

121-13



PROCEEDINGS
IN THE COURT OF KING'S BENCH,

On the Trial of an Action brought by

FRANCIS WRIGHT, UPHOLSTERER,

AGAINST

COLONEL WARDLE,

FOR THE

Furniture, &c. &c. of Mrs. Clarke's
House in Westbourne Place.

BEFORE LORD ELLENBOROUGH, AND A SPECIAL
JURY, ON MONDAY, JULY 3d, 1809.

TAKEN IN SHORT-HAND
BY A STUDENT OF THE MIDDLE TEMPLE.

LONDON:

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1809;

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T R I A L,

&c. &c.

WRIGHT *versus* WARDLE.

COUNSEL FOR THE PLAINTIFF.

THE ATTORNEY-GENERAL
MR. GARROW
MR. BARROW

COUNSEL FOR THE DEFENDANT.

MR. SERGEANT BEST
MR. PARKE

Mr. BARROW opened the Pleadings, when Mr. ATTORNEY-GENERAL rose and addressed the Court as follows :

“ May it please your Lordship, Gentlemen of the Jury, This action is brought by Mr. Wright, who is an Upholsterer, against Mr. Wardle, for the price of certain goods ordered by Colonel Wardle, and furnished by Mr. Wright.—Furnished by Mr. Wright, under circumstances which it is my duty to state. Gentlemen, Mr. Wardle, in the latter part of the year 1808, I believe October, (I don't know that his acquaintance commenced sooner,) but he became acquainted with a lady of the name of Clarke. At that time he went with her upon an expedition of pleasure, partly of curiosity, and partly of inquiry; he, and Major Dodd, and Mrs. Clarke, together, visited the sea-shore, and inquired into the merits of the Martello Towers erected there. During this time, and in the progress of this excursion, it seems that Col. Wardle had contracted a considerable degree of preference for Mrs. Clarke. It was

(4)

so supposed at least, by those who saw them; and the result will shew that the supposition was perfectly well founded. They were much together; they had many conferences together; and, although Col. Wardle is a married man with a large family, and although Mrs. Clarke is of that description of which many persons, and perhaps you, Gentlemen of the Jury, have heard, yet the greatest and the strictest degree of intimacy subsisted between Col. Wardle and Mrs. Clarke. In this state of things, Mrs. Clarke, who was at that time indebted to her Upholsterer, Mr. Wright, to the amount of between five and six hundred pounds, took a house in Westbourne Place, and having taken a house in Westbourne Place, she applied to Mr. Wright to provide her with furniture for this house. Mr. Wright shook his head at this application. — 'No,' said he, 'you will recollect that you are in my debt at present, five or six hundred pounds. At the time that that debt was contracted, I certainly supposed that it would be paid, but it still remains unpaid, and to say the least of it, things are not better with you now, than they were then, and therefore, I cannot give you any further credit.' 'Well, but Sir,' says Mrs. Clarke, 'I don't want you to sell these goods to me, or give credit to me for them, for there is a friend of mine who will furnish my house for me. Now, I suppose you have no objection to do it on his account?' 'That depends upon who he may be; certainly, to a person of credit, I have no objection to give credit,' said Mr. Wright. Mrs. Clarke on this begged very much that he would send in some things that she was in immediate want of; upon which Mr. Wright said, "I will not provide you with any thing on your *own* account, but I will send

(5)

you in such things as you may have immediate occasion for *upon hire*, but, I will not part with my property in them;" and accordingly a few articles of no considerable value were sent into Mrs. Clarke's house, and were entered in Mr. Wright's books as sent on hire. You will bear in your minds Gentlemen, that at this time Mrs. Clarke had commenced her connexion with Mr. Wardle, but his name had not been handed to Mr. Wright. Mrs. Clarke afterwards assured Mr. Wright, that Col. Wardle had promised to furnish her house for her, and that he would purchase the furniture of him, Mr. Wright. Mr. Wright was glad enough of this, but he wished to hear it upon the authority of Col. Wardle himself; and he told Mrs. Clarke "this is a serious concern, the furniture will come to a considerable price, and therefore I wish to see Col. Wardle." You shall "says Mrs. Clarke," he has no objection to come to you, and order the furniture himself, and nothing could be more fair or natural than that you should desire he should do it." And accordingly, on the following day Col. Wardle came with Mrs. Clarke to Mr. Wright's ware-rooms, where from mere misfortune he did not indeed, see Col. Wardle, owing to an accident which had happened to Mr. Wright in the mean time, which confined him to his bed. He did not therefore, see Mr. Francis Wright, but he saw Mr. Wright's brother, Mr. Daniel Wright. On this occasion Mrs. Clarke and Col. Wardle came together, for the purpose of ordering the furniture that was wanted by Mrs. Clarke, and of assuring Mr. Wright that he (Col. Wardle) was to pay for it. Mrs. Clarke presented Mr. Wardle to Mr. Daniel Wright, the brother of the Plaintiff, as the gentleman who was to furnish her house, and this she stated to Mr. Wright in the

(6)

presence of Col. Wardle, who assented to this representation made of him by Mrs. Clarke, in his presence, and all this in the warehouse. Mrs. Clarke was then told that Mr. Wright the Plaintiff was confined to his room, she said she wished to see him, and she afterwards did see him, in the presence of his wife; and she informed him that Col. Wardle had called for the purpose of ordering those goods which were afterwards sent in. Thus far, Gentlemen, have we got: We find Mrs. Clarke in the presence of Colonel Wardle, presenting herself at Mr. Wright's warehouse, and Mr. Wardle presenting himself as the gentleman who was to furnish this house, and employ people for that purpose. Now let us proceed a little farther in this business: we have present Mrs. Clarke, Mr. Wright's brother, and Col. Wardle. Will Col. Wardle say, "this is a mistake; I did not hear Mrs. Clarke say this; I had nothing to do with it; I merely called as an accidental friend of her's; I gave no orders for this furniture." Mr. Wardle can never say this. I shall produce to you, Gentlemen, very good evidence that he was well acquainted with what was done; that all this conversation was while Col. Wardle was in the warehouse, and that he actually ordered the furniture for the house of Mrs. Clarke, and looked at several of the articles; observed upon their quality, and compared them with those which Mrs. Clarke already had in her house. A handsome sideboard in Mr. Wright's warehouse attracted his notice, upon which he observed, "the side-board which Mrs. Clarke tells me you have sent to Westbourne Place, is not near so handsome as this. I wish to see this there in its stead; it would appear much better there. Send for that which you have sent to Westbourne

(7)

Place, and send this side-board instead of that." And this certainly was not the language of a civil attendant of a lady. You see, Gentlemen, Col. Wardle objects to that which has been before sent, and orders other goods to be sent in their stead. Not only this article, but dining-tables were subject to similar observations, "that they were much handsomer patterns than those already sent to Westbourne Place;" and accordingly were ordered in their stead. Gentlemen, when these orders had been given, several other articles beside tables and chairs were purchased, when the sale of which took place, Col. Wardle interposed, and treated himself as the person who was to pay for them, and consulted the taste of Mrs. Clarke on every particular. When they had gone to a considerable length in discussing the merits of tables and chairs, some conversation arose upon the subject of carpets. Mrs. Clarke had chosen a pattern of blue and white colours, but Mr. Wardle said, that did not please his taste, and therefore desired that other patterns might be ready for him to see by the next day, when he would call again with Mrs. Clarke to select such as pleased him, and order what he liked best. Accordingly next day Mr. Wardle came again to the warehouse of Mr. Wright, and with him Major Dodd. I beg you to bear that circumstance in your mind, because I have heard it suggested that Col. Wardle doubts the truth of what Mrs. Clarke will to-day swear; That he does not agree to the account that she will give you of what passed: if he means to attempt that, I call upon him to call Major Dodd. Major Dodd was the third friend of the Colonel; he was the person who attended Col. Wardle and Mrs. Clarke when these orders were given, and he alone can prove that those orders

