

earl for judicial separation, on the grounds of cruelty and sodomy. That suit was dismissed, but the countess continued to reiterate the charges of sodomy. This action was brought by her for restitution of conjugal rights. The earl, by counterclaim, asked for a decree of judicial separation on the ground of the countess's cruelty in making the above charges, well knowing them to be false; he also set up as a defence that the action was not brought *bona fide* with the desire of resuming cohabitation, but for the purpose of founding proceedings under the Matrimonial Causes Act, 1884 (47 & 48 Vict. c. 68), for alimony and judicial separation.

Pollock, B., who heard the case with a special jury, left it to the jury to say whether the countess had been guilty of cruelty, and whether she had acted *bona fide*. The jury answered the former question in the affirmative, and the latter in the negative; and the learned baron dismissed the wife's petition and made a decree of judicial separation as asked by the counterclaim.

Lady Russell appealed.

LINDLEY, L.J., and LOPES, L.J., held that 'there must be danger to life, limb, or health, bodily or mental, or a reasonable apprehension of it, to constitute legal cruelty,' and that, no such danger having been proved, the earl's claim for judicial separation failed. They held however, that since the passing of the Matrimonial Causes Act, 1884, the Court was not bound to decree restitution of conjugal rights in all cases at the instance of a party who had successfully resisted a claim for judicial separation, or *vice versa*, and that in the present case neither restitution of conjugal rights nor judicial separation ought to be ordered.

RIGBY, L.J., while agreeing with the other members of the Court in all other respects, differed from them in thinking that the countess had been guilty of legal cruelty entitling her husband to a decree for judicial separation.

Appeal allowed in part, petition and counterclaim dismissed.

CONVICTS AS MEMBERS OF PARLIAMENT.

The return of John Daly for the City of Limerick is worthy of note, and will raise an interesting question of constitutional law. Daly was arrested when in possession of dynamite bombs. He was tried with J. F. Egan and others at the Warwick Assizes of 1884, convicted of treason felony, and sentenced to penal ser-