

Violent Assault 1866

Wiltshire Summer Assizes, Crown Court, Salisbury

The plaintiff in this case was William Turner, a farmer cultivating his own land at Tisbury, and the defendant, James Alford, was the occupier of a neighbouring farm called the Chantreys. Mr Cole and Mr Bere appeared as counsel for the plaintiff and Mr Colebridge QC and Mr Lopes appeared on behalf of the defendant.

The action was brought to recover compensation for a violent assault said to have been committed upon the plaintiff by the defendant on the 11th of October last.

Mr Cole, in opening the case, said the plaintiff brought his action for what the learned counsel thought the jury would be of the opinion was a most violent and unprovoked assault committed on the plaintiff by the defendant.

The plaintiff was a farmer and the defendant was a farmer and coal dealer, both residing in Tisbury. The plaintiff was fond of field sports and it seemed that he, with some friends, was anxious to establish, if possible, a pack of harriers. The result was that a meeting of the gentlemen favourable to this was held at the Boot Inn Tisbury for the purpose of talking over the matter.



The Boot Inn Tisbury dates back to C17th

The meeting passed off very satisfactorily, and the plaintiff and some friends still remained in the room, which was the commercial room of the inn. The meeting broke up about ten o'clock and the defendant entered the room about half an hour afterwards. After asking the plaintiff to take some grog with him, which was refused, the defendant asked how the meeting had gone off. The plaintiff replied that it had gone off very well, upon which the defendant said, "Well, I'll bet a hundred to one there'll be no hunting over the Chantreys". The Chantreys was the defendant's own farm, and belonged to Lord Arundell.

The plaintiff replied to the observation that if Lord Arundell had known as much of the defendant at the time he let him the farm as he knew afterwards, he (the plaintiff) did not think the defendant would have been accepted as his lordship's tenant. The defendant replied that the thought Lord Arundell would as soon see him as the plaintiff, to which the latter replied that if that were so, it was strange that he (the defendant) should have accused his lordship of being a proud fellow, who would scarcely speak to him when they met, and who declined to give him a brace of partridges when he wanted them for his sick wife.

Some further words ensued, and the defendant, having perhaps been taking something stronger than water, got very excited, and offered to fight. The plaintiff took no notice of this, but was sitting quietly in his chair when, without the slightest provocation of any kind, the defendant rushed at him and gave him a most tremendous blow on the cheek. The blow cut Mr Turner's cheek to the bone dividing one of the arteries of the cheek. Anything more unprovoked, more unmanly or un-English the learned counsel never heard in his life.

The plaintiff was severely injured; he was attended by Dr Zinzan for six days; he was confined to his bed for three days; and it was for this assault that the present action was brought, though if the defendant would apologise and pay the plaintiff's costs the latter, even at this stage, would be quite willing to withdraw it.

James Turner, the plaintiff was then called. He deposed that he was a farmer, farming his own land at Tisbury, and the defendant was also a farmer, farming the Chantreys, under Lord Arundell, also at Tisbury. In October last witness was desirous of establishing a pack of harriers and for that purpose held a meeting with his brother and some friends in the commercial room of the Boot Inn Tisbury. The meeting was over about half past ten o'clock in the evening, and the witness, Mr Leone, and Mr Coombs still remained in the room.

Some time afterwards, the defendant came in and offered witness some grog, which the latter civilly declined. After this defendant asked how the meeting passed off, and witness replied, "Very well". The defendant then said in an insulting manner, "Well, I'll bet a hundred to one that there's no hunting allowed over Chantreys". To this witness replied that if Lord Arundell had known as much of the defendant when he let him the farm as he knew at the time of this interview, he would have never let him the farm.

The defendant replied, "Well, I think Lord Arundell would quite as like see me as you". Witness said, "If so, it's a wonder you should have said to my brother Henry, 'what a proud fellow Lord Arundell is. He would scarcely speak to me when I met him' and you told Abel Coombs how disappointed you were when you made up to Lord Arundell to try to get some partridges when your wife was ill". The defendant replied that if his wife were ill, that was his misfortune, and he then struck out at plaintiff while the latter was sitting in a chair. He struck plaintiff in the cheek, half stupefying him and covering him with blood. He solemnly swore he still felt the effects of the blow.

Cross-examined by Mr Coleridge - I hope you are better? I am glad to see you here. (laughter). Dr Zinzan, the plaintiff said, attended his six days, omitting one day towards the last. - Did you do nothing towards him? No. - Was there no mitigating poker? (laughter). Well, there was a poker. When I recovered, believing that I had been stabbed. - Stabbed? Yes, stabbed. I believe it now - cut in the face - I thought it was quite time to see about defending my life. Then I took up the poker with the intention of defending my life. I did not use it. He ran away at the instigation of one of the witnesses, who advised him to run away. - Mr Coleridge: He took an opinion? (laughter). Yes.

