

Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of the Rev. Joseph Charles Edwards v. William Moss, from the Arches Court of Canterbury, delivered February 18th, 1869.

Present :

THE ARCHBISHOP OF YORK.
LORD CHELMSFORD.
LORD WESTBURY.

THEIR Lordships have considered this case with great anxiety. They do not feel themselves under the necessity of calling on the Counsel for the Respondent. The Counsel for the Appellant has brought before them all the considerations that could be properly urged on behalf of his client.

The arguments on the part of the Appellant consisted, first, of two legal objections founded on the Church Discipline Act. The first objection was of this nature. It is said that in these articles offences of incontinency are charged to have been committed by Mr. Edwards, the Appellant, in the diocese of Lincoln, and also in the diocese of London. It was objected that these two offences could not be combined in one proceeding. It was then said that the Judgment of the Dean of the Arches proceeded upon the offences taken collectively; and that, if one of those offences ought not according to law to have been included in the articles, the Judgment was bad. Without giving any opinion upon the validity of this ground of objection to the Judgment, it appears to their Lordships that there is no room for the objection in the present case. The Church Discipline Act has provided that there may be a preliminary investigation into the offence charged by means of a Commission, and the authority to issue the Commission is given to the Bishop of the Diocese within which the offence is alleged to have been committed. The Bishop of the Diocese, where

the Clerk holds a benefice, has no authority under the Act to issue a Commission if the offence is alleged to have been committed in another diocese. This it is said gives a clue to the meaning of the Act, and that offences in the one diocese ought not to be added to offences committed in another. Now it is clear that the reason why the Act gave to the Bishop of the Diocese within which the offence is committed, even though the Clerk be beneficed in another diocese, authority to issue the Commission was this only, that it was not deemed right that the Commissioners under the authority of one Bishop should exercise that authority in the diocese of another. But the whole objection, if well founded, is totally inapplicable to the present case, because this is not a proceeding where there has been a preliminary Commission, but a proceeding by the Bishop in the first instance. The cause is instituted here under the authority and in pursuance of the 13th section, which gives the Bishop of the Diocese, where a Clerk holds a benefice, full authority to proceed at once in the first instance, without the necessity of issuing any Commission, and there is nothing in the Act of Parliament to take away from the Bishop of the Diocese, who is the natural judge of the Clerk beneficed within his diocese, the power of trying that Clerk for offences committed out of the limits of that diocese. A case was cited by the Counsel for the Appellant, amounting merely to this, that where there has been a Commission, which has limited its investigation to a particular offence, the articles afterwards exhibited cannot add to the offence inquired into by the Commission, another offence committed in another diocese that did not come within the scope of their inquiry. That case applies only where there has been a preliminary Commission, but neither the objection nor the authority cited in support of it has the least application to the present case, where the proceeding is by the Bishop in the first instance, the Bishop having sent letters of request to the provincial Court immediately on the complaint being made to him.

The next objection was of this nature : there is a limitation put by the Statute upon the time within which accusation shall be made, and the Statute enacts that the cause must be commenced within

two years from the offence alleged to have been committed. An interpretation has been given by decision as to what is the date of the commencement of a suit, and it has been found to be the time of the service of the citation. Now the citation in the present case was served on the 10th of April. The principal offence appears to have been committed on the 17th or 18th of April, but the objection was that evidence ought not to have been received of any matters or things anterior to the commencement of the two years before the service of the citation. Their Lordships are of opinion that this objection is wholly unfounded. It may be quite impossible to understand the nature of the *delictum* which is relied upon, and which is proved to have been committed within the two years, without some evidence of matters that actually occurred antecedent to the two years; as, for example, in the present case, the position of Harriet Martin in the house of the Appellant required to be shown by evidence, which goes back before the two years, but the Statute requires only that the *corpus delicti* on which the Clerk is to be judged shall be shown to have been committed within two years before the service of the citation. We think the evidence in the present case, as to the *delictum* on which this judgment must proceed, does show an offence which was committed within that period of two years. That objection, therefore, their Lordships are of opinion, also falls to the ground.

