxious; Lady Elgin came over in the spring of 1806.

General *John Murray* was the next Witness; he says, he is perfectly acquainted with Lord and Lady Elgin; he passed the winter of 1801 and 1802 with them at Constantinople; he was at the same house; he accompanied Lord Elgin to Athens, for the recovery of his health, in 1802; it always appeared to him that Lord Elgin was attached to Lady Elgin, and that she was an amiable Wife; that she was extremely anxious for his recovery, and shewed him the greatest possible attention; that Lord Elgin is an extremely moral man.

Mr. *Charles Duff* says, he was many years in the employ of Lord Elgin; that he accompanied him to Constantinople; that he went from Constantinople soon after their arrival, and returned to them again; that he had been with them from their marriage, till their arrival at Constantinople; that he left them in 1799, and came back again in 1800; he says, he never saw any persons conduct themselves with more propriety and affection; he never saw a happier couple; he says, the child that died in France was embalmed and sent to him in England, and was interred in the family vault; the Defendant was at the funeral, Lord and Lady Elgin being then in France; he says, the Defendant inte-

rested himself in the Plaintiff's affairs as a friend.

Upon his cross-examination, he says, he did not reside much at Constantinople, he went with dispatches; he says, he took the body of the child to Scotland; that the Defendant interested himself about Lord Elgin's horses, and in the other concerns of his family; he says, the Defendant's estate is in the neighbourhood of the Plaintiff's, about sixteen or eighteen miles distant; his Father has a large estate.

There being some discussion between the Counsel on both sides upon that question, I thought it my duty to put a question for your information: the Witness's answer was, He does not know that the Defendant has any estate in Scotland.

The letters are put in, and the passages are admitted as read by the Defendant's Counsel.

Robert Raper says, he was servant to Lady Elgin when she came back to her Father's house in Portman-Square, in October 1805; Lord Elgin was not then in England; she continued there about a fortnight, and then went to N^o. 60, Baker-street; that he left her Ladyship in Baker-street the 28th of April 1806; he says, he knows the Defendant very well; he used to call at Baker-street frequently; he called at different hours earlier and later than other visitors; he

said he came on business concerning Lord Elgin, who was then in France; that he never told his business particularly, but that he came to bring and take letters from Lady Elgin; he frequently went, as he told the Witness, about Lady Elgin's jewels; he came continually early and late, and he expressed an interest for Lord Elgin; he said he was very anxious to accomplish his liberation; he always said he came upon that business.

It was admitted by the Counsel for the Plaintiff, that Lord Elgin came over to England in June 1806.

Mr. Hay Donaldson, a writer to the Signet at Edinburgh, produced a copy of the title deed of the entailed estates of the Defendant's father; he says that is one mode of evidence of title in that country. The substance of his evidence is, that the estate appears to be limited to the Defendant's father for life, and to the eldest son without division; he says he understands the Defendant is the eldest son; he always understood the estate to be considerable.—Then some few observations passed, with respect to incumbrances.—Upon his cross-examination he says, the Defendant's Father is a stout, hale, old man. He says the annual income of the Estate may be expended.

Gentlemen of the Jury; This is the Evidence upon which the Plaintiff rests his case, and his

claim to that compensation, which by your verdict the Plaintiff is to receive. The Defendant contents himself with general observations; and here it may be fit for me to state to you, that the principal fact, about which there can be no doubt, is upon the record. You will then enquire whether the Plaintiff has done all that a Plaintiff in a Court of Justice is bound to do, that is, to give you reasonable evidence, that his claim, whatever it may be, to a compensation in damages, is made out to your satisfaction.

With respect to general observations upon the part of the Defendant, if unsupported by Evidence, however well founded, as applicable to the Evidence on the part of the Plaintiff, yet so far as they go in extenuation of the damages, you will be very cautious how you pay attention to them; it is said your verdict is not to operate as a scourge to the Defendant. Certainly not; for any excess would be oppression. But, the point for your serious consideration is, what shall be the amount of your Damages; there your task will begin, and ours will end.

The Defendant's Counsel says, that Juries should be cautious to abstain from vindictive damages. Here again you are sworn not to give a vindictive verdict, but to give a verdict according to the Evidence. Your discretion properly exercised, with reference to the Evidence ad-

duced, is the ground, the basis upon which your compensation is to be given; he says that justice only is wanted, and has not the Plaintiff obtained it? He has not obtained it, 'till he has your Verdict; and when your verdict shall be given, upon grave and deliberate consideration, the Law is satisfied, and Justice will be complete. The Defendant's Counsel says, Lord Elgin is an honourable man. If he be an honourable man, it will be one point of your enquiry, whether he has not been dishonoured by the conduct of the Defendant. Another observation is the condition of the Defendant. Who has placed him in that condition? Himself; and every man must bear his own burthen.

Gentlemen; the material features of this cause are not so much to be collected from what witnesses have sworn, as from the several passages in those letters, the extracts of which were read to you by the Plaintiff's Counsel; they call for your attention. I should mistake my duty, if I did not state, that the impression of my mind was, that they prove a great deal; and if, upon reading the whole of them they could have proved less, it was competent for the Counsel for the Defendant to call for the whole of the letters to be laid before you. Has Lord Elgin made out a serious case for your consideration, and is he in a condition to found his claim to

any thing like a serious verdict? To what extent in damages, I should be forgetting my duty, were I even to advert to it. There is no precedent for a verdict in damages, but there are general rules to which Juries never fail to advert; such as, the rank of the parties; the condition of the Defendant; the circumstances either of aggravation or extenuation. Do you think, in the sequel of this cause, that there are no circumstances of aggravation that press upon your mind? If there are, and you have had fair evidence of them, it is for you to judge of their extent. The Defendant offers no evidence in extenuation.

Now, Gentlemen, as I have adverted to some of the observations made by the Defendant without evidence, I shall take the liberty of adverting to some of those made by the Plaintiff, referable to a case supported by evidence. It has been said that this injury cannot be compensated by money; I fancy we all agree, that in a case of this description, a pecuniary compensation will be short of any thing like a satisfaction; he says the only way in which the Defendant can be made to feel, is by your verdict. It is the only way the Law provides. There has been an allusion made to a bill that was brought into the House of Commons, but never passed into a Law, with respect to cri-

iminal punishment. No such punishment is allowed by Law, therefore it is more important to Juries, that they should be attentive to the Verdicts, which they shall give in these causes. It has been said, and said properly, there can be no occasion for criminal punishment, or for any farther penalties, provided Juries will but do their duty. I have endeavoured, however feebly, to do mine; it now becomes your task to do yours, and give such a Verdict as you think the justice of the case requires.

One of the Jury.—What age is Mr. Ferguson?

Mr. Burchell.—Lady Elgin was, I understood, twenty-one when she was married. I believe Mr. Ferguson to be about thirty.

Mr. Garrow.—My Friends on the other side, say he is twenty-seven. I am content to take it so.

The Jury retired for a few minutes, and returned, finding a Verdict for the Plaintiff,

Damages £.10,000.

=====
FINIS.
=====