(8)

were given, through misunderstanding or mistake, by the Colonel. He can prove no such thing; and therefore I court his examination for the purpose of corroborating the testimony of Mrs. Clarke and Mr. Wright's brother. They will state that on that day there was no choice made of the carpets, because such patterns as were exhibited to Col. Wardle he did not like. That on a subsequent day other patterns were obtained for the Colonel's inspection, and that then Col. Wardle brought his friend Major Dodd with him to assist him in his choice. Now you will see, Gentlemen, how material it is that your attention should be particularly drawn to this circumstance, if Col. Wardle attempts to call Major Dodd for the purpose of disproving any thing that Mrs. Clarke will swear. When these better patterns were produced, still there was a difference of opinion between Mrs. Clarke and Col. Wardle. Mrs. Clarke was for preferring a more light and airy colour; the Colonel preferred *scarlet* and *bronze*. Mrs. Clarke reasoned the matter with him, but Col. Wardle still insisted, that *scarlet* and *bronze* was the only fashionable colour for carpets, and in this opinion, he was joined by his friend Major Dodd. 'Well; Colonel,' said she, 'as you are to pay for them, I think you ought to have your own way,' and therefore, she wisely abstained from resisting the authority of a long purse, and submitting to have her own taste over-ruled by the conviction that she was not to pay for its gratification. All this passed in the presence of Major Dodd: and let me hear Major Dodd deny, or let him contradict this conversation. The Colonel, I think, will wisely refrain from calling such a witness, who, he knows, must bear out the testimony of Mrs. Clarke. I

(9)

think there are many reasons to induce one to believe, independently of this evidence, that Col. Wardle had pledged himself for the payment of these goods, which he now wishes to avoid. Mrs. Clarke was the Colonel's very good friend; and there was nothing so likely as that he should contract this engagement for her. I cannot conceive any thing more improbable than that Mr. Wright should give Mrs. Clarke credit; for I think it much more probable that he should have given the credit to Mr. Wardle. She was in no situation at that time which could induce Mr. Wright to trust her. He knew very well that she had no means of paying a sum of one thousand eight hundred pounds, circumstanced as she then was, without the ability to pay her debts already due. Indeed, I think, if he could have been persuaded so to do, he would have been a very fit object for a commission of lunacy. It was not only probable, but the height of probability, looking to the connection which took place between Col. Wardle and Mrs. Clarke, that the Colonel should undertake this responsibility; and it was in the nature and course of things that the credit would not have been given to Mrs. Clarke. The day following this meeting, when Major Dodd, Mrs. Clarke, and Col. Wardle were present, Mrs. Clarke called again, alone, when some conversation took place between her and Mr. Wright's brother, upon the subject of payment. He observed, that as this was an order to a considerable extent, he should be glad to have some money on account, and he desired her to remind Mr. Wardle of the circumstance, for although he had got a good pay-master, yet quick payment was a thing he regarded as a point of great moment. He said, 'these are very hard times, and

(10)

I must have a little money before hand.' She undertook to speak to Mr. Wardle upon this subject. She did so; and shortly afterwards, Col. Wardle called at Mr. Wright's warehouse, when Mr. Wright said he thought it reasonable he should have a little advance. Mr. Wardle said, 'how much would you wish? for I have not any ready money by me.' Mr. Wright answered, 'I should wish to have five or six hundred pounds.' Col. Wardle asked if a bill would do? Mr. Samuel Wright, the Plaintiff's brother, said 'it would, provided it was at a short date, so that it might be easily converted to cash.' I should have told you this was in the beginning of 1809, keep that in your minds. Col. Wardle, in reply to Mr. Wright, said that he would take care of this request; but wished that the bill might be negotiated in such a manner as that his name should not appear in the transaction. How this difficulty was to be surmounted, seemed to perplex the Colonel a little; this difficulty could be well accounted for, when it was considered that the investigation was then upon the eve of taking place in the House of Commons, respecting the conduct of his Royal Highness the Duke of York. No wonder, therefore, that he wished to keep his name out of such a transaction; but the bill was however procured for five hundred pounds, and paid to the Plaintiff through Col. Wardle's means. There could be no doubt, therefore, that Col. Wardle had undertaken to pay the whole of this bill. I am not aware of any additional argument to shew that those goods were ordered directly by the Colonel: certain it was, that they were sent to Westbourne Place, where the Colonel gratified his sight with them oftener perhaps than he remembers. There

(11)

he certainly was morning, noon, and night. At last the time arrived for payment: but the Colonel finds a difficulty in paying the demand, and suddenly forgets all his pledges. I know well that the human memory is frail; and it is not unnatural a man who can forget what passed the day before, should also forget what had passed two or three months previously; and therefore cast no imputation upon him for the defence he chuses to make this day. Now, if Col. Wardle had paid this bill, nobody would have suspected his memory: but now that he will pay it after a full investigation of the case, it will be more satisfactory to Mr. Wright, and he will derive much more pleasure in convincing Col. Wardle of the fairness of his charge by an investigation, the expense of which is to be borne by the gallant Colonel. [Here Sergeant Best came into Court.] I am afraid, Gentlemen, it would be too tedious a process for me to repeat the case I have stated for the information of my learned friend to whom the interests of Col. Wardle are committed. I trust he will excuse me that task for the sake of your patience. Now, here we are, in face of the public, to try whether Col. Wardle was or was not the furnisher of this house, and purchaser of the goods. I shall clearly prove the fact, as I said before, by Mrs. Clarke, the intimate friend of the Colonel, a person to whom he was bound by the strongest attachments; by Mr. Wright, who was a party to the conversation which I have stated to you; and which I shall also prove by Major Dodd, if he comes for the Defendant, and by the absence of Major Dodd, if he does not come.

"Now, Gentlemen, what is there to be put against this? There is writing; there is that which the parties have, from time to time, com-

(12)

mitted to paper, some of which I have now in my hand; something particularly which Major Dodd has committed to writing, and which will refresh his memory if he is called to-day as a witness. I say again, that whether he does or does not come, my case will be still the stronger. I confess it is a question which embarrasses me very much to know what defence the Colonel can shape, to contradict these facts. He must say that he never ordered these goods. I know he will say that Mrs. Clarke ought not to be believed; and that whatever she says must be false, although confirmed by any number of witnesses. I trust the Colonel, bold a man as he is, will not trust the merits of his case to the discredit of Mrs. Clarke. You will recollect that Mrs. Clarke comes here without any interest whatever. Mr. Wright disclaims Mrs. Clarke altogether as a purchaser of these goods, and he looks to no one for the payment of his demand but Col. Wardle. To no one but Col. Wardle can he look. No one would believe that Mrs. Clarke would attempt to fix discredit upon Col. Wardle, who had taken so much pains to support her credit: but this is a mere joke. We cannot find any motive for human action that would lead Mrs. Clarke to say that which is not true on the present occasion. She is quite clear as to the facts that her house was not furnished at her own expense, and she will most positively depose that the Colonel ordered the goods for her house; and that he was the only man answerable for them. Even if I was destitute of the evidence of Mrs. Clarke, I should sustain the case upon the testimony of the other witnesses, who were present at the transaction. I challenge the Defendant to call Major Dodd, whose testimony I hope the gallant Colonel will not doubt; whatever he may say, however; I am

(13)

persuaded it will be in confirmation of the other testimony, with which I shall trouble you.

“Gentlemen, under these circumstances I have detailed to you, more at length, perhaps, than I ought to have done, the particulars of this extraordinary transaction: but, as it seems there is a consequence given to the mode in which this case is to be defended, I have detained you thus long upon this part of the question. When you have heard the evidence I shall lay before you, you will find your verdict for Mr. Wright, and you will oblige Colonel Wardle to do what he has explicitly undertaken to perform.”

Mrs. Mary Ann Clarke was then called by Mr. GARROW. When she appeared, Mr. Sergeant BEST asked her the following question.

Q. Pray, Mrs. Clarke, have you a release from the debt claimed by the present action?

A. I have not.

Mr. Sergeant BEST.—“My Lord, I submit that Mrs. Clarke cannot be examined as a witness; because the goods having been furnished to her, she will be liable in the event that Colonel Wardle is not so; and she is therefore interested in fixing the debt on him, in order to excuse herself.”

Mr. GARROW.—“Mrs. Clarke is stated here to be the mere agent of the Defendant, and there can be no pretence for charging her.”

Mr. Sergeant BEST.—The question is whether Mrs. Clarke was the original contractor of this debt. The goods came into the possession of Mrs. Clarke; and *prima facie* I contend that the person who had the benefit of the goods is liable for their payment.

Lord ELLENBOROUGH.—“If Mrs. Clarke were *prima facie* liable, I should think the plaintiff ought to release her; but Mr. Attorney-General

(14)

has stated that the entire credit was given to a person who had made her donee of these goods. The tradesman who called her gave her a release. Could he ever charge her after the present action? I think not."

