

CLOSING ARGUMENTS IN THE SENSATIONAL DIVORCE CASE OF THE FITZRANDOLPHS

Counsel for Plaintiff and Defendant in Their Summing up of the Evidence Present Their Views to the Jury—Justice Crockett Gives Charge and Jury Takes Case Under Consideration.

Fredericton, July 24.—When the divorce case opened this morning, Dr. J. B. M. Baxter, chief counsel for the defendant, in the case of Fitz-Randolph vs. Fitz-Randolph, began his address to the jury. He said the law in this province provided for divorce only on the grounds of adultery. Proving drunkenness could not be used as a ground for seeking divorce. He said Mrs. Chas. Fitz-Randolph, the defendant, was faced with five specific charges. In each of these evidence had been produced on behalf of the plaintiff from which it was inferred, or presumed, that adultery had been committed. There was no evidence to prove that the actual commission had taken place. On the other hand, the very individuals who had been named in the charges, had denied them. He said the jury had the right to consider the evidence of the witnesses as credible or otherwise. However, in the case of adultery the guilt of parties should not be assumed as long as there was a possibility of a reasonable doubt as to the actual commission of the act. There was no evidence to prove this, but there was evidence to prove that adultery was not committed.

To assume, he continued, that adultery was committed, the jury must find much more than the opportunity for the commission. They must discover if such a thing had taken place—that the opportunity had been prearranged.

Dr. Baxter said many men would wish to have their marriages dissolved if their wives were so unfortunate as Mrs. Fitz-Randolph in regard to her drinking habits, but such a condition was not a ground for the granting of divorce.

He went over the golf club incident, saying it was an unfortunate happening, but adultery could not be proved to have been committed. Mrs. Fitz-Randolph had admitted that Mr. Worrell wanted to kiss her, but that she would not let him. When Dr. Irvine was on the stand he stated there was no familiarity on his part with the defendant, as he considered her a lady. Dr. Baxter said the counsel for the plaintiff had said at the time of the former trial that they did not know of the connection of Frank Worrell with the golf club incident, but evidence had been presented to prove they had such knowledge at that time. He said it looked very much as though they had tried to keep him out of the case as he was a son of an archbishop.

Dr. Baxter said the Queen Hotel affair was another unfortunate happening, but adultery was not charged on this occasion, and it was not relevant to the case. He went on to consider the episode at the Royal Hotel. St. John, when Mrs. Percy Chestnut claimed she accompanied the defendant more or less as a guardian. Mrs. Chestnut had carried Mrs. Fitz-Randolph's purse, and although she claimed to be there to keep her from drinking, purchased liquor for the defendant. Mrs. Percy Chestnut said the defendant went to the room of a man, and apparently believed the defendant had committed adultery with him. If she believed the defendant had committed adultery she should not have afterward, if she regarded herself as a lady. To his mind, Mrs. Percy Chestnut was either a liar or the associate of a strumpet. Mrs. Chestnut, the jurist, claimed that she was not drunk in St. John, but two witnesses had stated, under the sanction of an oath, that Mrs. Chestnut was drunk at the Royal Hotel. He said the jury must decide which evidence they should believe, and to decide which of the witnesses had perjured themselves before the court. If they believed Mrs. Chestnut's testimony, Mrs. Chestnut must be said to have perjured herself. On the other hand, he believed they could disregard the evidence of Mrs. Chestnut.

Dr. Baxter reviewed the circumstances surrounding the incident on which a St. John man is charged with the commission of adultery with the defendant. He said that man did not remember ever being kissed by the defendant, and that if such had ever taken place he believed the defendant would remember such an occasion very clearly.

Concerning the charges of adultery with the old gentleman of 66 years of age, he said that there was hardly the possibility of a presumption. At McAdam the witness from the hotel had not seen any gentleman and defendant in the same room. Charges

Fitz-Randolph himself had not thought anything wrong with the friendship of this man towards his wife. The relationship of this man to the defendant was of a parental nature, and the plaintiff had taken no objection to their association as he had no shade of suspicion.

