

DAMAGES REDUCED IN BREACH OF PROMISE CASE FROM NANTON

Counsel for Respondent in Collard Armstrong Case is Willing to Waive Claim to \$14,000 of the Damages Which Were Awarded by Jury.

COUNSEL ATTACKS PRESS CHIEF JUSTICE DEFENDS

Appeal Goes On; Though Damages Are Much Reduced and Counsel for Defendant Asks for New Trial; Evidence Wrongfully Taken at Trial.

THE appeal in the Collard-Armstrong breach of promise case, noted for the fact that it was the first of its kind in Alberta, was opened in the supreme court at base yesterday. The first few minutes of the appeal, which promises to be a long and open affair, were the only moments of real interest, and in that time the court showed itself adverse to going on with the case, while at the same time, on the suggestion thrown out to the counsel for the injured lady, they agreed to abandon the claim to greater damages than \$6,000 and costs. The jury at the hearing awarded the sum of \$20,000, hearing awarded the sum of \$20,000, which was, in the opinion of most people, unusually large for such a case.

A. A. McGillivray, who appeared in support of the appeal, refused to withdraw, though the damages were apparently reduced, and he proceeded to argue that for reasons of improper evidence in the way of letters and character evidence there should be a new trial. He was still in the midst of his argument at the close of the hearing and the case will be resumed again this morning.

Chief Justice Defends Press. Mr. McGillivray also tried to throw some of the blame for his non-success at the previous trial on the press, saying that the verdict was a sentimental one and had been induced by the press, the minds of the jurors having been prejudiced by the reports of the case appearing in the public press. The one answer to this line of argument, so often indulged in by counsel was given aptly by the chief justice, who said the minds of the jury were affected in the same way by the evidence as the press. The same tale had brought the double result.

A. A. McGillivray appeared for Martin Armstrong, the appellant, and for the respondent the counsel are George H. Ross, K.C., and J. M. Carson. At the outset there was shown from the bench a desire not to go on with the case and the long time which it would involve, there being over 800 pages of evidence being apparently wasted. Mr. McGillivray was asked if a reduction in the damages would not suit him, but though that was one of the pleas entered in the case for the appeal, he said that on other grounds he would desire to go on. Mr. Ross was asked what reduction in the damages he would consider proper if the case were being rested. After consultation with his colleague, he intimated that he was prepared to waive the claim to \$14,000 of the sum awarded, thus leaving the sum of \$6,000 with costs.

Story of the Case. Martin Armstrong, who is the defendant and appellant in the action, is a wealthy rancher at Nanton. The woman in question is named Collard and is from the old country. It was stated that the man had made two distinct promises of marriage to the girl, one in December, 1911, and the other in June, 1912. He had seduced the girl on both occasions and she was with child as the result. The case was tried before Mr. Justice Simmons with a jury and the sum of \$20,000 awarded to the girl. Two weeks later she was married to a Mr. Lewis in Calgary and is now living with him as his wife. A child has been born since then. In the trial hearing P. H. Nolan appeared for the prosecution, and this was the last case in which he was heard, as he died shortly afterwards.

Appellant Asks Costs. Immediately after Mr. Ross had surrendered the large slice of the damages Mr. McGillivray asked that the respondents should be asked to pay the costs of the appeal on the ground that one of the grounds of the appeal, the costs being excessive, had been sustained. The opinion of the bench, however, was not with him on this matter, and it was stated that only if he stopped, there would be the costs to be allowed. If he took up other matters of appeal and used the appeal book he would have to pay his costs.

Mr. McGillivray then started on his address. He said it was a most unusual case, as it had been tried by the newspapers. The verdict was a sentimental one and had been induced by the press.

The chief justice, however, remarked that the jury had most probably been affected in the same way as the press and the same facts had led to the double result.

Mr. Justice Scott asked if there was not a photograph of the girl shown in the case.

Chief Justice Harvey: "No; we have that protection."

Mr. McGillivray said there was none, but it was conceded that she was very beautiful.

Mr. McGillivray then said he made the appeal on other grounds, which he held were sound in law. After relating the facts of the case, which of course he denied, he said that the court must not speculate on what would have happened if the trial had been gone on with along other lines. If they found something wrong they had but to order a new trial. He said that he would try to make a misconception of evidence and a wrongful address to the jury.

Objection to Letters. First of all, objection was taken to the inclusion of some letters in the evidence which were written nearly a year before the event complained of. Judge Beck suggested that as they were Old Country people they took longer to get along in such suits. Chief Justice Harvey said the letters were quite permissible as leading up to the proposal of marriage by a growing intimacy.