The witness was therefore sworn, and examined by Mr. Garrow: and she deposed as follows:

"I was absent from London in the course of the last year for some time, previous to November, but not on a tour. When I came to town I had taken a house in Westbourne Place. I had taken it from last September, but I did not have it until the 9th or 10th of November. I was obliged to take it from September; but I did not enter until the 9th of November; a negotiation was going forward at that time for a lease. After the house was taken in Westbourne Place, I communicated to Colonel Wardle that I had taken a house. It was unfurnished. I had several conversations with Colonel Wardle about the furnishing it before I applied to Mr. Wright in November; but when the house was taken, Mr. Wright sent a few things in upon hire. I was at that time indebted to Mr. Wright in some hundreds, on some former accounts, and then he sent in some things on hire. I was indebted to him 500*l.* or 600*l.* As I was so much indebted to him, I certainly did not propose to him to furnish my house on my own credit. I did apply to him for credit on my own account, for a sum beyond 500*l.* or 600*l.* but he refused; and he proposed to send in a few things for hire. I told him I had a friend, who, I believed, would furnish it. I stated that to Mr. Wright, in consequence of a conversation which I had with Col. Wardle; but when I said I had a friend in view, I did not mention his name at that interview.

(15)

The friend I had in view at that time, was Mr. Wardle; and that was in consequence of a conversation I had with him, and promises that he was holding out to me. The promises and the conditions were, that he was to assist me on condition that I was to give him every information in my power, and to assist in the investigation; in return for which he was to furnish the house as a part, as a requital to me for giving him assistance. Almost immediately after I had thus communicated to Mr. Wright, I communicated to Colonel Wardle that I had done so, for I saw him very frequently at that time—every day. When I communicated this to Colonel Wardle, he told me that he approved of it. I had, at that time, not the least means of providing for the expense of supplying the furniture. I was very distressed indeed then, and Colonel Wardle knew it. He knew other things in which I was indebted to Mr. Wright, because he desired him to bring an action against the person whom he conceived ought to have paid that bill; indeed, he promised to Mr. Wright, if he lost the cause, that he would pay the costs of it. Mr. Wright, as a tradesman, was afraid; and with this full knowledge of these things he accompanied me to Mr. Wright's, to talk to Mr. Wright: he was ill, and could not see Colonel Wardle; but he came to say that he was the person who was responsible. Mr. Wright was confined to his room at that time by an accident. I went up to his bed-side with his wife. In consequence of the indisposition of Mr. Wright, it was impossible for him to attend in the warehouse; but his brother, Mr. Daniel Wright, attended. I said to him, of Colonel Wardle, that was the gentleman who was to furnish my house. I mentioned that in the hearing of Colonel Wardle.

(16)

Lord ELLENBOROUGH.—Did you use the expression—that, “he was to furnish my house?”

A. Yes; that was the expression.

Q. Did Colonel Wardle assent to or dissent from that expression?

A. He was silent; for that was the express purpose for which he went. We then proceeded to look over furniture in the warehouse; but Mrs. Wright, knowing what we came upon, fetched me out to introduce me to her husband, and I went up with her to him, and was with him very near half an hour, and then returned, when Colonel Wardle was with Daniel Wright, choosing some of the things which he had seen ready. Colonel Wardle had seen the things which Mr. Wright had sent on hire; for he knew exactly the state of my house; and on the first visit to the warehouse of Mr. Wright, Colonel Wardle made observations on things which he saw superior to those things he saw in my house, and gave directions for other things to be sent instead of them. When I came back to Daniel Wright and Colonel Wardle, they were talking about the sideboard. Colonel Wardle said of the sideboard he saw in the warehouse, he thought it a very handsome one, and that was to come to my house with other things. He had been looking at them; he had settled about it; there was very little for me to say. Col. Wardle went with me a great many times in a hackney-coach to the house of Mr. Wright, without going in; but I am certain of his going there once or twice, on the two instances of his going with me, and the object of our going was to look at articles of furniture. I remember a particular observation made with respect to a carpet. I had seen patterns of a carpet, which had been sent

(17)

into my house in Westbourne Place for me to look at, and which I had approved of, and Colonel Wardle found a great deal of fault with it; and he went with me to Mr. Wright's to see other patterns of carpets, for me to make a better selection. Major Dodd was with him; that was the first time I saw them together. They wished me to have *scarlet and bronze*, to which I objected, thinking that only fit for a parlour, but not for a drawing-room; but it was an expensive pattern; and Major Dodd I recollect saying, that the pattern was very *Turkish*, he thought it would suit me; and that was the very thing I objected to.

Q. You did not think any thing Turkish would suit you?

A. Not in patterns. But I said I did not care much about it, as it was a good carpet, and they were to pay for it; that is, Colonel Wardle was to pay for it; and they should have their choice; but neither Colonel Wardle or Major Dodd expressed the least astonishment in the world at this. Then I proceeded to the selection of several things, and several things were ordered by Colonel Wardle, in the presence of Major Dodd, and I made not the least objection to his giving orders, and the things were finally sent to my house. I believe it took two or three months to complete the order. They began to send at the end of last November; but I am not quite sure of that; but it might be in December and January before the delivery of the articles was completed. The things sent on hire were sent back again. Colonel Wardle saw all the things that were sent into my house. He went over every part of my house, from the kitchen to the garret. I remember some things coming to the house which Co-

(18)

lonel Wardle objected to, by observing "that they would not be so ready to bring them, if she had to pay for them;" he was then in a passion at the man for bringing a mirror into a room where it was not wanted, and where there was a handsome chandelier in the middle: the man who brought it was so much frightened, that he had almost let it fall from his hands; he was, however, obliged to take it back again. After this business had been going on some time, Mr. Wright expressed a wish for some money on account. He communicated that to me, and I communicated it to Colonel Wardle. I had not then a guinea on earth.

Lord ELLENBOROUGH. Did Mr. Wright ask you for money?

A. No; he asked me to beg of Mr. Wardle to let him have some money; and I communicated it to Mr. Wardle. The sum mentioned was five or six hundred pounds. Colonel Wardle said he had it not just immediately, but he would consult a friend, and give me an answer in a day or two.

Lord ELLENBOROUGH. Since the Plaintiff appears to have applied to Mrs. Clarke for money, I think he ought to give her a release before she answers any further questions.

Mr. GARROW. My Lord, she shall have it immediately.

[A release was here given her by the Plaintiff's attorney.]

Examination resumed.

Q. After looking at that release, is there any part of your evidence you wish to alter?

A. None in the least.

Mr. Sergeant BEST. Mrs. Clarke, are you a married woman?

(19)

A. I am.

Mr. Sergeant BEST. Then, my Lord, I contend that this release is void, for it must be given to her husband.

Mr. ATTORNEY GENERAL. Then there is no occasion for a release at all.

Lord ELLENBOROUGH. True; this lady lives apart from her husband, and these things can never be said to be furnished for him.

Mr. PARK (for the Defendant). It does not appear that they are not so, my Lord.

Mr. GARROW. We'll release every man, woman, or child, except Colonel Wardle.

The examination then went on by Mr. Garrow; and Mrs. Clarke continued—"On this application for money, Colonel Wardle said, he was not prepared then with money, but with a bill. I believe Colonel Wardle went himself to ask Wright whether a bill would do. He said to me, that he sent a friend of his to satisfy Wright that he should have a bill; and that it would be a proper one. The friend he named was Mr. Glennie, whom he told me was a colonel in the engineers. After this a bill was given. He communicated to me, that he should speak to a friend of his, Mr. Illingworth, of Pall-Mall; because, at that time, it would be improper for his (Colonel Wardle's) name to be seen in any transaction with me. He told me, that as the investigation respecting the conduct of the Duke of York was shortly to commence, it would be improper that his name should appear in any transaction of mine. The bill was given on the 2d of January, and I forget the date of his motion for the charges against the Duke; I think it was three weeks or a fortnight afterwards. He explained to me how the business of the bill was to be transacted, so that his name might not at all

(20)

appear in the business: that he was to send Mr. Illingworth to me, and that he was to accept the bill by way of accommodation; and I was to take such a bill with me, and I was to tell him the sum which Wright wanted; and he was to accept it for Colonel Wardle, because Colonel Wardle could not appear in it. Illingworth at that time was quite unknown to me, although my name may appear in his books, on account of some wine, to the value of fifteen pounds, Mr. Russell Manners formerly sent to me. Illingworth called afterwards on Wright, and said he had got him to take a bill at three months, instead of two, for five hundred pounds, which he gave Wright. When I saw the Colonel afterwards, he confirmed this. To prevent any suspicion, or any thing getting round to the public, Mr. Illingworth was to take a bill of me, which he told me, at the same time, was not worth having. This was a form to keep Colonel Wardle's name out; and so Mr. Illingworth understood it. I was acquainted with Colonel Wardle before I knew Major Dodd; it was about the end of last autumn that I was first introduced to the Colonel. I first saw him at my house, in Bedford-place, in consequence of a letter from a man of the name of M'Allum introducing him to me. He came at about one o'clock in the afternoon, and remained till near dinner time, six o'clock; and he has since told me, that Major Dodd was waiting all that time for him in the street. I was rather fearful of doing what he wanted, with a person so little known as Colonel Wardle then was; and Major Dodd, whose name I had known before, was introduced to me, as the Colonel's friend. About the end of November we went on a tour together, and were absent three or four days; Colonel Wardle, Colonel Glennie, Major

