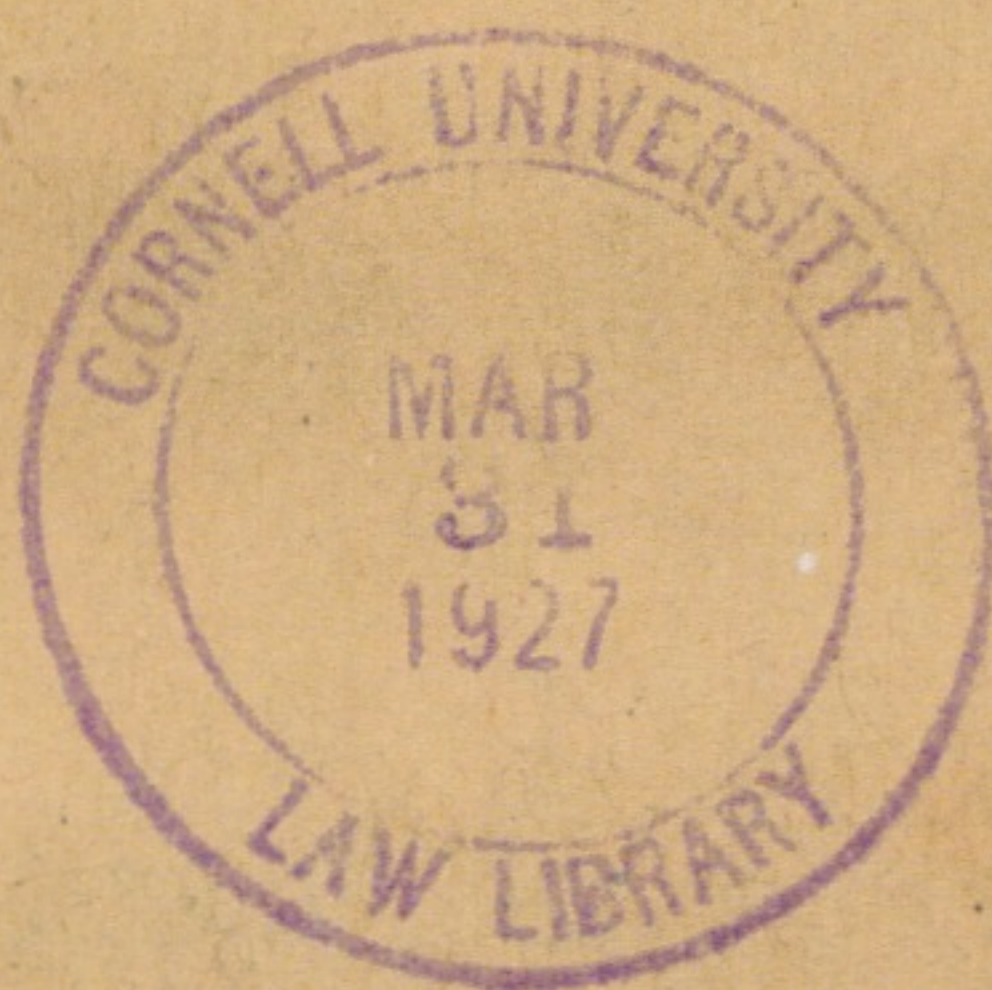


No. 2.

383
/ 6

Trial of
Captain Elwin
for Treason, Conn.





THE
TRIAL
OF
Captain Elwin,
FOR
CRIMINAL CONVERSATION
WITH THE LADY OF
SIR GEORGE BROGRAVE, BART.

BEFORE
The Right Hon. LORD ELLENBOROUGH,
In the Court of King's Bench, Guildhall,
On JULY the 8th, 1807.

DAMAGES
TWO THOUSAND POUNDS !!!

EMBELLISHED WITH A PLATE.

LONDON.

Printed for and sold by J. DAY, 22, Fetter-lane, Fleet-street.

(PRICE SIX-PENCE.)

THE
TRIAL

OF
Captain Elwin.

COUNSEL.

For the Prosecution—Mr. ATTORNEY GENERAL.

For the Defendant—Mr. GARROW.

This was an action to recover a compensation in damages from the defendant, he having been criminally connected with the plaintiff's wife.

