

**REPORT OF THE TRIAL OF THE CAUSE CAREW
AGAINST BURRELL, BT. AND ANOTHER,
EXECUTORS OF THE LATE EARL OF
EGREMONT: AT THE
SUSSEX SPRING ASSIZES, HELD AT LEWES, ON
WEDNESDAY, MARCH 18TH, 1840, BEFORE MR.
JUSTICE LITTLEDALE AND A SPECIAL JURY**

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Report of the Trial of the Cause Carew against Burrell, Bt. And Another, Executors of the Late Earl of Egremont: At the Sussex Spring Assizes, Held at Lewes, on Wednesday, March 18th, 1840, before Mr. Justice Littledale and a Special Jury by Various

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VARIOUS

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OF THE CAUSE
CAREW AGAINST BURRELL, Bt. AND ANOTHER
EXECUTORS OF THE
LATE EARL OF EGREMONT:
AT THE SUSSEX SPRING ASSIZES,
HELD AT LEWES,
ON WEDNESDAY, MARCH 18TH. 1840,
BEFORE
MR. JUSTICE LITTLEDALE,
AND
A SPECIAL JURY;
TAKEN IN SHORT HAND BY MR. COOKE.

LONDON:
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In the Common Pleas.

BETWEEN

JOHN EDWARD CAREW, . . . *Plaintiff,*

AND

SIR CHARLES MERRIK BURRELL, Bart.
and GEORGE WYNDHAM, Esq. Executors
of the late Right Honourable George Obrien
Earl of Egremont, deceased . . . *Defendants.*

COUNSEL FOR THE PLAINTIFF.

Mr. Thesiger, Mr. Serjeant Channell, Mr. Peacock.

SOLICITORS.

Messrs. Bolton and Merriman, Austin Friars.

COUNSEL FOR THE DEFENDANTS.

*Sir W. W. Follett, Mr. Platt, Mr. Petersdorff,
Sir Walter Riddell, Bart.*

SOLICITOR.

Charles Murray, Petworth.

AGENTS.

Messrs. Murrays, Rymer and Murray, Chancery Lane.

The following Gentlemen were sworn upon the Jury.

CHARLES GROOM, ESQ.	GEORGE JOHN GIBSON, ESQ.
C. R. SPERLING, ESQ.	CHARLES CHALLEN, ESQ.
THOMAS DICKER, ESQ.	JOSEPH KING, ESQ.
BARLOW SIDNEY, ESQ.	FREDERICK WEEKES, ESQ.
RICHARD WEEKS, ESQ.	THOMAS BLAKER, ESQ.
WILLIAM HUGHES, ESQ.	MR. WILLIAM MILLS.

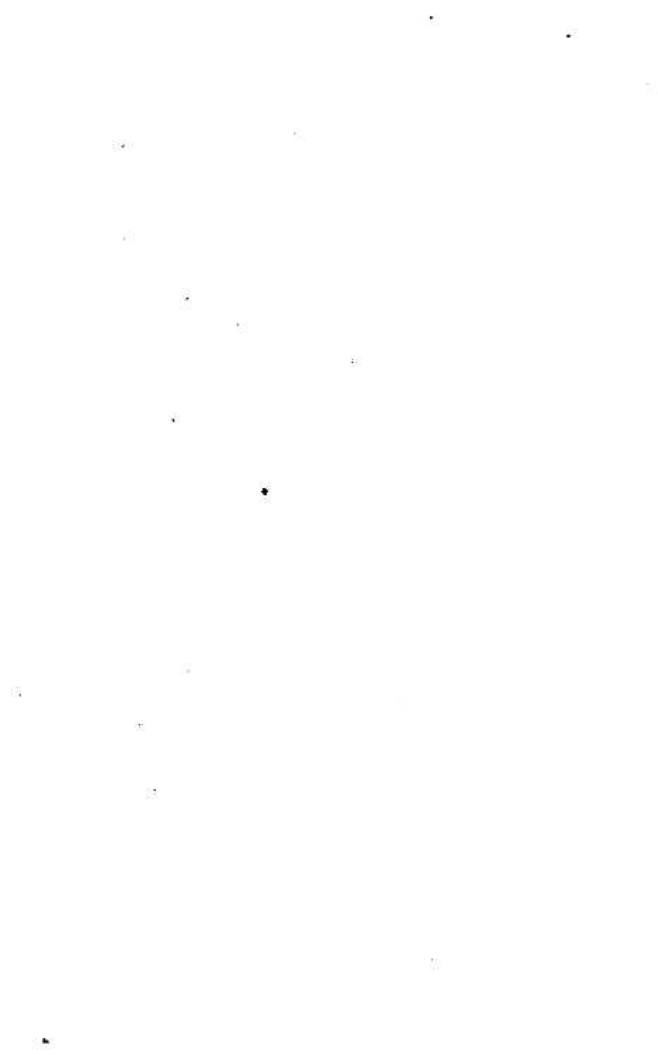


The various reports and statements which have been circulated relative to the claims made on the estate of the late Earl of Egremont by Mr. John Edward Carew having excited considerable interest, his Lordship's executors consider it a duty they owe, not only to the memory of the late Earl, but to themselves, to print for private distribution, a complete copy of the short-hand writer's notes of the trial which took place at Lewes on the 18th of March last.

The Executors take this opportunity of returning their acknowledgements for the facilities afforded to their Solicitors, by the Officers of the Bank of England, in the inspection of the large number of Bank notes, which it became necessary to trace to the hands of Mr. Carew.