(21)

Dodd, and I. A lady was going with me; but, at the very moment I was setting off, she disappointed me, and they would not let me be off the journey. Being then in very distressed pecuniary circumstances, I could not be off, and I accordingly went with them. After my return, and since that time, he still continued to visit me. The first I heard of Colonel Wardle's refusing to pay this bill was from Mr. Wright, about a fortnight or three weeks since. About this time parliament was prorogued. The things were entirely furnished on Mr. Wardle's credit, and Mr. Wright never looked to me at all for payment. Before I went out of town, which I did as I had too many friends about me, and the Colonel wished to get me out of the way, I had money from him, fifty pounds on the very day before, to pay my butcher's, baker's, and other household bills. My supplies were always from him; he used to lend me fifty pounds at a time; I did not understand I was ever to re-pay him."

Cross-examined by Mr. Sergeant Best.

"The first of these things were sent in in November. I do not know whether it was in the early or the latter part. I went into my house before it was furnished at all. I think it was on the 23d of November I went into my house. Some goods were sent in on hire, which afterwards went in execution of this order. I first knew Colonel Wardle about the end of last autumn. What I understand by autumn, is from September to the beginning of November. I cannot exactly tell when I became acquainted with Colonel Wardle. It was before I went to Westbourne Place; and it was in consequence of a letter from a friend of Colonel Wardle's. If you

(22)

call *one* letter a correspondence, it was certainly in consequence of a correspondence that I became acquainted with him. It is quite ridiculous your reminding me that I am upon my oath. I tell you again, *upon my oath*, I do not recollect the time. I went from Bedford-place on the 21st of November. I was then acquainted with Colonel Wardle about a week. I entered on the house the 9th of November. I mean I entered with the landlord. I did not go into the house myself."

Q. Was not your letter from Mr. M'Allum dated on the 16th of November?

[Here a letter was shewn the witness.]

A. Yes; and this is the letter that brought about the acquaintance. I have written several letters to Mr. M'Allum; but my acquaintance with Colonel Wardle commenced before they became frequent. My acquaintance with Colonel Wardle was subsequent to the 16th. I left Bedford Place about the 23d of November, and immediately from thence went to Westbourne Place; and, in a few days afterwards, I accompanied Major Dodd and this Mr. Glennie down to the Martello Towers. And Major Dodd's letter is dated the 21st of November. Colonel Wardle gave Mr. Wright orders to let me be indulged in every thing. If I wanted money from Mr. Wright he would have paid it; because Mr. Wardle asked me if I could procure money from Mr. Wright. He said, "Can't Wright assist you, I am so pressed myself?" He complained of this, very likely, in November. He found the money somewhere, however, for he always supplied me.

Mr. Sergeant BEST.—Recollect, Madam, you are sworn.

Mrs. Clarke.—What's the use of putting that

(23)

in so often? I know I am upon my oath. He got me the money, and that time in particular. Before the investigation began, I asked him for some money. He said, "It is impossible for me to give you any, as the negotiation has been made up." I have not seen Colonel Wardle for these two months; he has never since called on me. I never quarrelled with Colonel Wardle.

Q. Did you not indict a threatening letter, which Dr. Metcalf wrote to the Defendant, saying, that if he did not give you one thousand pounds, you would do for him?

A. There was a letter written—

[Here she was stopped in her answer, as the letter was not given in evidence.]

Re-examined by Mr. GARROW.

"I went to Col. Wardle a short time before the investigation began. What passed then was this: I had a lady in the carriage with me when I went to his house to tell him that I wanted money, however small the sum might be. He said, that as the investigation was so near at hand, and his negotiation with me was settled, and every thing finally concluded, he could not communicate with me; but he would send me some money, and nothing was to be said about it hereafter. He did this, because lest it would be asked of me in the House of Commons, whether I had any purpose to answer by my evidence, or expected any future reward, to which I might safely answer, (every thing being settled beforehand,) that I did not do it for the sake of any prospective advantage. Upon my asking him for some money, he said some small sum would be sent to my house; but he sent me only a draft for twenty pounds, upon

Messrs. Marsh and Co., signed by Mr. Scott, an army clothier, who assisted him in the investigation."

Lord ELLENBOROUGH. I am afraid we are getting far wide of Mr. Wright and his demand.

Mrs. Clarke. "May I be permitted to mention a circumstance which occurred on Saturday last. I think it is very material as with reference to part of my cross-examination?"

The Court having granted permission for her to go on; she said, "Col. Wardle sent me a subpoena by his Attorney, Mr. Caulfield, who told me the Colonel was very desirous of referring this matter to arbitration. The Attorney added, that Mr. Wardle was a very honourable man, that he had brought him in for Oakhampton. The Lawyer said, that there was nothing that Col. Wardle would not do to compromise the matter, and have the business referred; that if it were brought into Court, the Colonel would ruin me completely; that Sergeant Best would cut me up with a severe cross-examination, and the Colonel would give it out in the country, that it was a trick of the Ministers, and that I was bribed to give the evidence of this day."

Mr. GARROW. Have you been so bribed?

A. Never, on my oath, in any way whatever, by promise or payment.

[Mrs. Clarke's evidence here closed; and she withdrew.]

Mr. Daniel Wright sworn and examined.

Mr. Sergeant BEST. Pray are you not in partnership with your brother?

A. No.

Q. Never since these goods have been ordered?

A. Never.

Examined by Mr. ATTORNEY GENERAL.

"It is true that I am not in partnership with my brother. I am an assistant in the management of his business, but with no share of his profits or losses. I am allowed by him a stipulated salary and income. I remember that Mrs. Clarke was considerably indebted to my brother. She went to Westbourne Place about the latter end of November. There were some goods sent to her house about the 10th or 11th of Nov. but they were in her house about that time. There were no goods sent upon hire until my brother saw Col. Wardle. My brother would not have trusted Mrs. Clarke with any goods on her own account at that time; she was much embarrassed. In short, she owed him between five and six hundred pounds, which she could not pay. I remember Mrs. Clarke and Col. Wardle calling at my brother's house. In consequence of an accident which happened to my brother at that time, I am enabled to state that it was either on the last day of November, or the first of December, my brother was then confined to his bed, I don't know positively that my brother would never trust Mrs. Clarke. I was not present at any conversation upon that subject; I knew his mind. I recollect Mrs. Clarke coming with Col. Wardle; my brother was then in bed. They were introduced to me only, when I mentioned my brother's accident. I knew Col. Wardle at that time, I had seen him before. I never saw him in Mrs. Clarke's presence before. When Mrs. Clarke introduced Col. Wardle to

(26)

me, she said, " This is Col. Wardle, who is come to look out the furniture to furnish the house for me." I am positive she represented to me that Col. Wardle was the person who was to furnish the house. She did this in his presence. I am pretty sure that he must have heard it. He assented to it, and walked into the ware-room immediately. When he walked into the ware-room, he conducted himself as a person who was purchasing goods. He pointed out the various things that he thought proper. One particular thing he spoke of was a handsome side-board. He said, that the one he had seen was much better than the one at Westbourne Place, and desired that this might be sent. He gave orders about dining tables; they were to be exchanged for the set of tables at Westbourne Place. Those at Westbourne Place were common, and he desired those in the warehouse might be sent in their stead. A considerable part of the time was spent in chusing other furniture. On the application of Mrs. Wright, Mrs. Clarke went up stairs and left Col. Wardle in the ware-room with me. Many of these orders were given by Col. Wardle to me, whilst Mrs. Clarke was with my brother. Different descriptions of furniture were fixed on; chairs for the drawing-room, and various articles that were necessary for a fashionable house. When Mrs. Clarke returned, the Colonel remarked that he did not approve of the carpet patterns that were sent to Westbourne Place, but desired that we should have some ready the next day, when they would fix upon some they would like. They came accordingly the next day; we had a considerable variety of patterns selected, the particular merits of which were fully discussed. There was one pattern in particular that Mrs.

