the promise. In the last case Erle, C.J., held, following *Beachey* v. *Brown*, that the want of chastity is the only exception implied in the contract to marry. But after an attentive perusal of *Beachey* v. *Brown* it cannot safely be stated that any absolute rule was laid down therein on the point in question. The point, however, is settled, for the present, for this province, by the decision in *Grant* v. *Cornock*, in which it is held by the Appellate Court that want of bodily chastity is the only justification for the breach of promise to marry, and that the use by the woman of coarse, obscene, and profane language, and her indulgence in profane swearing, would not justify the refusal to marry. It would be more in accord with justice and common sense if the decision had been to the contrary.

PRESUMPTION OF DEATH.

A good example of how judges, in administering the law and fitting it to the ever-changing combination of facts that come before them, must legislate incidentally and in a subsidiary way is shown in the origin of the rule as to presumption of death of a person who has been absent for seven years and not heard of by those who would naturally have heard if he had been alive. In our own courts the leading case on the subject is *Doe d. Hagerman* v. *Strong et al.*, 4 U.C.R. 510, affirmed in 8 U.C.R. 291. In that case it was proved at the trial in 1847 that A. was last seen in the province in December, 1827, and was never afterwards heard of. A *fi. fa.* against A.'s land was placed in the sheriff's hands on the 13th of July, 1833, tested the 29th of June, 1833. The heir of A. brought ejectment against the purchaser at the sheriff's sale, under an execution against A., and attempted to recover upon the ground that, after 22 years had elapsed since A. was last heard of, the presumption that he did not die till the expiration of the seventh year was at an end; that defendant must show that he did not die till after the seventh year; and that the jury should be directed to find whether he did or did not die within the seven years. It was, however, held that the proper direction was that at the end of seven years the fact of death was to be presumed, and not sooner, unless there was some evidence affecting the probability of life continuing so long, and also that the plaintiff, not the defendant, must show when A. died. On the same point the following cases may be referred to: *Doe d. Arnold* v. *Auldjo*, 5 U.C.R. 171, and *Giles* v. *Morrow*, 1 O.R. 527. We cite the following remarks on the origin of the rule from an able article in the November number of the *Harvard Law Review*, on Presumptions and the Law of Evidence:—The rule of presumption is that a person shall, in the absence of evidence to the contrary, be taken to be dead, when he has been absent for seven years and not heard from by those who would naturally have heard, if he had been alive. This is a modern rule. It is not at all modern to infer death from a long absence; the recent thing is the fixing of a time of seven years, and putting this into a rule. The faint beginning of it as a common-law rule, and one of general application in all questions of life and death, is found, so far as our recorded cases show, in *Doe d. George* v. *Jesson* *

* 6 East, 80.