

MUDD v. CLEMENTS.

[3 Cranch, C. C. 3.]¹

Circuit Court, District of Columbia. Dec, 1826.

SEDUCTION—ACTION BY FATHER—LOSS OF
SERVICE—UNDER PROMISE OF
MARRIAGE—EVIDENCE—FORM OF ACTION.

1. In an action upon the case for seduction of the plaintiff's daughter, per quod servitium amisit, the plaintiff may give evidence that the defendant promised to marry the daughter, as a means of the seduction.
2. An action upon the case will lie for seduction of the plaintiff's daughter, whereby he lost her service.

Action upon the case for seducing plaintiff's daughter, whereby he lost her service. Damages laid at \$2,000.

Mr. Lear, for plaintiff, offered to prove a promise of marriage as the means of seduction.

The defendant's counsel, Mr. Marbury, objected, and cited 2 Phil. Ev. 159; *Tullidge v. Wade*, 3 Wils. 18; *Dodd v. Norris*, 3 Camp. 519, and *Foster v. Scoffield*, 1 Johns. 297.

But THE COURT, (nem. con.) permitted the evidence to be given for the purpose of showing the means by which the defendant accomplished the seduction; and the defendant took a bill of exceptions. See *Starkie*, Ev. pt. 4, pp. 1309, 1310; *Peake*, Ev. 355; and *Elliott v. Nicklin*, 5 Price, 641.

The defendant's counsel then prayed the court to instruct the jury that this action upon the case would not lie, and that the action had been misconceived.

But THE COURT (nem. con.) refused, saying that they might move it in arrest of judgment, if it were a substantial objection. See 1 Chit. Pl. 138; 2 Chit. Pl. 265, 271, 315, 422; 3 *Starkie*, Ev. (Am. Ed.) 1307, 1308, note 1; *Bennett v. Allcott*, 2 Term R.

167; Woodward v. Walton, 2 Bos. & P. N. R. 476; Macfadzen v. Olivant, 6 East, 387; Parker v. Elliotte. Gilmer, 33. 6 Munf. 587.

The defendant took his second bill of exceptions.

Verdict for plaintiff \$2,000. There was no motion made in arrest of judgment, nor any writ of error issued.

¹ [Reported by Hon. William Cranch, Chief Judge.]

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