(27)

Clarke approved of which was composed of blue and white. Major Dodd, who was also with the Colonel, concurred in opinion with the Colonel, that Mrs. Clarke's taste was not fashionable. Col. Wardle chose a more fashionable colour, scarlet and bronze. The lady yielded to the gentlemen, and she made a reply at the time, that as Col. Wardle was to pay for it, she would take his choice. These are as near the words as I can recollect. Scarlet and bronze was accordingly put down in Westbourne Place, and is there now to speak for itself. I was not present when my brother wished Mrs. Clarke to push the Colonel for some money, but I remember the Colonel calling the day following, and saying that Mrs. Clarke told him that Mr. Wright wanted money. I told him that five or six hundred pounds would be of service to my brother. He hesitated for some time, and asked, would a bill do as well? I told him that a bill would do as well, if it was of a short date, as my brother, from illness, was prevented from applying to his customers. He then said, " Very well, tell him I will take care and attend to it immediately." That was all that passed upon the subject. I have looked through the furniture that was sent by my brother. I had been at Mrs. Clarke's house arranging it. Charging a fair price for the goods that were sent in, they amount to one thousand nine hundred and nineteen pounds, the original amount. Five hundred pounds has been paid on account, which reduces the bill to one thousand four hundred and nineteen pounds. That is a fair price for the goods sent in, and they are charged with a reasonable profit.

(28)

Cross-examined by Mr. PARK.

" I know my brother trusted Mrs. Clarke for goods to the amount of five hundred pounds two years ago. Never having got that money, he would not trust her any further. There was no person present at this conversation but the porter in attendance, and therefore Col. Wardle and I only were together. We sent in two hundred pounds' worth of goods on Mrs. Clarke's own account. They were commenced sending in about the 10th or 11th of November. Mrs. Clarke did not go to Westbourne Place until some time after, I believe. We exchanged all the things at Westbourne Place by Mr. Wardle's orders; but there was nobody present, neither was there any one present at the time Major Dodd was at my brother's house, except myself, Mrs. Clarke and Col. Wardle. At the time that Col. Wardle talked about the money, it must have been the 2d of December, and my brother agreed to take a bill; there was not five hundred pounds' worth of the goods in Mrs. Clarke's house. We were sending in goods immediately. He had given an extensive order, and it is not unusual to take liberty to ask for a little money beforehand. Necessity urges things that we often reluctantly ask. It has often happened on similar occasions. We converted the goods that were sent, to the amount of two hundred pounds, into Mrs. Clarke's house on hire, into goods sold, and they were put down to the account of Col. Wardle. It is usual in our business to pay carpenters' bills. I have known it in more instances than one. In this instance the carpenter was a man who resided in the neighbourhood. I don't

(29)

recollect his name. He did repairs to the amount of twenty-six pounds. Mrs. Clarke's house is not a very large house. There are three moderate rooms on a floor in the house. It is usual for my brother to pay for the coals used in houses. We have done that before—sometimes before—it is very common so to do. I won't swear that these coals were intended for the use of the servants. I don't know that it was mentioned to Col. Wardle. The plaisterer of the house was also paid by my brother. This is also usual for him to do. It is usual, likewise, to pay for the insurance of different people's houses, by my brother, particularly if an application is made for it. The charge in the bill of nine pounds in the Westminster Fire Office, was paid in this case. I never had any conversation with Col. Wardle about the payment of the insurance money. I swear that it is a usual custom with us also to furnish the kitchen utensils of the house. I don't mean to say, that if you come into our shops, you will find articles of that description there; but if you did come into our shop for that purpose, I should refer you to the tinman. The person who makes part of our goods in that way is named Thompson; he does a good deal of business for us. My brother also paid eighteen pounds ten shillings for the painter's bill. That was to a man named Kingham. I swear that a Grecian sofa, sent to Mrs. Clarke's house, was reasonably charged at fifty-three pounds, and that another for forty-three pounds was also reasonable. I can swear that both were reasonable in their prices. Col. Wardle was at the house, but it was for Mrs. Clarke to live in. I'll swear that is the case. I swear also that two hundred guineas for the chimney-glasses is reasonable. I know the dimensions of them, Sir.

(30)

There were two of these chimney-glasses. A hundred pounds for three sets of French drapery window curtains is also a fair charge. There was some wet came through the house after Mrs. Clarke went in. I mean to swear, that we do employ plaisterers and paper-hangers for different customers. The plaisterer's work was done whilst the goods were in. After the furniture was sold, one half of the work might have been done. The painters' work was not all done before this time. There were orders given for furniture previous to the 2d of December. When Mrs. Clarke was desired to go up stairs, she was with my brother twenty minutes, or a quarter of an hour, at least. The insurance was made some time back. It was not made in consequence of the goods sent in on hire before the 2d of December. I never heard my brother say that he should employ Mrs. Clarke to ask five hundred pounds of Mr. Wardle. I'll swear that that money was not paid by Mrs. Clarke. The bill was given in consequence of my brother's application for the money to Mr. Wardle. Her name was not upon it, I swear."

Re-examined by Mr. GARROW.

"The plaisterers' work was ordered by my brother, and consequently he is answerable for it."

Mr. William Grant sworn and examined by the ATTORNEY GENERAL.

"I am an upholsterer by trade. I have looked over the goods that were furnished to Mrs. Clarke."

Mr. Daniel Wright.—"I shewed this witness the goods when they were in the house."

(31)

Mr. William Grant, in continuation.—"I have looked over the furniture charged in the bill, and I think the charges are such as I would have made myself. I don't say for ready money."

Lord ELLENBOROUGH.—"For ready money, did you say?"

A. I don't say for ready money, my Lord. We are quite uncertain about the payment of our bills.

Q. What would you put on your charge if you gave credit for more than three months?

A. Five per cent, my Lord.

Lord ELLENBOROUGH, addressing the counsel for the Plaintiff.—"I think that you ought to deduct the plaisterer's and other accounts from the bill, as there ought to be a reasonable discount."

Mr. ATTORNEY GENERAL.—"Certainly, my Lord, there ought to be some discount for ready money. We'll put it to the witness in this way:

Q. Suppose the bill was to be paid in six months?

A. I should make very little abatement.

Q. Suppose there should be an accommodation of the demand thus—part in ready money, and the rest in six months. What abatement would you then make?

A. I should conceive two and a half per cent. would be a liberal allowance, if I was certain of the bill being paid. I should have taken care, however, to make that provision.

Mr. ATTORNEY GENERAL. "My Lord, that is my case."

Mr. Sergeant BEST then addressed the Jury in behalf of the Defendant; and spoke to the following purport:

"May it please your Lordship, Gentlemen of the Jury:

"Certainly I rise to address you under very

(32)

considerable disadvantages, because, in consequence of my professional avocations in another place, I had not the good fortune to hear a part of the case my learned friend stated to you in his opening. I arrived just time enough, however, to hear one question put to you by my learned friend, which I have no difficulty in answering. My learned friend asked, "Will Mr. Wardle desire you to disbelieve this Mrs. Clarke?" I say in answer, "Will he (my learned friend) desire Col. Wardle to believe her?" It seems to me that such a question acquired no difficulty in answering. Our ancestors, two hundred years ago, thought they had passed an act which would prevent fraud and imposition being practised by parties charging debts to persons who had nothing to do with them. Would to God I could say that that act had now, in these degenerate times, force to put a stop to actions like this. Gentlemen, you are not aware of the powerful inducements this case holds out for fraud, trick, and perjury; for such, I contend, have been the means resorted to for the purpose of maintaining this action. You are not aware that, by the success of this scheme, that Mrs. Clarke will get rid of this debt, and fix it upon the shoulders of my client. The debt, I contend, was originally contracted by her: but nothing can be so easy for fraud and vice as to do away by perjury the effect of such contracts. It is only to say that the goods were originally furnished upon the credit of another party. By these means, and only just varying a few sentences in the perjury, the effect of that wholesome statute I have alluded to is entirely destroyed. All the protection that it was intended to throw over the honest and the unwary,