THE ATTORNEY GENERAL

Opened the case for the plaintiff, and stated,
B

that the plaintiff was under the painful necessity of bringing this action against the defendant for seducing and debauching the plaintiff's wife. Sir George Borgrave, he said, is of one of the most respectable and antient families in the county of Norfolk, and a gentleman of large fortune. In the year 1800, he accompanied a sick brother to Bath, for the recovery of his health; and while there, he saw Miss Whitewell, to whom he paid his adresses, and a mutual attachment grew up between them; and, with the consent of their parents, they were married. She brought a fortune of ten-thousand pounds.

After the marriage they went to reside at Worstead hall which is the name of the family mansion in the county of Norfolk. For some time they lived rather in a retired situation, enjoying the greatest comfort, and even happiness, which the married state can afford. The situation of the country being such as to call for the exertion of every man to prepare for its defence, Sir George entered the militia of the county, and in the year 1803, that militia was called out of the county into different parts of England, into Essex, Suffex, &c. Sir George was lieutenant-colonel of the regiment, colonel Woodhouse the colonel, and the defendant, Mr. Elwin, a captain. When the regiment left the county, Sir George and his

lady accompanied it, and that brought them into more general society than before. The defendant being an officer of the regiment, was invited, with the other officers, to Sir George's house, where, of course she became acquainted with captain Elwin. She and her husband lived in the utmost harmony and affection.

In the spring of 1806, when the regiment was at Colchester, the officers dined with Sir George and lady Borgrave.—After dinner, lady Brograve withdrew at a very early hour, as did also captain Elwin, and the party soon broke up. There was some difficulty in finding lady Borgrave—search was made after her—at last she came down stairs. That was the first time Sir George (her husband) entertained the least suspicion of the impropriety of her conduct; though from subsequent events, there was now no doubt of her having been criminally acquainted with the defendant before that period.

From the situation of things at that time, it was possible that she might have been in a room with the defendant. Sir George expostulated with her on the impropriety of her conduct on that occasion, and requested that she would be more circumspect in future. At this the lady appeared to be extremely hurt; she resented it in such a manner, that Sir

George began to apprehend he had carried his expostulation too far ; he at that time entertaining no suspicion whatever of any criminal offence having been committed by her. Soon after this, in the latter end of May, lady Brograve, by consent of Sir George, took a journey into Yorkshire to visit her sister, a Mrs. Torre, who was a lady of an excellent character, and to say that she was virtuous was paying her no compliment.

Lady Brograve was attended by a female servant, whose name was Ann Wiles. She set out on her journey. She slept the first night at Cambridge, where captain Eliwn met her ; they went to the same inn, and slept in the same bed. The servant maid did not see them in bed together, but saw the bed afterwards, and had no doubt that two persons of different sexes had slept in it. The next day lady Brograve went to Stamford, where captain Elwin met her—they slept together again in the same bed, which the witness knew, for the same reason as she gave for the first. The same thing happened at Newark ; and then she arrived at her sister's where she and her servant remained about six weeks.

On their returning to London, she was met again by captain Elwin at Newark, where they slept together—slept together at Stamford,

and also at Newwark, where one of the waiters saw lady Brograve on a sofa, in a situation which cannot be described without offence to delicacy. It appeared also, that although sir George was so late in discovering the guilt of his lady, that in the former journey to Yorkshire, which was in January, to see her sister, the same sort of scene was transacted between her and the defendant, for she went with him to London, and slept with the defendant two nights.

All this was devoloped by letters which were intercepted, written by the defendant to lady Brograve, of which there were three. They were directed to Worsteadhouse at a time when she happened to be in Yorkshire; and they passed her and came to Sir George, who saw they were in captain Elwin's hand-writing, and thought himself justified in opening them. They discovered that the defendant entertained for this lady a violent affection, and an enthusiastic attachment—lamenting that their amours, had been discovered—hoping that sir George would soon die, and that they then, after the removal of that only obstacle, would enjoy all the happiness this world could afford true lovers. He called her his adored Emma; taught her what story to relate if she should be accused of infidelity to her husband; assured her that he should assert her honour

and vindicate her virtue, that he was at her devotion; that he was only tied to life for her sake, and without her did not wish to live a moment: that the difficulties in which they were placed only increased the ardour of his attachment to her, which could end only with his life, &c.

It then appears that the plaintiff was now thirty years of age; was about twenty four when he married, at which time the lady was about eighteen. The defendant is now of the age of only twenty-two. The marriage took place on the 9th of April 1800: there was no evidence of any children from it.

