

## DISGRACE TO JOURNALISM.

Spectator's Attack Absolutely Indefensible, Says Judge.

Its Article Was Designed to Injure Some One.

Action Against M. M. Robinson Dismissed on Technically.

"It is a pity that such things are allowed to go on. It is a disgrace to journalism to assail any other man through the columns of a newspaper, such as has been done in this case." Such was the comment of Justice Latchford, in dismissing on a technicality the charge of criminal libel preferred against M. M. Robinson, sporting editor of the Spectator, by F. C. Mills, sporting editor of the Times.

"The article was absolutely indefensible, but I have to apply the law strictly in this case. There is nothing to show that Mr. Mills is the Referee Mills referred to in the article. There should have been some corroborative evidence of publication showing that Mr. Mills' name was used. Whoever wrote the article acted in a way that deserved the severest punishment," said His Lordship. Justice Latchford said that Mr. Mills should have had more evidence that it was to him the article referred. As it stood there was nothing to go to the jury on, beyond the fact that Mr. Mills believed the defendant was the man who wrote the article.

"There is no doubt that the article was designed to injure some one, and perhaps it was Mr. Mills, but there is lack of evidence, and I am therefore forced to ask the jury to find the prisoner not guilty," concluded His Lordship. Mr. George Lynch-Staunton, K. C., who appeared for Robinson, then moved for costs in the case. His Lordship firmly declined to allow costs.

Mr. S. F. Washington was the counsel for Mr. Mills. The technicality that lost Mr. Mills his case was the fact that a copy of the Spectator of Nov. 3, which was filed at the preliminary trial at the Police Court, was not moved to quash the action on the ground that the indictment was defective. It did not charge an essential ingredient that "was designed to insult him." Mr. Staunton quoted as a case in question the "King of the Camera," in which it was pointed out there was a distinction between holding the complainant up "to hatred, contempt and ridicule." In setting forth the indictment it should have contained the clause "designed to insult him," Mr. Staunton held that the very strictest law must be observed in such actions as these. He claimed that the complainant had not followed the rules of the statute. Going further, Mr. Staunton said there was no such thing in the criminal code as a defamatory libel. It was defined there, but did not say that it was an indictable crime.

Mr. Washington said that he had followed the wording of the statute.

Mr. Staunton said that "exposing a man to hatred, contempt and ridicule" was not sufficient.

His Lordship replied that "exposing a man to hatred" was a breach of the peace. "I must dismiss your motion, Mr. Staunton," said His Lordship. Mr. Robinson upon being arraigned pleaded not guilty. He was allowed to sit by his counsel during the progress of the trial.

The jury was next selected as follows: George Ridge, Binkbrook; Samuel Hildreth, Saltfleet; T. M. Thornton, Dundas; Adam Inch, Barton; Cyrus Knox, Beverly; John Russell, Ancaster; Jacob Carey, East Flamboro; James L. Salmon, Binkbrook; Reginald Cooper, city; George Alderson, Flamboro; George Francis, Ancaster; Philip Davidson, East Flamboro.

Before the jurors had been called to take their seats, Mr. Staunton objected to Mr. Washington proceeding further, claiming that he had no status in the case.

Mr. Washington rose to his feet with the remark that if necessary he would question the status of his learned friend in acting for the defence.

"He has no right to challenge any of the jurors, for the reason that he is not acting as Crown prosecutor in this action," said Mr. Staunton.

"As Crown prosecutor you certainly would have the right, Mr. Washington," said His Lordship, "but as you are appearing as a private prosecutor it is different. Under section 668 of the code it distinctly states that a private prosecutor has no right to challenge the jurors."

The swearing in of the jurors was then proceeded with. When that had been concluded, Mr. Staunton again rose to object to Mr. Washington going on with the prosecution, claiming he had no status, as a private prosecutor.

"Under a letter from the Attorney-General, I am empowered to represent him in this case," indignantly replied Mr. Washington.

"There is some doubt on that point, Mr. Washington," replied His Lordship, "I will grant a reserve case in the matter, Mr. Staunton, so that the charge may be proceeded with."

Mr. Washington then addressed the jury. In part he said: "The defendant in this case is charged with the offence of criminal libel. There are two kinds of libel calculated to injure the reputation of the one against whom the libel is directed. The one we are dealing with is defined as any matter that is likely to expose the complainant to contempt, hatred or ridicule. The facts are very short in this case. The defendant is the sporting editor of the Spectator, and the complainant is the sporting editor of the Times. Mr. Mills has for some time back fathered wrestling and boxing events in this city, and is known as an all-around sporting man. A boxing contest was to take place in Brantford on November 2nd of last year, and Mr. Mills was asked to referee. On the day the bout was to take place Mr. Mills work to do, decided not to go to Brantford. On the afternoon of that day Mr. Mills met Mr. Robinson, and told him that he was not going up to Brantford to referee the match, and if he wanted it he would get him (Robinson) the job."

Mr. Staunton entered an objection at this point. "He has no right to say these things. The question of malice is not entering into this case," said he.

After His Lordship had heard the objection, and noted it, Mr. Washington continued: "Mr. Mills did not go to Brantford, but that evening went to the Savoy Theatre. Mr. Robinson was sitting about six or seven rows behind Mr.

Mills that evening, and what is more, saw him there. Another important item is the fact that the article was not published the day following the bout in Brantford, which took place, but the defendant wrote it two days later under the heading of 'Sporting Comment.' 'That is the libel which we complain of. There is no question as to the libelous nature of the article that appeared in the Spectator on Nov. 4. If Mr. Mills receives an invitation in future to referee a wrestling bout, that article would be calculated to ruin Mr. Mills' reputation so far as being a fair, honest referee.'"