Dr. Baxter read several portions of law to the jury. Mr. Teed objected and His Honor at first thought he should not do it but finally decided it was all right.

The portion stated that even though the jury had reasonable grounds of suspicion, they should not bring in a verdict of guilty, as the Crown had not fulfilled its duty of furnishing the burden of proof. In such a case they should bring in acquittal.

Mr. Baxter said that if adultery was to be implied from the letter signed "M," the same would be implied if done in the other. Therefore, the plaintiff came into the court with unclean hands and could not be given a verdict. The plaintiff would not say that he intended to marry Mrs. Leedman, but did not deny having such intentions.

Mr. Teed, K. C., then opened the address to the jury on behalf of the plaintiff. He said that in such cases it was practically impossible to obtain eye-witnesses of adultery, and that findings in such cases almost invariably had to be decided upon circumstantial evidence. As a general rule, women denied the actual commission, and it seemed to be their nature to deny it, and the jury must decide the credibility of the statement of the defendant's denial, or all of the charges.

Mr. Teed read the mysterious letter signed "M" to the jury. He showed the interpretation which he would place upon the letter, and said he thought that any reasonable man would infer what he did from the letter. The defendant had denied the receipt of the letter, but the truth of the letter had not been denied.

Mr. Teed said that it could be reasonably assumed that adultery was committed at McAdam between this man and Mrs. Fitz-Randolph. In connection with the Queen Hotel incident, Mr. Teed said that it could be assumed that adultery had been committed, although it was not charged.

Mr. Teed said in connection with the golf club affair, that any man would do what he could to shield a woman, and that they would say only what they were compelled to say. He said that it was for the jury to decide whether Frank Worrell and Dr. Irvine had perjured themselves to guard Mrs. Fitz-Randolph. There was no doubt between either of these men and the defendant, but regarding the woman's carelessness in such matters, it was quite reasonable to assume that one of these men might have been guilty of adultery with Mrs. Fitz-Randolph.

When the court sat this afternoon, M. G. Teed, K. C., continued his address to the jury on behalf of the plaintiff. He stated that they had produced evidence from which it was the reasonable belief, in these five cases, adultery had been committed. Mr. Teed said that the evidence upon which they had based the charges of adultery were admitted to a considerable

extent by witnesses for the defendant. He said that it was customary for people to deny the charge of adultery on the witness stand. He claimed that witnesses for the defence had perjured themselves to shield Mrs. Fitz-Randolph.

Judge's Charge.

Mr. Justice Crockett then commenced his charge to the jury. He said that they must decide whether or not adultery was committed by Mrs. Chas. Fitz-Randolph with any of the five men mentioned in the charges. He told them that in the case of adultery it was necessary to rely upon circumstantial evidence. For them to find that adultery was committed it was not necessary for proof of the direct fact of adultery.

The first incident which His Honor reviewed was that of the Golf Club. He asked them if they did not think that, considering the evidence of the human nature, it would not be an improbable assumption that adultery had been committed. On the other hand they had heard the evidence of Mr. Worrell or Dr. Walter Irvine. These two men also, he said, had been perjured in their actions with the defendant on this occasion. It was for the jury, upon their oaths, to say whether the testimony given by any of the witnesses was true or untrue. He believed that the explanations given by Dr. Irvine, Mr. Worrell and Mrs. Fitz-Randolph, for certain happenings that night, could not all be true. It was for the jury to decide who was speaking the truth. The characters of the parties concerned would help them to decide the probability of these parties committing adultery under the circumstances. The first two things which the jury must decide were whether the defendant had committed adultery at the Golf Club with either of these men.