The evidence on which this prosecution is founded is chiefly the testimony of a woman of the name of Betsy Oliver, who appears to have been the principal, if not the sole female servant in the house of the present Appellant. Betsy Oliver's testimony shows a transaction of this nature. In or about the month of October, 1865, a young girl of the name of Harriet Martin came to reside in the house of the Appellant. It is stated that she came there originally with a view to become a teacher in the parish school of the Appellant. It does not appear, however, that she discharged any of the duties of such an office for more than a very few days after she came to reside with the Appellant. What capacity she afterwards filled in the house of the Appellant does not very clearly appear, but it is most distinctly proved by Betsy Oliver that

on the 17th of April, 1866, she was sent by the Appellant to summon to his house the schoolmaster of the village; that she went away leaving Harriet Martin alone in the house with the Appellant, and that on her return she went immediately upstairs to a room which was used partly as a bedroom and partly as a study by the Appellant, and she then saw the two parties in a position from which, having regard to admitted facts, it is impossible that their Lordships can derive any other conclusion than that there was a criminal connection between Harriet Martin and the Appellant.

Now, before we examine the objections to Betsy Oliver's testimony, which have been relied on by the Appellant, we must first take with us admitted facts. It is an admitted fact that when Harriet Martin left the house of the Appellant on the 20th of April, she was *enccinte*. It is an admitted fact that the Appellant placed her in some situation in London—in a house called "The Servants' Home." It is an admitted fact that he visited her at that house. It is proved by the matron of the house that he gave her money to provide necessaries for Harriet Martin. It is not a disputed fact that Harriet Martin was confined and gave birth to a child in the beginning of the month of October, 1866. It follows, therefore, that when Harriet Martin left the house of the Appellant on the 20th of April, she must have been about three months gone in the family-way. Her pregnancy, therefore, originated during the time that she was residing with the Appellant. The Appellant has produced Harriet Martin as a witness on his behalf, but there is no attempt on the part of the Appellant, or on the part of Harriet Martin, to assign the paternity of that child to any named person.

Taking these facts with us, and looking at the evidence of Betsy Oliver, it is impossible to avoid observing what strong confirmation they give to her testimony. But her testimony also receives very strong confirmation from the letters of the Appellant. Betsy Oliver, it appears, made what she saw the subject of complaint. She accordingly received from the Appellant letters of a deprecatory character, but which distinctly admit that she was justified in her feelings. The letters are remarkable, and it is desirable to refer to the peculiar

language of one of them. The Appellant, writing to Harriet Martin, apparently very shortly after the occurrence as to which she gave testimony, tells her, "I am thoroughly considerate, and what you heard and saw was enough to make you feel hurt. You no doubt thought that sin was going on. I can only tell you that it was very nearly so, and very like it, but not it in reality." He then gives an account of the place at which Harriet Martin then was. "She is at The Servants' Home, where Ann was. I saw her this morning." It is scarcely possible to obtain, in any case of this nature, a stronger confirmation of the evidence of Betsy Oliver as to the conduct of the Appellant and Harriet Martin, and the description which the Defendant himself gives of it fully warrants the conclusion that we must derive from her testimony.

The manner in which it is attempted to impeach this witness is a thing very painful to observe. It is what one would hope to find a clergyman of the Church of England incapable of doing. It appears that when Betsy Oliver was examined letters were produced to her written and signed by herself, which were used by the Defendant for the purpose of discrediting her, as showing that she had asserted different things at different times, and was now desirous of contradicting all that she had previously stated. The letters are very peculiar. One of them is in these words:—"I feel I am doing right in saying I do not wish to have anything further to say respecting the Rector of Ingoldmells"—that is, the Appellant. "I have been worked upon by other people to say what I did, and now I wish to forego all, hoping that this may save further trouble to me." Another letter, two days afterwards, is:—"I recall all I have said about the Rev. J. C. Edwards, Rector of Ingoldmells, and am sorry that I ever said anything." It will be observed that Betsy Oliver does not in these letters state that what she had previously stated was untrue. She expresses regret for having stated it, ascribes it to the influence of others, wishes that she was able to recall it. These letters were, in conformity with the rules of evidence, produced upon her cross-examination to the witness Betsy Oliver, and she was entitled, therefore, to give an explanation of the origin and meaning of those letters. The ex-