ANN WILES,

Her ladyship's waiting woman, was examined as to the adultery. She deposed that in January 1806, she attended her lady to her sister's in Yorkshire. The first night after their departure they slept at Cambridge. Lady Borgegrave ordered two bed rooms, and witnesses supposed that one was meant for her, as they were close together: she found, however, that a third had been set apart for her. In the morning she perceived the forms of two persons in her lady's bed, and was convinced a commerce between the sexes had taken place. The captain's bed was examined and appeared not to have been slept in, but seemed to be beat down in the middle. She did

not see captain Elwin there, but she heard him speak to the waiter. Lady Brograve told her not to come into the room without being called or rung for, and never to enter without knocking. The next night they slept at Stamford. Lady Brograve chose two beds together, as usual, and the next morning the same appearances were exhibited in her landlady's bed. She saw captain Elwyn at breakfast with her mistrels. The third night lady Borgrove slept at Ferrybridge, and witnesses saw no more of captain Elwin. The next day they got to Cherry Burton, in Yorkshire, and staid there for six weeks, when they set out on their return. When they arrived at Newark they went to the King's arms inn, and learned that captain Elwin had been there and bespoke two beds, the rooms opening one into another. Lady Brograve and the defendant sat together in the same room, and the witnesses made the same observations in the morning she had done in her journey into Yorkshire; the chamber maid did the same; and there was no doubt of two persons having slept in lady Brograve's bed. They slept the next night at Stamford, and the third at Newmarket, with a repetition of the circumstances described. They arrived at Worsted-hall, but she did not communicate to her master what she had seen. It was about the 20th of March when she arrived in Norfolk. The

affair at Colchester happened soon after, and about the 26th May, she left Worsted-hall, with her mistress, on her second journey into Yorkshire. Her lady went first to London, and was there met by captain Elwin, who had taken lodgings for her in Cork-street, Burlington Gardens, and with whom she slept while in town. From thence she pursued her journey to Yorkshire, where lady Brograve staid till the July following.

On her cross-examination she said that captain Elwin came to her master's house daily, that he read, walked, and rode out with her mistress. When she rode captain Elwin lifted her on the saddle, and at the end of the ride lifted her off. She did not know that Sir George was more in his stable than with his wife. She did not communicate the facts she had stated till after she returned the second time from Yorkshire. She perceived that captain Elwin was a great favourite of her mistress's, before any thing criminal passed between them. She knew there was a marquee at her master's residence at Guestling, near Hastings, and that there was a green sloping bank before it, from which the sea could be seen. There was no chairs or tables in the marquee, but her mistress and captain Elwyn used to retire there to read. Sir George used to sit in a boat that was placed upon an eminence, and

commanded a more extensive view of the sea, but she never heard of the *quiz* that sir George was courting the sea deities, while captain Elwin was courting his wife. The witness on her re-examination said, that lady Brograve was not permitted to return to Worstead House after the discovery.

LYDIA HUTCHINSON,

The chambermaid at the Inn at Newark, and Sarah Simmons, the chambermaid at Newmarket, corroborated the testimony of the foregoing witness, as to two persons having slept in lady Brograve's bed, and that person was the defendant.

GEORGE BUTTERRY,

The waiter at the Kingston Arms, Newark, deposed that he went into the room where lady Brograve and captain Elwin were,—and that he saw lady Brograve reclining upon the sofa, with her clothes above her knees, and her person exposed, and that he saw captain Elwin standing in a situation which left no doubt in his mind of their having been criminally connected.

MR. HOPE,

Paymaster of the regiment in which the parties served, proved the hand writing of the defendant to certain letters, addressed to lady Brograve.

These letters being read by the associate, it appeared that they contained expressions of the most animated and ardent affection. Life was of no value to the defendant, but as it would enable him to conduce to the happiness of his adorable Emma ; and the letters likewise noticed the threatened action by the plaintiff, the best means to establish her innocence before the world, and to avert its consequences.

Further evidence was offered to prove the guilt of the defendant ; but his lordship and the jury indicating that they were satisfied as to the act of adultery, the Attorney General closed the case on the part of the Plaintiff.