They also feel much indebted to Sir Wm. P. Call, Bart. and Co., to Messrs. Masterman and Co., and to Messrs. Goslings and Sharpe, Bankers of London, and to Messrs. Wigney's, Bankers of Brighton, for the assistance rendered by them, in tracing such notes; and for the readiness with which, at personal inconvenience to themselves, they permitted the attendance of their Clerks at the Assizes, for the purpose of proving the facts connected with that part of the Defendant's case.

To every other individual, who by information or otherwise, has in any manner contributed towards defeating the unfounded claims of Mr. Carew, the Executors return their best thanks.



REPORT OF THE TRIAL.

THE PLAINTIFF'S CASE.

Mr. Peacock opened the Pleadings, which were as follow :—

THE DECLARATION STATED,

That the Earl of Egremont, in his lifetime, to wit, on the First day of November in the Year of Our Lord, one thousand eight hundred and thirty-seven, was indebted to the Plaintiff, in THIRTY THOUSAND POUNDS for the price and value of goods sold and delivered by the Plaintiff to the said Earl at his request, and in THIRTY THOUSAND POUNDS for the price and value of work then done, and materials for the same, provided by the Plaintiff for the said Earl at his request, and in TWENTY THOUSAND POUNDS for money paid by the Plaintiff for the use of the said Earl at his request, and in FIFTY THOUSAND POUNDS for money found to be due from the said Earl to the Plaintiff, on an account then stated between them. And thereupon the said Earl, in his lifetime afterwards, to wit, on the day and year aforesaid, in consideration of the premises respectively, then promised the Plaintiff to pay him the said several monies respectively on request, yet the said Earl in his lifetime, and the Defendants as Executors as aforesaid, since the death of the said Earl respectively, have disregarded the said promises of the said Earl, and have not, nor hath either of them, paid any of the said monies or any part thereof, to the Plaintiff's damage of FIFTY THOUSAND POUNDS.

THE DEFENDANTS PLEADED :

FIRST. That the said Earl in his lifetime did not promise in manner and form as the Plaintiff above thereof complained, and of this they put themselves upon the country.

SECONDLY. That after making the promise in the declaration mentioned, and before the commencement of this suit, to

wit, on the first day of November 1837, the said Earl in his lifetime, paid to the Plaintiff a large sum of money, to wit the sum of SIXTY THOUSAND POUNDS, in full satisfaction and discharge of the promise in the said declaration mentioned, and also of all damages sustained by the Plaintiff, by reason of the non-performance of such promise, and which said sum the Plaintiff then received of and from the said Earl in his lifetime in full satisfaction of the said promise and damage, and this the Defendants as Executors were ready to verify.

THE PLAINTIFF joined issue upon the first plea. And as to the plea of the Defendants by them lastly above pleaded, the plaintiff REPLIED, that the said Earl did not pay, nor did the Plaintiff accept or receive the said sum of money in the said last plea in that behalf mentioned, in manner and form as is therein alleged. AND THEREUPON ISSUE WAS JOINED.

Mr. Thesiger then rose, and spoke as follows; May it please your Lordship; Gentlemen of the Jury. I rise to perform my duty on the part of the Plaintiff, Mr. Carew, with more than ordinary anxiety, because, it is not too much to say, that upon the result of this enquiry his future prospects in life must mainly depend. It is a case, Gentlemen, as you may well conceive of very considerable importance, which is, indeed, indicated by the Defendants themselves having thought it right to secure the advantage of the services of my learned and distinguished friend, Sir William Follett, whose ability and whose zeal as an advocate are too well known to require my testimony in their favor, and which services will be brought to bear against this claim, which, as I have already said, is of such vital importance to my Client. And in the statement of circumstances, which I shall have to make to you, you will very readily perceive that the case, which he has to present, is one which is incumbered with legal difficulties, whatever moral claim he may have upon the Defendants. I am not however apprehensive as to our success, for I trust that when all the facts are considered, and when all the

evidence, which we have to offer, is brought to bear on the claim, we shall be enabled to establish it, if not to the fullest extent, at least to a very considerable amount.

Gentlemen, Mr. Carew, the Plaintiff, is a Sculptor of very considerable eminence in his profession, and although, from circumstances connected with this Cause, he has been in some degree removed from the honorable emulation of his professional career, he has executed works which will bear his name with honor to posterity. He is the father of a numerous family, once his pride, now his misfortune. In the year 1823, he was assisting Sir Richard Westmacott, whose name must be familiar to all of us, and he was deriving very considerable emolument, to the extent of at least £1500 or £1800 a year, in that employ. He had besides, a Studio of his own, and his own professional practice realized at least £800 a year. Those were the favorable circumstances in which he stood in the year 1823, when he was first introduced to the late Earl of Egremont, and from that introduction has arisen all the difficulty of the position, in which the Plaintiff is now unfortunately placed.

Gentlemen, I beg, that if in the course of the remarks I have to make in this case, I should happen to say any thing in the slightest degree disrespectful to the Nobleman I have mentioned, it may be attributed entirely to myself, and that it may be considered to arise from inadvertence. The Plaintiff, whom I represent, loved and honored the late Earl while he lived, he deeply lamented his death, he never will cease to revere his memory; but I think, I must say that it was in an evil hour, that the Plaintiff first listened to the solicitations of the late Lord Egremont to quit the employment in which he had so advantageously engaged; to quit, as it were, the high road of his profession, and all the prospects of fame and emolument, which it held out to him, and to devote exclusively his talents to his Lordship's service; because although he has enjoyed for fourteen years the sunshine of his Lordship's favor and countenance, yet now, at the