Mr. McGillivray said the letters were

those of an egotistical man, who called himself by the name of the Great Mart, and they were written in a secular manner. The bench, however, seemed to think that the evidence was quite permissible.

Objection was then taken to character evidence, Mr. McGillivray quoting to show that only as contradictory evidence could such be entered in a case of the kind. Their lordships appeared to be of the opinion that the evidence was not produced primarily as character evidence, and only was that of a secondary nature. In other instances the attorneys had not raised objection at the proper time.

The case will be resumed this morning, but it is not expected that it will be concluded today.

REAL ESTATE APPEAL IS HEARD IN COURT

Judgment was reserved in the appeal in the case of David A. Campbell vs. John Munroe, Emily Hallett and Ernest Nicholas yesterday morning. The action was one for specific performance by the plaintiff who was the assignee of a contract entered into between one Nicholas and the defendant Hallett and the defendant Munroe as guarantor. The agreement was entered into on February 20, 1907. This agreement was assigned by the plaintiff February 23, 1911, after certain payments had been made and the action brought for specific performance. W. H. McLaws appeared for the defendant and T. M. Tweedie, K.C., and C. M. Wright on the other side.

ACQUITTED ON CHARGE OF THEFT FROM PERSON

London, June 13.—The new Hamburg-American liner Imperator arrived at Southampton yesterday afternoon en route to New York. Several hundred curious Britons went out in tenders to view the German product which takes away the Olympic title as the largest vessel in the world.

The lord-mayor of Southampton and his staff headed the delegation with the mayor's brother piloting the liner on her run to Cherbourg. As the Imperator came up the solvent, the general remark was that she did not look as large as the Olympic on account of having only three stacks, and generally squat appearance. She is not built on such graceful lines as the English boat. As she came nearer she was declared to be the dirtiest new boat ever seen. Her sides were scarred and rusted from her recent mishap after her trial trip, but with in every thing was found shining and bright and the verdict was correct—"she is more sumptuously fitted than the Olympic, though perhaps not as majestically arranged."

New Alloy Discovered.

Berlin, June 13.—At yesterday's session of the Institute for Scientific Investigation, Prof. Roesscher, the expert metallurgist, announced the discovery at the Aik la Chappelle laboratories of a new alloy of platinum, which would resist the strongest acids. The discovery, he said, was important, as platinum was constantly becoming dearer.

WILL INVESTIGATE LIGNITE DEPOSITS

Dr. Francis Lewis, professor of biology in the University of Alberta, has been awarded a grant by the government grant committee of the Royal Society, London, in aid of the scientific expenses of an investigation of the coal seams and lignite deposits of the province of Alberta, with special reference to the fossil flora. Visits will be paid to all the chief deposits of coal and lignite in the province, and Dr. Lewis would be extremely glad if managers of mines and others would send him any information of nodules from the coal seams or mine roofs, with any specimens which may show signs of plant structures. This would greatly facilitate the choice of the most favorable localities for work. The specimens after investigation and determination will go to form a representative collection for the university museum.

Y.M.C.A. Convention in Edinburgh.

Edinburgh, June 13.—The progress of the Young Men's Christian association in America engaged the attention of the delegates to the world's convention of the delegates to the world's convention, in session here yesterday. National Secretary Payne, of Norway, showed that the European branches had gained 300,000 members in six years. Delegates from four countries asked the reason for America's superiority. Dr. J. G. Fisher answered with an address on the physical training in the making of Christian manhood. Lord Knaird requested a repetition of the address before the people of Edinburgh.

PANIC PREVAILS ON THE MOROCCAN COAST

London, June 13.—The unusual spectacle of thousands of national sharpshooters pouring murderous fire on the blue jackets on a stranded warship has been witnessed on the coast of Morocco. Conflicting reports have been received as to the fate of the crew of 100 Spaniards but one account says all but a few perished.

Some tribes in the Spanish zone in Morocco got out of control and several gunboats were dispatched to the vicinity. One of the vessels, the General Concha, went ashore in the Bay of Alhucemas during a fog and the Kabyle tribesmen opened fire on her decks. An official despatch from Alhucemas published in Madrid says that the crew was composed of 98 men. This message admits that the commander was killed.

That a serious situation faces Spain is clear from various messages received here. A despatch from Tetuan, received at Tangier, says that the resident general has issued an order prohibiting any one from appearing in the streets after 8 o'clock in the evening. Great panic prevails.

Why Not Scramble a Metaphor? "She gave birth to Japan and threw that people safely into a glorious orbit of its own, the heat of which is now reciprocally warming a new spring into being as it swings near its parent orb."—This is from "The Chinese," by John Stuart Thomson.

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