MR. GARROW,

On behalf of the Defendant, expressed great satisfaction that, in addressing the present jury, he had to submit the cause of his client to men of the world, possessing considerable talents, eminently gifted for the discharge of the duty they had undertaken. He upbraid-

ed the Plaintiff for great indiscretion, in permitting his wife, after the discovery at Colchester, to leave that place on a journey to Yorkshire, attended only by a single maid servant, not even accompanied by that domestic suite which was consistent with her state as a woman of her rank for the Plaintiff to accompany her himself, had a confidential friend attended her, none of those meetings at Cambridge, Newmarket, Stamford, and Newark, could have taken place.

The Plaintiff was of a most respectable family; he was possessed of an ample fortune, and made a great figure in the county where he resided; he was surrounded by a numerous society of friends, and it was easy for him to procure some one of these to have protected the lady on such a distant excursion. Did not the Baronet suspect any thing when his brother officer was absent from the mess and from the parade? After the affair in the barrack, was it possible for his credulity to be any longer deceived? No one could doubt that the lady was herself the seducer. It was not the case of an old sinner surrounding a female with tricks and artifices to undermine the fortress of her honour. She met him at the first stage, by her own appointment, and for every future interview he was indebted for her information.

In England they did not travel incog.; the servants of the itinerant party, and they domestics of the inns, were eternally quizzing those who paid and employed them, and it was not to be supposed that the intimacy of the lady and Defendant could escape their inquisitive curiosity. It is most singular in this cause, that the regimental acquaintance of the Plaintiff the officers, and their wives, must be best acquainted with the habits of intercourse of Sir George and his wife, had none of them been called to depose to the ardour of their affections and the purity and innocence of her deportment.

Had they chosen to trust these witnesses in the box, in the course of the cross-examination some facts might have been disclosed, at least not directly indicative of his indiscretion or of her simplicity.

The testimony respecting the marquee, the lawn, and the curious specimen of naval architecture on the summit of a hill, where no water could approach, reminded him of a reverend prelate (Dr Horsley) who was most religiously attentive to his important duties in the House of Lords, on every occasion where an illicit intercourse between the sexes was the subject of investigation. "My lords" said he, on one occasion, "I desire to know if their green houses are built in Ireland in the same

manner in which they are constructed in this country?" "Yes, they are, my lord" said the witness. "What," said his lordship, "are they glazed on three of the sides!" "Yes," returned the witness. "I only wanted to know," resumed the Ecclesiastical peer, "if they did these things in a lanthorn."

What furniture was there in this marquee? Not a table nor a chair; the verdant bank, descending to the sea, was the natural sofa on which they were to recline and what more was necessary to fulfil the purposes of the amorous god? The defendant was there drinking deep of the draughts of love, he was imbibing to excess and intoxication such libation, with the cognizance of the husband: and to a boy educated in military habits the consequence was inevitable. Who was the wife? Her father forced her to marriage to which she was disinclined: and it was somewhat derogatory to a girl of spirit, that the proposal for the marriage in the first instance, was made to the parent, as if her consent were the necessary result of his fiat.

The learned counsel admitted that the verdict must go for the Plaintiff but he was confident that the gentlemen of the jury would comprise in their observation all the circumstances, and that this boy would not, by their verdict, be consigned to ruin.

LORD ELLENBOROUGH

Stated the general nature of the action, and said, that, in consideration of damages, the gentlemen of the jury would not fail to consider the evidence that applied to the negligence of the plaintiff, as conducive to lessen the damages. With respect to the adultery itself there was no doubt ; and if the crime were not satisfactory established, no human evidence, in any case, could be successfully employed. His lordship here entered very shortly into the particulars of the testimony, commencing with that of Mr. Peters, and terminating with that of the last witness whose evidence was of any importance in the cause. The misfortune, perhaps, had originated in the removal of the plaintiff from domestic habits, in Norfolk, to the dissipations of a military life. In the acquaintance of colonels Birch and Harwood, and with captain Bevan, there did not appear any thing tending to contaminate her conduct, or which a provident judicious husband should not allow. It was very properly put to the consideration of the jury, whether the plaintiff himself were instrumental in the dishonour of his wife, as their view of this part of the subject would materially affect the *quantum* of damages. The defendant was represented to be a man of amiable manners, who was received

in the family of the plaintiff with peculiar civility and confidence. He went on horseback with this young lady, and he was permitted to assist her to mount her horse. We must bring ourselves to manners familiar in countries where jealousy was particularly indulged, to suppose any indiscretion in a case of that kind, and to imagine, that if a lady permitted such a freedom, the favoured person was to have the door of the house shut upon him by the husband. Another consideration for the jury was, if there were any thing in the behaviour of the lady by which the defendant was betrayed into the adultery of which he was accused. His lordship concluded with observing, that perhaps he had very unnecessarily occupied the time of the jury, in observing on the facts of this case: he most confidently and satisfactorily resigned it to their decision, fully persuaded that they would exercise a sober judgment, and distribute justice between the parties.

