PALMBY v. MCCLEARY.

Seduction—Evidence—Excessive damages.

In an action for seduction the only evidence was that of the plaintiff, the father of the seduced girl, and the defendant. The plaintiff stated that the defendant admitted he had seduced the girl, and asked what the case could be settled for, when plaintiff said $500. The defendant said that he was not the father of the child, and had not made any such admission, but admitted having asked what the case could be settled for, but did so only out of curiosity. The jury found for the plaintiff with $750 damages.

Held, that there was sufficient evidence to go to the jury: and that the damages under the circumstances were not excessive.

Bartram, of London, for the plaintiff.

Meredith, Q.C., contra.

SCOUGALL v. STAPLETON.

Malicious prosecution—Evidence—Taking legal advice, stating whole facts—Magistrate consulting County Attorney—Admissibility of evidence—Judge's charge—Depositions.

In an action for malicious prosecution it appeared that plaintiff's father sold a buggy to B. for $115, to be made in two payments of $58 and $57 respectively, and until paid the title and right of property were to remain in the vendor. Before the purchase money was paid B. sold the buggy to defendant, a livery stable keeper. The plaintiff's father on hearing of this, directed the plaintiff to go and take it from defendant, which plaintiff did, informing those at defendant's place that plaintiff could be seen at a hotel he named. The defendant on his return went and saw the plaintiff, when the plaintiff told him he was acting under instructions from his father, who claimed to be the owner of the buggy, but notwithstanding defendant caused plaintiff to be arrested for larceny, and he was committed for trial, and was subsequently tried and acquitted. The defendant set up that before causing the arrest he consulted a lawyer, but the jury found that plaintiff did not give a full and true account of the case. The jury found for the plaintiff.

Held, on the evidence, the verdict would not be interfered with.

Evidence was offered that the magistrate, against whom there was no charge, had before acting consulted the county attorney, which was rejected.

Held, that the rejection was proper.

An objection was taken to the judge's charge as being adverse: but *held* not tenable.

At the close of the defence the plaintiff's counsel, without objection, put in the defendant's depositions before trial. The plaintiff's counsel in addressing the jury read a portion thereof; and the learned judge in his charge read other portions.

Held, there would be no objection to the learned judge reading such other portions, and they were properly in evidence.

Nesbitt, for the plaintiff.

G. T. Blackstock, contra.

VANMERE v. FAREWELL.

Surgeon—Malpractice—Evidence—Interfering with jury—Rejection of evidence.

Action against a medical man for malpractice, the alleged malpractice consisting in applying what was called the primary bandage; and if this was good surgery, that it was applied too tightly and allowed to remain too long, whereby the arm sloughed, etc. The jury found for the defendant.

Held, on the evidence the verdict could not be interfered with.

A medical man called by the defendant stated that from the evidence given by the defendant and the evidence throughout the case, he could not say that the defendant's treatment was bad surgery. The plaintiff proposed to call evidence in reply to show that from what defendant stated at the trial the treatment was bad surgery.

Held, inadmissible.

The defendant, in conversation with one of the jury panel, but not one of the jury called to try the case, said he hoped the jury would give defendant the benefit of any doubt.

Held, not sufficient to justify the court in interfering with the verdict.

Robertson, Q.C., for the plaintiff.

Osler, Q.C., and *Teetzel*, contra