

The ultimate tribunal was the Archbishop in respect to the expulsion of a Sister, Mr. Tilley said, reading further from the rules of the Order. The course of conduct prescribed in the rules had never been carried out. Sister Basil could not be expelled by the Community itself, but only upon the sanction of the Archbishop.

Mr. Tilley held Police Constable Naylon responsible for keeping Sister Basil out in an automobile for three hours and causing her much distress. Mr. Tilley claimed that Naylon was really Dr. Phelan's man. The doctor was asking part in an act he knew to be improper. He held that the Archbishop should not be distinguished from the Episcopal Corporation. The two should not be separated. Then the Sisters of Charity were directly responsible. Each Sister entering paid \$300 and had a fund for life for performance of charitable work.

Mr. Tilley asked the jury to award damages for these reasons: The plaintiff was forty-six years of age, she had never been out in the world since she was sixteen years of age; she was not equipped to battle with the world; she was depending entirely on this litigation for her future welfare. "Is she to be deprived of this livelihood and to battle with the world in the ordinary way, or to be given a sum of money to keep her so she will be comfortable and safe and able to develop her religious life and do works of charity?" asked Mr. Tilley. "You have under consideration one of the most outrageous wrongs ever perpetrated in Canada. If some of the Order's money is taken and given to Sister Basil it is not going to be less devoted to the purposes for which the corporation holds it."

Mr. McCarthy resented the accusation against Sister Mary Alice, and offered to put her in the witness box. The reason why he had not called her as a witness was to shorten the trial. Sister Mary Alice was prepared to swear unreservedly that she knew nothing whatever of any plan to give dope to the plaintiff. Mr. Tilley expressed himself as satisfied with the explanation.

Judge's Charge to the Jury.

Justice Britton occupied half an hour in charging the jury. He was glad to know that the law here, so far as he knew it and believed it, was impartially delivered. He was led to make this remark because of some demonstrations that occurred in the court room during the trial, and they were demonstrations that were perhaps calculated to affect the conclusions to be reached in the case. His Lordship was grateful to the counsel of both sides for their help in framing the questions. The verdict was not to be one for the plaintiff or the defendant, but the court would enter the verdict according to the answers. The fact that counsel had agreed upon the questions relieved His Lordship considerably, as he had prepared a set of questions himself.

His Lordship said that it would appear that Sister Basil during the later years of her long service in Orders had become a little irritable, and at times she lost her temper. That was the most charitable construction. It appeared that Mother Regis had treated Sister Basil's report with scant courtesy. Anyone who aided or abetted the originators of the alleged abduction were liable. To be guilty of an assault it was necessary to be present. It was his opinion, as a matter of law, that the defendants at the Belleville institution were not liable in this action for what occurred up there.

The plaintiff was a clever woman, and she might have been exceedingly useful in her calling. It was for the jury to say if it was designed to wipe her out entirely or if she was being transferred for her own good. Did Dr. Phelan know what was in contemplation for Sister Basil? If he did not do anything to bring himself into agreement with the other defendants to send Sister Basil to Montreal, then he would not be responsible.

His Lordship explained that a conspiracy is a thing to do an unlawful thing or do an unlawful act by unlawful means. What was the unlawful act? Was it to take the plaintiff to Montreal or to wear her out by not giving her work in the house?

The chief wrong done in this case appeared to be the assault. "How can you fix damages when the loss is not yet sustained?" asked his Lordship. No bones were broken, no skin was cut. A wrong was done, however, and the plaintiff was entitled to recover for that. His Lordship explained that the jury could give what were termed "vindictive damages," but to do this the whole position must be looked at and decided if such damages were to be given.

Some Questions for the Jury.

Before addressing the jury in the evening, Mr. McCarthy said that counsel on both sides had agreed on certain questions to be submitted to the jury. The questions and the answers given are as follows:

1. For what purpose was the plaintiff being taken from Kingston to Montreal? Answer—To place her in an insane asylum.
2. Which, if any, of the defendants authorized the removal? Answer—M. J. Spratt, the Roman Catholic Episcopal Corporation of the diocese of Kingston, Mary Francis Regis, the Sisters of Charity of the House of Providence, Mary Vincent, Mary Magdalene and Mary Alice.
3. Was there any justification or excuse for such removal? Answer—No.
4. If so, what was the justification or excuse? Answer—None.
5. Was the defendant, Dr. Phelan, responsible in any way for the removal of the defendant? Answer—Yes.
6. If so, in what way did he make himself responsible? Answer—As an accomplice by issuing the alleged authority and arranging with the Chief of Police to have Constable Naylon on hand when the time came for the removal of the plaintiff to an asylum.
7. Did the defendant, Constable Naylon, at the time he entered the plaintiff's room, have reasonable ground to believe her insane, and did he have grounds later for believing plaintiff was sane. If so, when? Answer—To the first question, yes; to the second question, yes; to the third question, after she quieted down in her room on the promise of being allowed to see Father Mea.
8. How do you assess damages? Answer—\$20,000 on those mentioned in question 2; \$4,000 on Dr. Phelan; on Constable Naylon, nil.

Verdict Given for \$24,000.

Sister Mary Basil was awarded \$24,000 by the jury. Of this amount the Archbishop, the Roman Catholic Corporation, Mother Superior Francis Regis and the Sisters of Charity are to pay \$20,000, and Dr. Daniel Phelan \$4,000. The other defendant, Policeman Naylon, was assessed nothing. The jury after being out for two hours and three-quarters, brought in their finding at 11.45 Saturday night. The City Hall was unable to hold all who remained for the final proceedings. When the foreman of the jury, Mr. A. E. Weller, announced their finding the audience applauded vigorously for several seconds. Immediately after court was adjourned throngs of people gathered around the victorious and happy plaintiff and warmly congratulated her. Her lawyers, Mr. W. N. Tilley, K.C., Toronto, and Lieut.-Col. A. B. Cunningham, Kingston, also received many congratulations.