

misdirection in telling the jury that the fact of menstruation after the 16th January was fairly conclusive testimony that the girl was not then impregnated. Menstruation after impregnation may perhaps be assumed to be an unusual occurrence; although in the absence of medical evidence it is hardly right for the Court to go that far. In Taylor on Medical Jurisprudence, ed. of 1897, p. 511, it is said to happen, and caution is advised against forming an opinion. Such a direction to the jury was calculated to impress the jury very strongly in favour of the truth of the girl's story as to the date upon which, from the fact that the Chairman has reserved the case, we must infer that a good deal may have turned, having regard to her other evidence, which has not been stated to or brought before this Court. There may have been corroboration of the girl's evidence, but it is not before the Court, and on this important incident the jury were practically told to find against the prisoner, and, that being so, there has been a substantial wrong or miscarriage at the trial within the cases under sec. 746 (f) of the Criminal Code or analogous provisions: *Bray v. Ford*, [1896] A. C. 44; *Attorney-General v. Makins*, [1894] A. C. 57, 69. The offence in question was not one at common law, and was only cognizable in Ecclesiastical Courts.

ARMOUR, C.J.O., MACLENNAN and MOSS, JJ.A., concurred.

New trial directed under sec. 746 (B) of the Code.

APRIL 11TH, 1902.

C. A.

FOWLIE v. OCEAN ACCIDENT AND GUARANTEE CO.

*Accident Insurance—“Accidental” Death—Onus of Proof—Finding of Jury—Notice and Particulars of Death—What Sufficient—Waiver—R. S. O. ch. 203, sec. 152.*

Appeal by defendants from judgment of BOYD, C., entered for plaintiff upon verdict of a jury. The action was to recover upon an accident policy insuring against “accidental bodily injury caused by violent external and visible means.” The contract was qualified by R. S. O. ch. 203, sec. 152. The deceased was last seen alive at Gravenhurst on 3rd June, 1898, after getting off a north bound train. He was next seen lying on the railway track at Severn Bridge, 8 miles south of Gravenhurst, about 4 the following