The third thing for them to decide was whether she and Frank Worrell committed adultery at the home of Mrs. Fitz-Randolph, after the party arrived back from the Golf Club. The jury must first decide if such could be assumed, under the circumstances, and then decide if there was sufficient evidence to rebut and disprove their conclusion.

The next question was whether the defendant had committed adultery with a man in the Royal Hotel at St. John. The defendant admitted going to his room, and she and the man differed somewhat in their testimony. The jury must say which was correct. It was for the jury to decide whether she went to his room and committed adultery or not. The defendant and the correspondent named had both denied such a thing happening.

There were also charges of adultery with a man at Fredericton in October, 1916, and in March or April, 1917. There were also charges of adultery against a Montreal man. The proof of these charges might be implied in the letter which was placed in evidence. His Honor said that it was the presumption that, if a letter had been passed through the mail it had reached the party to whom it was addressed. If the jury decided that it had not been received it might be eliminated from the testimony.

The jury should decide whether they believed Mrs. Fitz-Randolph's statement denying receipt of the letter. The jury must decide if it is possible to infer adultery from the contents of the letter, also from the evidence taken under a commission at McAdam.

His Honor charged the jury to dismiss from their minds all feelings of sympathy and prejudice for either of the parties. Their duty was to determine upon the facts of the case. They must not consider anything that did not have a bearing on the case.

Dr. Baxter said if the jury believed that the plaintiff had been guilty of adultery that they should be instructed to bring in a verdict for the defendant.

Mr. Justice Crockett held that this had no bearing whatever on the case, and that no charges had been filed against the plaintiff. He said that such evidence had no bearing except in so far as it affected the truth of the testimony of the plaintiff. If there was

reasonable doubt the jury should bring in a verdict for the plaintiff. By reasonable doubt, was not meant something conjured upon the imagination, but it must be good reasonable doubt that the mind and conscience of the jurors. Perjury should not be imputed to a witness without good and sufficient reason. The jury was not bound to accept the statement of any witness which is not contradicted.

The case went to the jury at 5 o'clock and at 5.45 they returned for information regarding certain charges. After they obtained this information they again returned and came back at 7 p. m. with their decision.

LIQUOR TEST CASE HERE IS BASED ON STATE'S RIGHTS

Anti-Prohibition Association Declares Drouth is Ruining Many Businesses.

New York, July 17.—Further objections to the validity of the wartime prohibition law were raised in the Federal Court yesterday, where a test case was begun.

John H. Voegel, proprietor of the widely known "Fun Poles," at Centre and Franklin streets, and Tony Cuomo, another saloon keeper, were indicted recently, accused of having openly sold whiskey after July 1 in violation of the new law. Yesterday they filed demurrers through their attorneys, declaring that even in the charge was true it was no crime. Robert Moore was counsel for Voegel. Cuomo was represented by George L. Donnellan, counsel for the Retail Liquor Dealers' Association.

The principal issue raised in the demurrers is that no valid federal statute was violated because the government cannot regulate the sale of liquor within the State.

"License a Contract with State."

This question is raised also in a statement issued by the Association Opposed to National Prohibition, which reads, in part:—

"Right here in New York State where retailers in alcoholic beverages have a license to sell such beverages until October 1, which is tantamount to a contract with the State, individuals are being indicted under the Federal law for selling that which they have paid the State for license to sell. Some lawyers are of the opinion that there will be recourse for some just compensation."

SUMMER COMPLAINT IS A SERIOUS BOWEL TROUBLE

Very few people escape an attack of Summer Complaint, and nearly everyone is liable to it.

You can't tell, when it seizes on you, how it may end.

Allow the profuse diarrhoea, the vomiting and purging to continue for a day or two and you will become weak and prostrated.

Just as soon as the bowels become loosened up, get a bottle of Dr. Fowler's Extract of Wild Strawberry and check these unnatural movements, and thus prevent the system from becoming weakened.