(33)

against demands, that the wickedness of fraud and perjury chose to fix upon any person completely frustrated. I am persuaded, Gentlemen, that when you feel that the goods in this case were originally furnished to Mrs. Clarke, and that she had the use of them, and that Col. Wardle never derived any benefit from them, you will not, by your verdict, compel *him* to pay this demand. You will at least, expect much better evidence than you have had to-day, before you call upon him for the payment of this most unjust claim; and not give your verdict upon the testimony of such a witness as Mrs. Clarke. I am very sorry she was not examined in a court of justice before she was examined before the House of Commons, but I am still more sorry that Colonel Wardle had not examined her before he was induced to call upon her as a witness in another place. Persuaded I am that after such an examination of her as we have had to-day, there would not be one member of the Commons in a thousand, who had heard her testimony, would have given her credit for a single syllable she uttered. I have not the honour to know Colonel Wardle personally, I don't know therefore what are his habits of thinking. But I judge him—indeed I willingly believe him incapable of listening with implicit credit to palpable falsehood. I firmly believe that had he heard what passed here to-day, he never would have called Mrs. Clarke to prove any thing against any person. He never would have made any use of her for such a purpose. Will you believe such a person as Mrs. Clarke, even after the first glance of her. She is a person not only capable of stating that which we know to be false, but also swearing with the most unblushing impudence to any which could answer her own purposes. I am quite sure that

(34)

before this case is finished, you will be satisfied in your own minds that she ought not to be believed. I am fond of Courts of Justice, but I think I shall not love them much if such a witness as this lady is to be received with credit in our deliberations. Is there any thing in the conduct of a person like her that can make her a creditable witness in a Court of Justice, when all the world knows that she was admitted, on all hands, in the next room, to be unworthy of belief? I think I might dismiss every word that has been said by Mrs. Clarke; because I am persuaded, that there is no man could be prevailed upon to put the least degree of credit in a woman, under the circumstances in which she comes into Court. Indeed, I was so perfectly convinced that she was destitute of all public or private credit, that I had it in contemplation only to take care to identify her with the same Mrs. Clarke of whom, doubtless, you have heard so much. Having done so, I should have left her in your hands to dispose of her in this case as you might think proper. But there appeared to me, upon her own account of this transaction, something so disgusting—something that no man of common sense could refrain from marking with his contempt, that I cannot avoid embracing the opportunity afforded me of observing on some parts of her evidence; and of shaking a credit, which has taught her to value herself upon her dexterity, (in what I call a total dereliction of all female propriety,) in the exhibition of what she calls *talents*. Let us look a little to the account this woman has given of this affair. The goods, it would seem upon her evidence, were not given upon her credit. But I think the more we examine her testimony, the more preposterous this statement will appear. If I recollect rightly,

(35)

she went into this house without any goods at all. Let us see if she is not contradicted by Mr. Wright; for, according to his account of the transaction, he gave her credit for two or three hundred pounds worth of furniture upon hire. You see, therefore, Gentlemen, Mrs. Clarke and the Plaintiff's brother are at variance in this case; and they contradict each other so far, that it is impossible to believe both. But Mrs. Clarke says, that she went into this house without any goods upon her own credit, and that what she possessed was upon the credit of Colonel Wardle, that she could get no credit with Mr. Wright, and that therefore, unless Mr. Wardle had stepped forward, nothing would have been done for her. Here again we have the aid of Mr. Wright to contradict her. But I shall not stop here; I propose to shew, upon the testimony of both these witnesses, that the credit was not given to Col. Wardle, but that the credit upon which the house was originally furnished was given to Mrs. Clarke, and to nobody else. For we have, upon the testimony of Mr. Wright, an answer to this case. From him you have it in evidence, that the plasterer's work was done, and the bill given in, before Colonel Wardle was known; and also the bills for repairing the roof and painting the house, both antecedent to the time his name is mentioned. Yet here we have in the same bill against Colonel Wardle (mind, not separately charged) items of accounts, which occurred long before he was known. All *lumped* in together, and charged to his account indiscriminately. I repeat again, that it appears upon Mr. Wright's testimony, that these expenses were incurred long before the name of Colonel Wardle was known. How then, Gentlemen, can you believe either of these witnesses? You have heard Mr. Wright's brother swear most

(36)

solemnly, that he would not give her credit for one single farthing; and he gives as his reason, that she was indebted to him in the sum of five hundred pounds. Now, I think, Gentlemen, that this was the very source of her credit. Because she became debtor to him before any thing of the transaction in question was heard of. Mr. Wright acted politically. He very well knew, that if he could keep her afloat a little longer, he would have the better chance of getting his bill paid. Therefore, knowing her intriguing spirit would furnish her with resources, he thought it better to trust her with these goods to enable her to keep up appearances, than to let her sink into insignificance, by which means he would be *minus* in his account. In my humble judgment this is so far shewn to be his motive, that it furnishes me with the strongest reason for contending that this credit was given to Mrs. Clarke only. And it is impossible for you to believe Mr. Wright's evidence, if any credit at all was given to Mrs. Clarke. I am, therefore, justified in the statement I have made to you, Gentlemen, that it is a direct fraud within the meaning of the statute. I say again, if we look to the evidence of both, the credit was given to Mrs. Clarke. Consequently, any attempt to fasten upon Mr. Wardle a credit, which was originally intended for Mrs. Clarke only, is a crime subject to the pains and penalties prescribed by that wholesome statute. I shall now advert to other articles mentioned in this general account as specifically chargeable to Colonel Wardle, and which, should you be induced by any means to find a verdict for the Plaintiff, you ought to deduct from the demand. I think you will concur with me, that the charge made for the furniture lent on hire, (for here it is put

(37)

down amongst the articles sold) the paper-hanger's bill, the plaisterer's bill, and, in short, all other charges that are not, strictly speaking, for upholstery goods, ought to be left out of your consideration. I say you will agree with me, that they ought to be discarded from your attention, because it is morally impossible that these services could have been done on the credit of Colonel Wardle. For neither of these witnesses will say, that Colonel Wardle was ever consulted upon these points. Supposing what they have said was true, still my observation will enable me to go the length of saying, that no remark ever escaped from Colonel Wardle respecting these items in this account, except the exchanging of some particular articles that were furnished on hire to Mrs. Clarke, which could identify him with this part of the transaction. Even those very observations of his, I contend, go to shew the fallacy of the whole of this business, and expose the barefaced attempt to fix this debt upon my client. Surely it will not be believed, in the next place, that the article of insurance charged in this account belongs to Col. Wardle's credit. Depend upon it, this is another proof that Mrs. Clarke is throughout the only person to whom credit can legally be attached.

Lord ELLENBOROUGH.—On neither side can we talk of evidence of insurance.

Mr. PARK.—My Lord, I humbly submit we can, apart from the general account.

Mr. ATTORNEY GENERAL.—I have given no bill in evidence, I merely gave the witness, Grant, the bill into his hand for the purpose of examining him with respect to his opinion of the reasonableness of the charges contained therein. I don't know whether the insurance was in that bill or not.

(38)

Lord ELLENBOROUGH.—I have no evidence of that paper before me. No one has been examined with respect to the insurance, and therefore we must leave it out of our consideration.

Mr. Sergeant BEST.—I certainly considered the article of insurance a fair subject of animadversion, as it is made an item in the general account. The use I was about to make of it was not for the purpose of expunging it from the bill, but merely of shewing that a demand of nine pounds fifteen shillings for insurance at a fire-office was not a demand founded on the credit of Colonel Wardle. I make this observation in support of my original proposition, that the first credit was not given to the Defendant; and I now submit that it is one other strong argument to shew that I am borne out by facts, in what I have endeavoured to impress upon your minds. I also think, in addition to this, that it completely falsifies both the testimonies of these witnesses, and shews clearly that the original credit was given to Mrs. Clarke. Mrs. Clarke has told you that the goods were certainly given upon the credit of Colonel Wardle; and that Colonel Wardle went with her to Wright's. Have the goodness still to bear in your mind that all these orders were subsequently executed. Recollect also, that when Colonel Wardle went with her, his name was never once mentioned, from the beginning of the interview with Mr. Wright's brother to the end: and observe that shortly after she and Mr. Wardle leave the house, without its being known who he is, or what he is. If I am right in my view of this case, this circumstance holds good still, in support of my first proposition. But still it is a most extraordinary circumstance that when the name of Colonel Wardle is mentioned, she

