

as it rested on the charge of adultery committed before the marriage ceremony was gone through at Rochester. . . .

[Reference to remarks of Lord Kenyon in *Weedon v. Timbrell*, 5 T. R. 357; *Frank v. Carson*, 15 C. P. 135; *Davidson v. Davidson*, 1 Deane Ecc. R. 132.]

Upon the question of damages: in an action of this character a very strong case must, no doubt, be made out to justify the Court's setting aside the verdict of a jury on the ground of excessive damages, but upon that ground also I think that this verdict must be set aside, for I am unable to understand how any twelve jurymen, acting reasonably, could upon the facts of this case have reached the conclusion that plaintiff was entitled to the sum which has been awarded to him as compensation for the loss which he sustained by the wrongful act of which defendant has been guilty. . . .

[Reference to *Izard v. Izard*, 14 P. D. at p. 47.]

The amount of the damages to be awarded was, no doubt, very largely in the discretion of the jury, and the Court would not be justified in setting aside the verdict merely because its own view did not accord with that of the jury on the question of damages; but in this case, in my opinion, the damages are so out of proportion to what appears to me would have been full compensation to plaintiff, that I am forced to the conclusion that, notwithstanding the direction of the learned Judge as to the true measure of damages, and his warnings as to what were not proper matters to be considered in assessing them, they have disregarded his instructions, and have sought to punish defendant for his conduct as they viewed it, and to discourage by their verdict attempts on the part of persons wishing to throw off the yoke imposed upon them by the marriage tie, to get rid of that yoke by resorting to means not recognized by the laws of this country as proper to be taken or effectual to accomplish the end they have in view. . . .

I have not overlooked what was said by plaintiff as to his having made up his mind when he heard the rumours which he said came to his ears of the improper relations said to subsist between his wife and defendant, to abandon his wife. Standing alone and unqualified, that admission would, in the view I have taken as to the law, be fatal to plaintiff's case; but, taking his evidence altogether, that admission was qualified, and perhaps the fair result of his evidence is that, having heard these rumours, and believing his wife to have been guilty, he was forced to abandon the hope which he had before entertained that his wife would yet repent and give