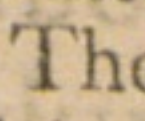
The jury, without retiring from the box, after a few minutes consideration, found a verdict for the plaintiff, damages.

TWO THOUSAND POUNDS.

END.

NEW PUBLICATIONS.

THE TRIAL of Sir J. B. PIERS, Bart. for Criminal Conversation with Eliza, the Wife of Valentine Viscount CLONCURRY. Before Lord-Chief-Justice Downes, Feb. 19, 20, 1807. In the Court of King's Bench, Dublin. With the Letters between the Parties. With a most elegant and striking Likeness of her Ladyship. Price 1s. 6d.—Damages laid at 100,000l. Verdict 20,000l.

2. **REMARKABLE TRIALS** at the **LANCASHIRE ASSIZES**, held at Lancaster before sir ROBERT GRAHAM, Knt. Faithfully taken in Short-hand by V. Jackson. Price 3s.— The enormity of the crimes, as Rape, Murder, Unnatural Propensities, &c. &c. contained in this publication, will render the calendar of the assize lately held at Lancaster, for ever memorable in the county. Indeed, such scenes of depravity as here reported, have never before met the public eye, and are, in fact, hardly credible.

3. **THE TRIAL** of DAVID ROBERTSON, of the Jerusalem Hotel, Charles-street, Covent-Garden, late of the Standard Tavern, Leicester Fields, for an **UNNATURAL CRIME** with George Foulston. Before sir Robert Graham, knt. at Justice-Hall in the Old-Bailey. With his remarkable Address to the Court, praying Arrest of Judgment. Embellished with a striking Likeness of the Offender. Price 1s.

4. **THE TRIAL** at Large of ROBERT PASSINGHAM, esq. Colonel of the Cheshire Fencibles, and JOHN EDWARDS, for a **CONSPIRACY** against George Townsend Forrester, Barrister; with Intent to deprive the said Forrester of his Wife and Property, and charging Him with many Unnatural Crimes. With the whole Pleadings of the Counsel before Lord Ellenborough Chief-justice of the King's Bench; and the Speech of Mr. justice Grose on pronouncing Sentence—wherein he points out the heinous Crimes of the Prisoners, declaring them to be the most diabolical, brutal, and horrid, that ever disgraced the Records of a Court of Justice. Price 1s.

5. **THE TRIAL** of Sir HOME POPHAM, Captain in the Royal Navy, for **NEGLECT** of **DUTY**, in leaving Unprotected the Cape of Good Hope. Before a Court-Martial held on board his Majesty's Ship Gladiator, in Portsmouth Harbour. Dedicated to Earl St. Vincent. With Portraits of sir Home and his Lordship. Price 2s.

6. **THE TRIAL** at Large of HOLLOWAY and HAGGERTY, for the **MURDER** of Mr. STEELE, on Hounslow Heath. Before sir Simon Le Blanc, knt. at Justice-Hall, in the Old Bailey. Taken in Short-hand by J. Sibly, Short-hand Writer to the City of London. Price 2s. 6d. Embellished with a Plan, and a Representation of the Murder.

7. **THE REMARKABLE CASE** of POTTER JACKSON, giving an Account of the cruel Treatment he received from captain Livesly of the Lord Stanly Slave-ship, by Assaulting, Imprisoning and cruelly flogging Him; which caused Blood to burst from his Eyes and Breast. With the Trial before Lord Ellenborough. With a Plate, price 1s.

8. **THE TRIAL** of DOCTOR WOLCOT, otherwise PETER PINDAR, esq. for **CRIMINAL CONVERSATION** with the Wife of Mr. Knight, of the Royal Navy. To which is added, an Account of the Life of Dr. Wolcot. Embellished with Five Copper-plates. Price 1s.

9. **THE TRIAL** OF T. SHERIDAN, esq. Son to the Honourable and Notorious R. B. Sheridan, for **CRIM. CON.** with Lady Campbell. With a plate, Price 6d.