Are you a relation of his. Yes; a cousin. - You take different sides on those sort of things that men call politics, I believe? I am a Conservative, sir, and I am not ashamed to own it. - Mr Coleridge: Oh, you need not be ashamed; you are in power now,

you know. (laughter). Is the defendant a Liberal? I call him a Radical, and you being - as you are not ashamed to say - a Conservative. Had there been any blood between you? Not in connection with electioneering matters.

Well, in connection with what? A few days before this happened I was coming home across the fields and I met the defendant. I was not aware that there was any existing soreness, and I nodded in a friendly way, but he averted his head, and would not recognise me at all. - You are a man of peace, I suppose? I don't often insult people when they let me alone. - Well, do people let you alone or the reverse? Well, the defendant has very grossly and unjustifiably insulted me. - How old are you? In my 45th year.

Do you remember something about Mr Morrison's keeper? That was when I was young, 15 or 20 years' ago. - Did you threaten to shoot him? I did not. Perhaps you would like to have the true complexion of this matter; I have a letter in my pocket about it from a county magistrate. I thought I might be asked about it. - But did you threaten to shoot him? No, certainly not. - Did he say you did? He summoned me for an assault. - Who is Mr Lush? He is an assistant overseer. - did he insult you? Yes. - How long since? Well, the affair you allude to occurred in 1853. - Did you draw a knife upon him? Certainly not. - What was it you drew, a poker? When I say I didn't draw a knife, I mean to say that I had in my possession some tittle deeds, and I made an offer to deposit them in the vicarage until the rightful owner turned up. Mr Lush and a pack of men ran after to take from me the deeds which I considered were in my sacred custody. - Did you draw a "profane" knife upon him? (laughter).

Well, I said if you don't let go these parchments I shall cut your fingers. - Did you cut the overseer's fingers? Certainly not. - Did he have you up? Yes. - Do you know Mr Bracher? Yes. - Are you bound over to keep the peace towards him? I am. - And he insulted you too? No,; he is a farmer's son. The magistrates fined him, and bound both me and him over. - There is a man of the name of Tabor. Has he insulted you too? He and I had a dispute some 15 or 20 years go. - Then Bracher's is the most recent occasion? Yes.

Did not tell the defendant say when he entered the room that the (plaintiff) was going to see Lord Arundell about the hunting over the Chantreys. The defendant did not say "Well, somebody else may see Lord Arundell about the matter, and his lordship will perhaps listen to such a fellow as you, for you misrepresented him at the last election." Nothing of the sort. Did not say "It's all very well for you to say you stand well with Lord Arundell, but you know you could not get a brace of partridges out of him the other day when you pretended that your wife was ill." Said nothing about it, except in the general way which he had already described. Defendant did not say it was a lie, nor did he (the plaintiff) reply that it was not.

Did you go on to tell the defendant that he was the biggest poacher on the Arundell estate? After some hesitation the plaintiff replied, "I believe." - "No", said the learned counsel, "you must remember that. That was before you were stupefied." Well, I don't remember saying anything of the sort. - I am sorry I can't take your recollection. Now come? Well, I won't swear that I didn't; I have no reason for saying such a thing. - Come, you did say though? Come now. Did he say he would make a note of it, and did you reply that you didn't care a if he did? Certainly not. - Did he proceed to take his coat off? I don't believe he did. - Did he say you have called me a liar, and we will settle this on the spot? I didn't call him a liar, nothing of the sort. - Did you say when he struck you, you would pay him for it, and go round the table to take up the poker? Certainly not; I was unconscious.

How came you to say that if Lord Arundell knew as much of him when he let him the farm as he did afterwards, his lordship would not have accepted him as a tenant? Because I knew that Lord Arundell was a thorough Conservative and thought he would have Conservative tenants. - Did you think that was annoying to him? I considered that was nothing but a fair retort upon him for coming in and interrupting us, and coming to upset our little scheme. - But you said he was not intruding? I said that to avoid a dispute. - Did you expect a dispute then? Yes. I spoke in a conciliatory manner. - And you carried that on throughout? I leave you to judge. I swear my object was to avoid unpleasantness.

Then this blow must have taken you by surprise? It did, and surprised others in the room, who said they should have tried to prevent it if they had known what was coming. - Well, notwithstanding what was said about Lord Arundell, did he offer to refer the whole matter in dispute between you to Lord Arundell? He did, after the writ was issued. I said, "If you will pay my doctor's bill and make an apology, Lord Arundell shall say what sum you shall pay to the Salisbury Infirmary". - Oh, merely to assess the damages? Yes. Mr Locke was offered, too. I named three county magistrates, but he objected to them.

Re-examined by Mr Cole. - The dispute with Mr Morrison's gamekeeper was 20 years ago. I had a valuable pack of harriers shot, and I suspected the keeper. We had a dispute about it. Although there was the chaff with the defendant in the room, I did nothing to provoke the assault, and I was sitting in my chair at the time he struck me the violent blow.