(39)

then goes on to state, "I am sure that this transaction took place in the latter part of the year—I am certain it was at the latter part of autumn." She gives you no definition of what she means by autumn; or how far that portion of the year extends. But, undoubtedly, from the general tenour of her evidence, it should seem that this extraordinary conversation passed somewhere about the end of the month of October. This she was persisting in, until the particulars of the bill stared her in the face, and then she suddenly altered her tone. In order that the credit alleged to have been given to Colonel Wardle might not appear to have taken place before that time, namely, October, she still continued to make that representation, and she was not positive as to the precise time, until the name of M'Allum was mentioned, and then she is amazingly fresh in her recollection that this conversation could not possibly have taken place before that time. The instant that she finds her own letter put into her hand, she again changes her tone, and instead of its being the latter end of October, she turns round all at once, and swears that her original introduction to Colonel Wardle must have taken place subsequently to the 21st of November. Is it possible, Gentlemen, to believe a woman of this description? But let us pursue her a little further. Out of her own mouth we have her convicted of corrupt perjury. For, upon my interrogation of her whether she had quarrelled with Colonel Wardle, she flatly denied it. More of this point anon. But being asked, of course, in the House of Commons, whether she was ever bribed to give her testimony there, she has the audacity to come into this sanctuary of justice to tell my Lord, who will tell you,

(40)

Gentlemen, that she did go into the House of Commons to tell the infamous stories that she told there, because she expected to be liberally rewarded for it. I want to know what you, Gentlemen of the Jury, who I know are men of discrimination, must think of this infamous woman? I did not expect that Mr. Wright would have answered her's by his own testimony. I therefore thought it better to wait, for the purpose of getting at some other motive of her conduct, than that I have before attributed to her. I may now safely add *revenge*, for what she conceives to be an injury done to her, by the disappointment of her hopes, to those other wicked motives that prompted her to this conduct. But here again she wished to disarm your mind of any supposition of this kind, which she knew would be ruinous to her cause. Therefore, when I asked her whether she had ever quarrelled with Colonel Wardle?—No! was her answer. She then ran on with an inconsistent story, for the purpose of impressing you with a belief that she was on good terms with Colonel Wardle to the last moment. What turns out to be the fact upon the case? She said, at first, she did not know what I meant by the word *quarrelling*. However, after a good deal of quibbling, she at last admits, that she had threatened to ruin him, if she had given—

Lord ELLENBOROUGH.—I must have justice done on both sides. We do not know what were the contents of that letter; and, therefore, it would be unjust to comment upon what is not in evidence.

Mr. Sergeant BEST.—I am sure, Gentlemen of the Jury, I should be extremely sorry to do injustice even to Mrs. Clarke. I merely wished to

(41)

advert to the terms of my own question to her, and her reply, which I believe was not taken down in evidence. Although I am not allowed to comment on that letter, yet I leave you to judge what was the purport of it. I ask you if it was consistent with her then relative situation to the Colonel, that she could be on the best possible terms with him? I think it not very probable that such would be the case. What epithet, then, is there in the English language sufficiently strong to express your abhorrence of this most infamous woman? I know of none. I am sure, that if the merits of this case are to rest upon the testimony of such a woman as this, no man can consider himself safe from the attacks upon his character, peace, and honour, of this abandoned purjurer. Let us see, therefore, if there is any thing presenting itself in this evidence, independent of her and Mr. Wright's testimony, upon which you can decide against Colonel Wardle. And give me leave to remind you, that in a case like this, you must expect the most clear, decisive, and unimpeachable testimony. It is a case in which an attack is made, not upon the purse only, but upon the character of Colonel Wardle. To your decision he looks for a vindication of his character from the aspersions cast upon it. You are to look circumspectly to the evidence, and see that his character is not taken from him, unless he deserves it. You are not now deciding whether he should lose his money, but you are to determine whether Colonel Wardle, who professed to bring into the House of Commons disinterested witnesses, was guilty of suborning the most abandoned persons to support his charges against a Royal Duke, by holding out expectations of future remuneration.—This is a serious attack, and, before you give

(42)

your decision against my client, I hope you will see that it is made out by evidence that can be received in a court of justice; and that you will not attach to such evidence as I have alluded to, loaded as it is with infamy, any more weight than it deserves. What other evidence then have you? Why, the evidence of Mr. Wright, the Plaintiff's brother! Is that evidence very clear of suspicion? I contend that it is as questionable as Mrs. Clarke's. He has distinctly sworn that no credit was given to this woman. Now, if there was no credit given to her, no credit can, in point of law, be given to Colonel Wardle; because Colonel Wardle could only become security for her by promise, and that sort of pledge the law says shall not be taken, unless the security be given in writing.

A JURYMAN.—Will you inform me whose name, if any, is on the bill?

Mr. PARK.—We cannot say. We have not the bill; we never saw it.

Lord ELLENBOROUGH.—We must do as well as we can. This deficiency of evidence we cannot account for; all that we have to do is to decide upon such evidence as the parties please to lay before us.

Mr. Sergeant BEST.—It is very true, Gentlemen, we have never seen this bill. A great deal of talk has occurred about it; but I believe it never existed. I hope, therefore, you have been too long in that box to be imposed upon by the trick or tricks of fifty such witnesses as those you have heard this day. The payment of the five hundred pound bill, alleged to have been handed by Col. Wardle to Mr. Wright, we utterly deny, and with which we affirm we had nothing to do. So, therefore, they must make out to your satisfaction that such a bill was paid to them, before

(43)

you can believe any part of their testimony. If they do not, I reckon their cause as gone. I make use of this expression, because I think it will be founded upon the facts of this case. I contend that the original credit was not given to Colonel Wardle, and therefore, the evidence that the Plaintiff has laid before you must be false. It comes out that a house was taken and furnished in part by the Plaintiff, on the credit of Mrs. Clarke, long before the Defendant was known; and, when Colonel Wardle is known, it is found convenient to fix this debt upon him. By this observation I do not mean to be understood that if the articles first furnished on Mrs. Clarke's credit were expunged by the Plaintiff, that I would admit the justice of his demand. But I mean, that the whole allegation is falsified by the testimony called for the purpose of supporting it. In my judgment, when a witness comes to swear in his brother's case, more particularly when it is falling, it is not too much to say that a Jury ought to be very circumspect in receiving his evidence. It is necessary that he should speak "the truth, and nothing but the truth;" for, if any part of his evidence is detected to be false, no brother can expect a verdict upon his testimony alone; and, therefore, if this man has ventured to swear to a fact which is not true, particularly in a case where it is not possible to convict him, no Jury can find a verdict in favour of such evidence. Mr. Wright is too cunning a man to state that which can be contradicted. We have seen that he gets rid of Mrs. Clarke; he is even afraid of her! and, therefore, he speaks only to circumstances stated to have passed between him and Mr. Wardle, whilst Mrs. Clarke was up stairs with his sick brother. Not one word of which is it possible to contradict. You see,

(44)

therefore, how material it is to know what part of his account is absolutely correct and consistent with truth, before it is received as evidence. He relates occurrences which happen when there is not any body by. Gentlemen, I am persuaded, therefore, that you will feel that it is absolutely necessary for you to make up your minds to give him full credit for every thing he has uttered, or to disbelieve him entirely, and, if you cannot believe him, there is no other witness whose evidence could affect this cause, to whom you can attach the smallest credit.

“ I beg not to be understood to say that these charges are objectionable; as the person who gave his evidence upon this point seemed to be disinterested, I take it for granted the charges are not unreasonable. I do not think, notwithstanding, that it is an unexceptionable bill. His evidence does not go beyond the furniture, and he cunningly lumps in every one of those charges which were added at the end of the year. I hope it does not escape your observation, that there is no pretence for fixing Colonel Wardle, or for picking his pocket of the amount of these other articles; but you see that the observations upon these charges shew that the whole credit was not given to Colonel Wardle; and, therefore, that is an answer to this case. It is impossible for me to call any witnesses. I could not possibly have heard of Major Dodd, nor could I know that any thing that he was able to say would meet this case. I therefore stand acquitted of any inadvertency upon this point. Were I inclined to give any opinion upon it, I should say that I believed Major Dodd was not present at the transaction.

“ Gentlemen, I must rest the character and honour of Mr. Wardle on the evidence you have

(45)

heard, and the feeble observations I have been able to make, fatigued as I am, to your good sense and discrimination. The wisdom and knowledge of his Lordship will enable you to get out the truth of this extraordinary case. He will point out the *res juste* of the case; and I trust that you will find your verdict for the Defendant. There is one circumstance particularly worthy of remark; namely, that no document, no letter, has been produced to support this oral testimony. I must again repeat, that where the character, honour, and reputation of the Defendant are called into question, you ought to have some third person, or some document, which could fix him with the engagement into which it is alleged he has entered. I repeat again, that if such evidence as you have heard to-day is to be received in a court of justice, no man can be safe from the foulest perjury.

