

the defendant company would be able to establish its defence of justification.

On both grounds, the verdict should be set aside and a new trial had.

The costs of the former trial and of this appeal should be costs in the cause.

SECOND DIVISIONAL COURT.

DECEMBER 9TH, 1918.

*SEAGRAM v. PNEUMA TUBES LIMITED.

Fines and Penalties—Action for Penalties against Company and Secretary—Ontario Companies Act, 2 Geo. V. ch. 31, sec. 134—Default in Making out and Transmitting Summaries to Provincial Secretary—Secretary “Wilfully” Permitting Default—Finding of Fact of Trial Judge—Appeal—Remission of Full Penalties upon Payment of Substantial Sum.

Appeal by the defendant J. J. Gray from the judgment of LATCHFORD, J., ante 59.

The appeal was heard by MULOCK, C. J. Ex., CLUTE, RIDDELL, SUTHERLAND, and KELLY, JJ.

The appellant in person.

George Bell, K.C., for the plaintiff, respondent.

THE COURT agreed with LATCHFORD, J., that the appellant was subject to the penalties imposed by the Ontario Companies Act; but, being of opinion that he was entitled to some relief, ordered that, upon payment by him to the plaintiff of \$4,000 and interest, the plaintiff should discharge her judgment for \$12,760. The Court dealt with the case on the assumption that leave to appeal from the order of MIDDLETON, J., 40 O.L.R. 301, had been granted, and that the appeal had been heard. The plaintiff's costs of the appeal are included in the \$4,000.

* This case and all others so marked to be reported in the Ontario Law Reports.