planation that she gives is a painful corroboration of our conclusion as to the guilt of the Appellant. She describes the arrival of two persons, one of the name of Rate and one of the name of Williams, at the place where she was living,—the parish, I think, of the Appellant,—and that they desired her to come to town. She was brought up to town, and taken to some lodgings at a house in Claverton Street, Pimlico, which appeared to have been obtained for her by a Mr. Williams, in concert with the Appellant. When she is there, drafts of these letters are produced to her by Rate, and she was desired and prevailed upon to copy those drafts. She copied two of them, which were taken away by Rate, and sent to Mr. Moss, who is the promoter of the suit. One of the copies written by her, and now produced, was not sent. It appears to have been a copy of the letter of the 25th January, 1867, and to have been written originally by Betsy Oliver upon a piece of paper, which was deemed not fit to send, and therefore the letter was written over again by her upon larger paper, and it was actually sent. The letter originally written, but not sent, she desired to have burnt, but it was taken away by Rate, and was on the trial produced by the Appellant. In what manner the Appellant became possessed of that letter is not stated. It is shown to have been taken away by Rate, and the next thing that we find is, that it is produced by the Appellant for the purpose of discrediting Betsy Oliver.

Now, the statement made by Betsy Oliver on her cross-examination, which must be accepted, unless proved by the Appellant to be untrue, is confirmed in every particular by the testimony of Mr. Williams. Mr. Williams is a person keeping an hotel in Arundel Street in the Strand, and it appears from his testimony, and also from that of Betsy Oliver, that Betsy Oliver became entitled to a sum of money, the proceeds of a legacy; that this sum of money found its way into the hands of this clergyman; that Betsy Oliver did not receive it, but was most anxious to receive it; that Bills of Exchange were accepted by the Appellant, of which two appear in evidence, one for a sum of £38, and one for a sum of £5 odd shillings; that these Bills of Exchange were discounted, or at least money was paid upon them by Mr. Williams, the landlord of the

hotel, and the connection of the Appellant with Mr. Williams appears to have originated in applications made to him by Williams for the payment of those sums of money. It appears that the inducement held out to Betsy Oliver to sign these letters was a representation that it was the only mode of procuring for her the repayment of the sum of money which was due to her from the Appellant. Now, these facts appear not to be brought into any doubt. We have, therefore, this clergyman receiving and applying to his own use money due to his servant, accepting Bills of Exchange for portions of the money, and then tampering with the servant through the medium of the hotel-keeper and of Rate, for the purpose of inducing the servant to recall what she had declared, representing to her that she would have her money, provided she submitted to sign those letters. It is scarcely possible, we must again observe, to find any stronger confirmation of the real transaction, as stated originally by Betsy Oliver, than this attempt, through the fear of the Appellant, to get her, by these solicitations and improper inducements, to recall her testimony, to weaken her evidence; acts, than which there cannot be a greater proof of the internal consciousness of the Appellant that she was the witness of truth.

There is some imputation on the character of Betsy Oliver, by reason of her connection with Rate. However discreditable that might have been to her, her evidence is confirmed so entirely by the facts of the case, and so substantiated by the conduct and dealing of the Appellant respecting her, that we cannot refuse to give entire credence to her original testimony that she saw the Appellant and Harriet Martin in the position which she describes; and coupling that with the admitted fact of the pregnancy of Harriet Martin, and the conduct of the Appellant subsequently to her, it would be childishness to affect for a moment that there can be any doubt whatever of the criminal connection between the Appellant and Harriet Martin.

In dwelling on the more important facts of the case, we have passed over many corroborative circumstances, but as it is desirable that there should be the utmost possible satisfaction with the conclusions of the Court, it is necessary that we should add to what has been already stated

