Second Divisional Court.   March 25th, 1918.

*STEWART v. STERLING.

Slander—Imputing Unchastity to Young Girl—Damages—Failure to Prove Special Damage—Evidence of Illness and Loss of Hospitality—Insufficiency—Repetition of Slander—Libel and Slander Act, R.S.O. 1914 ch. 71, sec. 19 (1)—Recovery Limited to Nominal Damages.

Appeal by the defendant Alexander Sterling from the judgment of the Senior Judge of the County Court of the County of Huron, upon the verdict of a jury, in favour of the plaintiff as against the appellant for recovery of $500 damages and taxed costs, in an action for slander.

The appeal was heard by Mulock, C.J. Ex., Clute, Sutherland, and Kelly, JJ.

C. Garrow, for the appellant.

L. E. Dancey, for the plaintiff, respondent.

Clute, J., in a written judgment, said that the slander was the imputing to the plaintiff, an infant, unchastity. The innuendo was, that the plaintiff was a girl of unchaste character. The appellant denied that he had spoken the words, and denied the innuendo. At the trial the plaintiff was allowed to amend by alleging special damage.

The Libel and Slander Act, R.S.O. 1914 ch. 71, sec. 19 (1), provides that in an action for defamatory words spoken of a woman imputing unchastity it shall not be necessary to allege or to prove that special damage resulted to the plaintiff from the utterance of such words, and the plaintiff may recover nominal damages without averment or proof of special damage, but shall not be entitled to recover more than nominal damages unless special damage is proved.

No special damage was proved in this case, and only nominal damages could be recovered: Whitling v. Fleming (1908), 16 O.L.R. 263.

It was strongly urged that the effect of the slander was, that the plaintiff became ill; but, if illness was caused by reason of the slander, it was by repetition thereof, for which the defendant was not responsible.

It was also urged that there was sufficient evidence of loss of hospitality to prove special damage. It was to the effect that the