George Leone, a veterinary surgeon, deposed that he attended the meeting at the Boot Inn. It was a private meeting, and broke up about ten o'clock. It was raining very fastly, and witness, Mr Coombs, and the plaintiff remained there. The defendant came in about half-past ten o'clock. The witness deposed to the conversation and the assault, as spoken of by the plaintiff. He did not consider that the plaintiff had done anything to provoke the assault. The plaintiff bled considerably. After the assault the defendant remained in the room some little time, when he took the advice of Mr Daniel Coombs, who said, "Jim, I think you had better hook it." (Laughter) He did hook it. The plainiff was sitting in his chair at the time he was struck. When the plaintiff took up the poke, the defendant was leaving the room.

Cross-examined by Mr Colebride - Witness would not have been offended at what plaintiff said. The words uttered by the plaintiff about Lord Arundell might have been provoking to the defendant; some persons might have been "riled" at them. He could not say whether or not they were intended to be offensive. He heard Mr Turner make use of the words, "You are the greatest poacher on the Arundell estate". The defendant seemed a little annoyed at the remarks about his sick wife. The words about Lord Arundell knowing as much about him at the time he let him the farm as he did, afterwards seemed as if they were intended to be provoking.

The remarks about being the greatest poacher on the Arundell estate were said in a provoking manner. They were both provoking; the defendant took his coat off before he struck the plaintiff, and he said, "I'm a match for you either mentally or physically, and we'll settle this on the spot." He only struck the plaintiff one blow.

Robert V Zinzan deposed that he attended the plaintiff on the morning after the assault. He found him in a very weak state, suffering from great debility and a feeble pulse, caused by a division of an artery on the left cheek. From his appearance he seemed to have lost a good deal of blood. He kept plaintiff in bed three days, considering that necessary from the state in which he found him. There was a great deal of blood on the clothes. He attended the plaintiff for a week.

Cross-examined - He prescribed saline medicines and slight stimulants, such as mutton broth and sherry wine, perhaps. He found those succeed.

Mr Cole then again addressed the Court, contending that the case was really undefended.

Mr Coleridge, in addressing the Court on behalf of the defendant, urged that there had been a good deal of exaggeration in the way in which the plaintiff's case had been presented to the Court. There seemed to have been some political disputes between the parties; and why upon earth people could not fight their political battles in good humour, and without leaving ill-blood afterwards, he really could not understand. The observation which the plaintiff made to the defendant, that he was the biggest poacher on Lord Arundell's estate, was most offensive, especially to a person who was not so.

The defendant, who was a decent tenant of Lord Arundell's, was insulted by the plaintiff, and for no earthly reason that the learned counsel could make out. Then, according to the plaintiff's own account, he told the defendant that he could not get even a brace of partridges from Lord Arundell when he wanted them for his sick wife. It was perfectly plain that nothing could have justified that, and nothing had been said to account for it. There was no question in the world that the defendant struck the plaintiff, and there was no doubt it was a harder blow and did the plaintiff more damage than the defendant intended.

Having referred to the squabbles in which, according to his own admission, the plaintiff had been previously concerned, the learned counsel said it was quite true that Turner did not strike the defendant, but he provoked the latter beyond the possibility of endurance. The defendant did not make an apology, because to this hour he was not sorry for what he did; the probability was that he felt he had done a wrong thing. Very likely, but he had done it under circumstances in which, as a man of manly feelings, he could not help feeling that persons would sympathise with him. He had taken the law into his hands, and for that, no doubt, he must be responsible; but the question was, whether the plaintiff, by what he had done, had not brought it upon himself, and, provoked Mr Alford to strike the blow, which, no doubt, was a severe one. Perhaps the jury would say that an uncommonly small coin of Her Majesty's currency would compensate Mr Turner for all the damage he had sustained in the quarrel.

His Lordship, in summing up the case for the jury, said there could be no doubt whatever about the law, that the blow given by the defendant was an assault, and the plaintiff was entitled to some damages. The question of damages depended first of all upon the physical pain, suffering and inconvenience of the plaintiff, and his lordship did not think the jury would estimate that very highly, for it did not appear to have been more than either the plaintiff or any of the jury would have incurred as a matter of sport and have thought nothing of it. Then there was a question as to what the plaintiff was entitled to for the insult, because it was undoubtedly an insult to be struck in the manner in the presence of friends. Provoking words would not make it justifiable in point of law; but the amount of damages would depend upon what the jury thought the matter of provocation. His lordship suggested that what took place between the parties on the evening in question was not the whole of what had occurred between them, but rather an old grievance. The 'raw' had been established, and the plaintiff used the words to the defendant, meaning to provoke him.

The jury, after a short consultation, returned a verdict for the plaintiff, damages 5/. This verdict did not carry costs without a certificate from the learned judge, which his lordship declined to give.

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