the additional corroboration which appears from other letters of the Appellant, and also from letters of Mr. Williams addressed to the Appellant. After Harriet Martin had left the house, and on the 2nd of May, we have a letter written by the Appellant to Betsy Oliver, and it shows clearly what was his opinion of Betsy Oliver, and also his admission of the truth of her statement. He first adverts to the fact of his debt to Betsy Oliver, and gives her assurances of some time coming when it will be in his power to repay her the money. He says:—"I shall have plenty some of these days, but I cannot command them yet, and I had no idea of this delay. I am certain that I cannot send you any this week,"—that is, any money,—“and fear the next, but it will come, and you may rest assured that you will be paid as soon as my affairs are arranged.” Then, adverting to this transaction, he says:—"You may rest assured that I will take some early opportunity to settle with you, as I really feel most anxious. I have the highest opinion of your sterling character. I cannot help remarking here that Harriet used to cry, saying that you were unkind to her, and that made me to feel interested in her, and even to caress and fondle her beyond the laws of propriety; although, whatever you may think, I am free of what you told her when she went downstairs." Now, that connects itself with the testimony of Betsy Oliver with respect to the transaction of which she speaks.

There is additional testimony which should be noticed in the letter of Mr. Williams addressed and sent to the Appellant, which is dated the 16th of January, 1867, and which describes his bringing Betsy Oliver to London. He says:—"Dear Sir,—I got her to London with me after very great difficulty, but on the very distinct pledge that she was to have her money before the inquiry, so please bear this in mind; for even if you cannot find the money to pay me, my pledged promise must be kept to her. I mean, of course, the money you had of her less the £38 bill endorsed to me." Mr. Williams then expostulates with the Appellant in these words:—"During the few hours I was at Ingoldmells I heard a great deal. Your ideas about the kind feelings of the people towards you existed in your fancy.—It has, I fear, little

“reality. The magistrates have been discussing a
 “far more serious charge against you than that in-
 “volved in the loss of your living. This woman
 “must not return there for a period. The charge,
 “as far as I could learn, is that you fraudulently
 “kept this woman’s money, and substituted, or
 “rather foisted on her ignorance those worthless
 “bills, of the nature of which she was entirely
 “ignorant. How do you stand with the local
 “magistrates? I have engaged private lodgings
 “for her at Pimlico—65, Claverton Street—where
 “she will be perfectly safe, and cannot be traced.
 “I have bought Rate a pair of boots and a second-
 “hand coat. I have more fear of him than her.”

Now, passing over without notice what does not come within the scope of our present investigation,—viz., the charge of fraudulently appropriating money,—we have in this letter most important statements made by Williams to the Appellant, namely the bringing Betsy Oliver to London, the engaging private lodgings for her at Pimlico, the necessity of putting her in a place where she should be safe, and could not be traced. It appears that the Appellant sent an answer to this letter. The answer was represented by Williams to have been lost. It would have been competent to the Appellant to have stated what he mentioned in his answer to Williams. He abstains from giving any testimony either from his own mouth, or by any other means, of what was the nature of the answer which he gave to this letter. The letter was sent to him, and comes out of his custody, and the letter, as connected with the evidence of Williams, affords to that evidence strong confirmation.

Thus we have the testimony of Betsy Oliver confirmed by the conduct of the Appellant, by the letters of the Appellant, and by the testimony of Williams; and it is impossible, therefore, to refuse to give credit to her statement.

With regard to the other charge,—viz., that relating to the young person of the name of Hynam,—it is unnecessary to dwell upon it so as to make it part of the foundation of our present Judgment, although, if it be examined, there is quite enough in their Lordships’ opinion to warrant the conclusion that, at the very least, the conduct of the parties was such as to give just cause for scandal and evil

repute with regard to the Appellant. Miss Hynam appears to be a young woman for whom the Appellant took a room at the Arundel Hotel from the 8th to the 12th of January, 1867, and during the time of her being in London the Appellant occupied part of the Record Chambers in Fetter Lane, near Holborn. It appears that Miss Hynam was in the habit of passing many hours in those Chambers, which consisted of nothing more than a small bedroom, without any sitting-room, and that she was there in company with the Appellant. Their Lordships, however, repeat that their Judgment rests mainly upon the testimony of Betsy Oliver, confirmed by the conduct of the Appellant himself; and they feel it to be a case of great enormity. They do not hesitate to give their complete assent to the Judgment of the Dean of the Arches, and the sentence which he has imposed upon the Appellant.

Their Lordships feel it right that this Appeal should be dismissed, and that it ought to be dismissed with costs, and they will humbly recommend Her Majesty to make an Order accordingly.