Mrs. I. J. Allen, wife of the well-known wholesale and retail Fish Dealer, 44 Hill Street, Newark, N. J., writes:—"I have four children, the oldest being eight years old. Every summer they were troubled with Summer Complaint. Doctors' prescriptions did not seem to help them any. One day a friend asked me to use Dr. Fowler's Extract of Wild Strawberry. I at once got a bottle, and to my surprise and wonder, I soon saw a change in them. I now keep a bottle of it in the house all the time, and will recommend it to any mother."

"Dr. Fowler's is 35c a bottle. Get the original, which has been put up for the past 74 years by The T. Milburn Co., Limited, Toronto, Ont.

eral law for selling that which they have paid the State for license to sell. Some lawyers are of the opinion that there will be recourse for some just compensation."

It is important to note that while Congress wrestles with a prohibition enforcement law, what virtually amounts to confiscation under the prohibition law is working ruin to many legitimate trades. Just a few of these industries are the bottle, cooperage, cork, lithographing, furniture and kindred trades. Several large glass factories were compelled to shut down prior to July 1 because of a reduction of their orders.

It was estimated that when liquor traffic was in full swing the annual output of auxiliary enterprises included twenty million beer bottles, thirty million whiskey bottles, two million beer barrels, one million, three hundred thousand whiskey barrels and three-quarters of a billion bottle labels.

"Many of the smaller concerns engaged in the cooperage business have been forced to shut down altogether. Other large factories, in the neighborhood of Cincinnati, have been operating at a loss of \$10,000 a month."

"One cannot easily visualize the stupendous loss to the grape growers of Ohio and California. The injunction petition in California against the new law states the value of the industry there as \$75,000,000."

"In Milwaukee 6,000 employees were made idle by the closing of the breweries. According to the heads of the

Re-Employment Bureau in New York, the list of jobs men has increased since July 1."

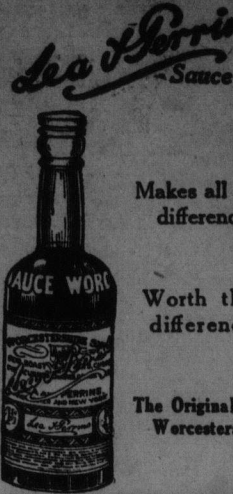
"Rede" Poisoning Whiskey.

The Herald received a copy of a momentous "warning" signed by the "Public Safety Committee, C. B. Thompson secretary, Buffalo, N. Y." in which it was disclosed in uncouth English that the Bolsheviks have decided to poison all the thirsty rich by adulterating the "hardstuff" that they set by against the great drought. The warning warned:—

"To all concerned public who have recently bought government bonded whiskeys and other liquors before July 1, 1919, which have been adulterated with a baser substitute by refilling at the bottom of the bottles and welding the same glass cover to form, or place. It also has been found by expert chemists appointed by the investigating committee that said contents are combined with other poisonous matter intended by a Bolshevik scheme to exterminate the well-to-do purchaser, thus affecting all the rest of the people."

BELA KUN WANTS SAFE CONDUCT TO ARGENTINE

London, July 24.—Bela Kun, deposed head of the Hungarian Soviet Government, has asked the Allies for



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Sauce

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Worth the difference

The Original Worcestershire

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At this Clearance Of Used Pianos, Organs and Gramophones

BIG VALUES, SMALL PRICES, EASY TERMS, or all cash, whichever you prefer, is the slogan of this EXTRA SPECIAL SALE OF USED GRAMOPHONES, PIANOS AND ORGANS which we have taken as part payment on our sales of new instruments, and which we have carefully overhauled and placed in EXCELLENT CONDITION so they'll give you really good service.

READ THE FOLLOWING LIST, then COME IN, SEE AND HEAR THEM, that you may JUDGE FOR YOURSELF.

GRAMOPHONES

Columbia: Cabinet Style.....was \$160.00.....Now \$125.00 Terms to Suit You.

