

The  
**Ontario Weekly Notes**

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VOL. XVII. TORONTO, OCTOBER 7, 1919. No. 7

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APPELLATE DIVISION.

FIRST DIVISIONAL COURT.

OCTOBER 23RD, 1919.

LEONARD v. WHARTON.

*Libel—Words in Letter, whether Capable of being Read in a Defamatory Sense—Verdict—General Damages for two Libels—Justification of one—Necessity for Separation—Mistrial—New Trial.*

An appeal by the defendants from the judgment of LENNOX, J., of the 21st May, 1919, upon the verdict of a jury, in favour of the plaintiff Leonard for the recovery of \$3,000 damages with costs in an action for libel.

The action was first tried before MEREDITH, C.J.C.P., who withdrew the case from the jury and dismissed the action. In November, 1918, the Second Divisional Court directed a new trial: Leonard v. Wharton, 15 O.W.N. 197.

The appeal from the judgment at the second trial was heard by MEREDITH, C.J.O., MACLAREN, MAGEE, HODGINS, and FERGUSON, J.J.A.

A. C. McMaster, for the appellants.

J. P. MacGregor, for the plaintiffs, respondents.

At the conclusion of the argument the judgment of the Court was delivered by MEREDITH, C.J.O., who said that the Court was of opinion that the appeal should be allowed, and that there must be a new trial, and that the costs of the appeal and of the last trial must be paid by the respondents.

As to the main question argued by counsel for the appellants—whether certain words in the letter of the 5th September were capable of being read in a defamatory sense—the Court was under