“ Before I end these observations, I must call your attention to the words of Mr. Wright. Why, I ask, did he apply to Mrs. Clarke for money, if the transaction was between himself and Mr. Wardle? When the money is wanted, the application is made to Mrs. Clarke. Does not that circumstance prove that, whatever Mrs. Clarke may say, Mrs. Clarke pledged *her* credit only? and that Mr. Wardle is exempt from any claim of the plaintiff? You cannot but feel, therefore, Gentlemen, that this is the exact state of the case.”

Lord ELLENBOROUGH then addressed the Jury.

“ Gentlemen, this is an action brought by Francis Wright, against Colonel Gwillim Lloyd Wardle, to recover a demand of 1,919*l.* This demand, however, seems to be lessened by the Plaintiff himself, who alleges to have been paid 500*l.* on account, by Mr. Wardle. In consider-

(46)

ing the Plaintiff's demand, I think he is to blame for putting into the account articles, such as plasterer's, carpenter's, painter's, and other bills, which were contracted prior to the time that the goods, alleged to have been purchased by Colonel Wardle, were sent to Mrs. Clarke's house; and therefore think that these items should be deducted from the original demand: but particularly the article of insurance for the house in Westbourne Place. On the other side it is not admitted that there is any pretence to charge the Defendant with a responsibility to pay for these goods. So far, indeed, was the Defendant from admitting it, that he disclaims his having any knowledge of the payment of the 500*l.* which the Plaintiff admits he received. I think the Defendant is to blame in denying this fact; for he denies it at the peril of his being called on to pay it; and therefore the demand must be increased upon him by 500*l.* more than it was before. You are to believe a fact which exceeds what one can believe. You are desired to believe that no such person as Major Dodd was present at this transaction. Major Dodd was a person whom it would have been competent for the Defendant to have called, with a view to discredit part of this story, if any such conversation passed. If it be true that no such person was present, he could not be prepared to call him. We have two witnesses who swear, that a gentleman of that name was present. It would have been certainly desirable to have had all the light it was possible to collect on the subject. We have also these witnesses who swear, that a bill to the Plaintiff, with the name of a person named Illingworth attached thereto was given: the Defendant, however, chooses to commit himself by denying it. The question that you have to try in this

(47)

case, gentlemen, is, what degree of credit you will give to the witnesses called on the part of the Plaintiff. It appears clearly that in the course of this evidence, there has been a great deal of error and confusion with respect to the date of some of these transactions; and therefore I should not like to state, myself, that these transactions occurred on any particular day. The conclusion of the case is this: that Mrs. Clarke was indebted to Mr. Wright: that she could not obtain substantial credit for the goods that were sent into her house, and that she found means to induce Col. Wardle to undertake the payment for the furniture. I think, from the nature of the contract as it appears upon the evidence, the present case does not come within the statute of frauds: for, if these two witnesses are to be believed, the Defendant was the only person who ordered the goods. I can only discover one material variation between the testimony of Mrs. Clarke and that of Mr. Daniel Wright. In this Mrs. Clarke stated that the goods sent on hire were returned; and Mr. Daniel, that they were made goods sold, as the fact was. I will state the whole of the evidence to you, Gentlemen; because it appears very much broken, and there are some inconsistencies in the dates which can only be cleared up by stating the whole to you."

Here the Noble Lord recapitulated the whole of the evidence; and then proceeded:

"This, Gentlemen, is the whole of the evidence that has been laid before you; and the question, as I said before, is what degree of credit you will give to each witness. You must lay out of your consideration entirely the difference of the dates, if you believe the witnesses to the extent that they undertake to swear. As

I said before, there are many articles which did not come within the scope of this tradesman's business: and therefore, if you should be of opinion that the Plaintiff is entitled to your verdict, he cannot strictly recover for those specific items. The first question is, whether you believe the evidence of Mrs. Clarke, and that of Daniel Wright, with respect to the ordering of the goods by the Defendant. And if you think them entitled to credit upon that point, you must find a verdict for the Plaintiff, whose bill must be reduced by deducting the items before mentioned. But if you disbelieve them with respect to that point, and think that Mr. Wardle was not responsible, you must of course find for the Defendant.

The Jury retired for about an hour and a half, and returned a verdict for the Plaintiff, deducting the several charges in his bill for carpenters, painters, plaisterers, glaziers, smiths, and for insurance which the Plaintiff had effected; and also deducting the two hundred pounds charged for goods sent on hire, allowing also for the five hundred pounds paid on account.

COLONEL WARDLE'S LETTER.

A Verdict having been entered against Colonel Wardle, subjecting him to pay for furnishing Mrs. Clarke's house, previous to the late Inquiry into the conduct of his Royal Highness the Duke of York; that Gentleman, aware of the effect that such a disclosure must necessarily have upon his political consequence, and judging that his veracity, or even the boasted purity of his motives, might be called in question, caused the following Letter to be inserted in the Newspapers: To which, in justice to the parties accused, and that both sides of the question may be stated, is subjoined an answer, signed *ARCTURUS*, which appeared in the *Morning Post* of the following day:

To the People of the United Kingdom.

Honoured as my Parliamentary conduct has been by the approbation of so many of my countrymen, I feel myself called upon, in consequence of an event that yesterday took place, immediately to address you, and that in vindication of my character, rendered open to attack from the verdict of the Jury upon the evidence of Mrs. Clarke and Mr. Wright, the brother of her upholsterer, in a cause in which I was Defendant, in the Court of King's Bench. The detail of the evidence the public prints will afford. It is

with me to state, that my Counsel, satisfied in their own minds that the Jury would not, upon such testimony as had been given by the Plaintiff's brother and Mrs. Clarke alone, find a verdict against me, did not comply with my earnest entreaty (repeated to them in writing during the trial in the strongest terms), that Major Dodd, Mr. Glennie, and other respectable witnesses, subpoenaed by the Plaintiff and myself, might be examined, as I knew their testimony would be founded in truth, and be in direct contradiction to what had been sworn against me. Under such circumstances the verdict was obtained. There only remains for me now, before my God and my country, to declare, that it was obtained by *Perjury alone*; and I do pledge myself to prove that fact the earliest moment the forms of the law will allow me to do so. Anxiously, therefore, do I look forward to that period; and I trust that till then the Public will suspend their judgment upon the case.

With sentiments of the deepest *gratitude* and *respect*, I remain your ever faithfully devoted
 Servant,

G. L. WARDLE.

James-street, July 4.

ANSWER OF ARCTURUS.

To the Editor of the Morning Post.

MR. EDITOR,

I have this moment read, in an Evening Paper, intitled 'The Statesman,' a letter To the People of England, signed G. L. Wardle, relative to a trial which occurred yesterday in the Court of King's Bench, the contents of which have both astonished and shocked me. I, Sir, was present during the whole of that trial, and paid particular attention to all that passed; my observations therefore are not given on conjecture.

In the letter alluded to, Col. Wardle states, that "his Counsel, satisfied in their minds that the Jury would not, upon such testimony as had been given by the Plaintiff's brother and Mrs. Clarke alone, find a verdict against him, did not comply with his earnest request (repeated to them in writing during the trial in the strongest terms), that Major Dodd, Mr. Glennie, and other respectable witnesses subpoenaed by the Plaintiff and himself, might be examined."

Gracious God! Sir, does Col. Wardle mean to impeach the honour of his Counsel, Mr. Sergeant Best, who positively stated that he could not call Major Dodd, because he did not know any thing about such a person? Were not Col. Wardle's Counsel challenged to produce Major

Dodd by the Attorney General? and did not Col. Wardle's Attorney go out of Court during the trial, and consult with Major Dodd, as to what evidence he could conscientiously give, for Major Dodd and Mr. Glennie were both in Westminster Hall? I say he did, for I saw him do so!

What Col. Wardle means by saying that his Counsel thought the Jury would not give a verdict against him upon such testimony as Mrs. Clarke and the brother of the Plaintiff had given, I cannot imagine; for let any body examine the reports of the Trial, to which he refers, and they must allow that never was more consistent, more satisfactory evidence given in a Court of Justice, unless Mrs. Clarke's testimony upon oath is to be falsified by a recurrence to her conduct on a recent Inquiry, when she was not upon oath. And surely Col. Wardle will not contend that her conduct on that occasion should cause her to be discredited on this!!!

I tell Col. Wardle that he dared not call his friend and accomplice, Major Dodd, because he knew that if he did, letters in that person's own hand writing would have been given in evidence, which would have been as unpleasant to the Major, as they would be fatal to the Colonel.

I am, Sir, your obedient Servant,

Tuesday, July 4, Eleven o'clock at night. ARCTURUS.

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