Schubert Talking Machine: This instrument has self-stopping attachment, and is in good working order. The original price was \$150.00. The Special Price will mean to the buyer A RARE BARGAIN.

Columbia:Splendid Value.....Only \$30.00 To be sold on EASY WEEKLY PAYMENTS.

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Cremonaphone.....Original Price \$55.00.....Now \$40.00
Cremonaphone.....Original Price \$80.00.....Now \$65.00

You can have any of these Cremonaphones on TERMS CONVENIENT TO YOU.

PIANOS

Vose & Sons: Square Style, in beautiful case with carved legs. Sale Price Only \$125.00. Terms: \$10.00 down and \$8.00 a month.

Hallet & Davis: Square Style. SALE PRICE \$115.00. Terms: \$10.00 down and \$7.00 a month.

George Anderson: Cottage Upright. SALE PRICE ONLY \$80.00. Terms: \$8.00 down and \$1.75 a week.

Thomas Jacobs: Upright Piano. SALE PRICE \$75.00. Terms: \$7.00 down and \$1.50 a week.

HERE'S A WONDERFUL BARGAIN.

A Newcombe Upright which has just been thoroughly overhauled and now in splendid condition. The original price was \$400.00, and it is now offered at ONLY \$150.00.

ORGANS

Mason & Hamlin: Beautiful Oak Case with canopy top and mirror, four sets of reeds, 10 stops. SALE PRICE ONLY \$85.00. Terms: \$10.00 down and \$1.75 per week.

Corrwall: Handsome Walnut Carved Case, with mirror, 11 stops, four sets of reeds. SALE PRICE IS ONLY \$70.00. Terms \$10.00 down and \$1.50 a week.

New England Organ: Very Neat Walnut Case with Extension Desk, 9 stops, 4 sets of reeds. SALE PRICE IS ONLY \$50.00 and the Terms are \$5.00 down and \$1.50 a week.

Steamer Organ in Piano Case, with 13 stops. SALE PRICE ONLY \$90.00. The Terms are \$10.00 down and \$1.75 a week.

W. Doherty & Sons Organ: 11 stops. This is one of the largest piano case organs ever made. THE PRICE DURING THIS SALE IS ONLY \$100.00, and we will make the TERMS TO SUIT YOU.

Doherty Organ: Walnut Case, attractively designed, with canopy top and mirror, 10 stops. THE PRICE WHILE THE SALE LASTS IS ONLY \$55.00, and the Terms \$10.00 down and \$1.75 a week.

Church Organ in beautiful Oak Case. Made by the famous Eskey Organ Company. The original price was \$200.00, but DURING THIS SALE, IT IS OFFERED AT ONLY \$150.00 at Terms \$20.00 down and \$10.00 a month. It has 14 stops and 5 sets of reeds.

If it's value you've been waiting for, YOU'LL FIND IT WORTH WHILE to inspect these instruments, and take advantage of the UNUSUALLY LOW PRICES which mean, to the purchasers, REALLY SUBSTANTIAL SAVINGS.

And remember, the EARLIEST BUYERS HAVE THE ADVANTAGE OF THE WIDEST RANGE FOR CHOICE, besides THE BEST OF THE BARGAINS.

Dad 'Phoned To Have the Water Drained Out of the Car But Neither Mother Nor the Powerful Katrinka Could Find the Little Tap.



WHY RUN-DOWN PALE EXHAUSTED WOMEN SHOULD TAKE IRON

There are no iron remedies that give the same results as Nuxated Iron. When the iron goes from their system, the women are left weak and exhausted. I always insist that my patients take organic iron which then cures the weakness and does not harm them as good, standard iron is only a stimulant. It will increase the strength and endurance of weak, nervous, irritable, exhausted women in two weeks. Send in many cases. I have used it in my own practice for years. I have cured many cases of anemia, chlorosis, and other iron deficiencies. Nuxated Iron is the only iron remedy that gives the same results as Nuxated Iron.

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