Mr. Staunton objected to the statement made by Mr. Washington to the effect that "it was to pick up a little soft stuff." He should have said "take up a little soft stuff," appeared in the indictment.

William J. Southam was the first witness called.

After some preliminary questions Mr. Washington asked him who was sporting editor of the Spectator.

"Mr. Robinson."

"How long has the sporting editor occupied his present position?"

"Possibly a year."

"Does he write the sporting comment?"

"I am not certain."

"Was your attention called to an article in which Mr. Mills was mentioned?"

"I would not be positive. I am not sure I saw the article."

"Did you inquire who wrote the article?"

"No, I did not."

"Did you write a letter to Mr. Mills' solicitor giving the name of the man who wrote the article?"

"This remark called forth an objection from Mr. Staunton, who could not see where the evidence had any direct bearing on the case. His Lordship sustained the objection."

Continuing, Mr. Washington said: "After the complaint had been made by Mr. Mills, did you speak to Robinson?"

"No, I did not."

This concluded the examination, and Mr. Staunton asked no questions.

John Woodell was next called by Mr. Washington.

"What is your position on the paper?"

"I am the managing editor."

"Who writes the sporting comment?"

"I cannot tell you."

"Who is the news editor?"

"Mr. Kirkpatrick."

"Who is responsible for the sporting column?"

"Mr. Robinson is held responsible for the whole sporting page."

"Do you remember the article complained of?"

"Yes."

"Was a complaint made to you?"

"Yes, by Mr. Mills."

"Where?"

"In my office."

"Did you enquire of Mr. Robinson whether he had written the article?"

"No."

"You didn't talk to him about the matter at all?"

"No, sir."

"Not even after Mr. Mills had complained?"

"No."

"You are quite sure that you and Robinson did not discuss the matter at any time?"

"May one enquire why not?"

This last remark brought forth another objection by Mr. Staunton, who was again sustained.

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Have you stiff or swollen joints, no matter how chronic? Ask your druggist for Munyon's Rheumatism Remedy and see how quickly you will be cured.

If you have any kidney or bladder trouble get Munyon's Kidney Remedy.

Munyon's Vitalizer makes weak men strong and restores lost powers.

On the afternoon of the day the bout was to take place, and I told Robinson then I was not going to Brantford, and he could have the job if he wished it. He said that he would not take it as he had a couple of football meetings and some other work that would prevent him from going. We walked up the street together and later I wired those in charge of the bout that I was not going to be present."

"Did you tell Robinson that night?"

"Yes, at the Savoy with three or four reporters."

"After the article had appeared what did you do?"

"Acting on the advice of the Magistrate, I went to the office of the Spectator. I passed Robinson at his desk going through the editorial office to Mr. Woodell's private room. Robinson saw me when I entered, and as I passed he put his head down on his desk and kept it there. When I was speaking to the editor Robinson was with him bearing dictation. I asked the editor for a signed statement stating who wrote the article."

"How long after the bout occurred did the article appear in the paper?"

"Three days after the bout."

"How long have you read Robinson's stuff?"

"I have been reading it ever since he came here."

"Has he a style of his own?"

"It is different from anything else I have ever seen."

"Would you know from the style of writing whether he wrote the article you complain of?"

"Absolutely certain of it."

"The examination by Mr. Washington, and then began the cross-examination by Mr. Staunton."

"Have you told all that took place between you and Woodell?"

"You objected to my stating what was said before."

"Well, what did he say about the article?"

"He glanced at it and then said that it was a little personal."

"What did you say?"

"I wanted a signed statement as to who wrote the article."

"What else did you say?"

"I told him I would make trouble if I did not receive the name of the writer."

"You say there are phrases Robinson uses, that nobody else uses?"

"I wouldn't say that."

"What are some of the phrases?"

"Well, 'soft stuff' are not common words to be used."

"What others are there?"

"'Queer' is another one."

"I suppose he has a patent on those words."

"I don't know."

"You have said that you were going to put this boy in jail?"

"No."

Walter McMillen, sporting editor of the Herald, and Harry Wakelam, also of the same paper, were called, but could not give any illuminating evidence.

This closed the case for the complainant, and Mr. Staunton submitted the case had been made out against his client.

Justice Latchford ruled as already stated and dismissed the case.

MR. LINTON IN NASSAU.

The Tribune, of Nassau, Bahamas, of Saturday, February 20, has the following:

We had the pleasure and honor of a call, a day or two ago, from two exceedingly genial Canadian gentlemen, Mr. C. B. Linton and Mr. Henry Westoby, the first named being from Hamilton, Ont., and the latter from Guelph. Both gentlemen came to Nassau for the benefit of their health, and are both satisfied with the result, and are profuse in the praises of our island and its climate. Mr. Linton, although he arrived only a week ago, feels that he has derived much benefit already from the change and rest. Mr. Linton is preparing an article for one of the leading journals of his town, and he will without doubt, in this, give expression to his impressions of Nassau.

DAY NURSERY.

The Board of the Day Nursery, 299 Rebecca street, were very much pleased to find that by the will of the late Miss Juliet Wilcox Doolittle, they were to receive \$800. They also acknowledge a cheque from the Grocers' Association for \$25. Youmans' social at Mrs. Smith's, provisions and cash, \$2. Mrs. J. C. Taylor, \$1. Children kept and fed at 5c per day while mothers work.

Do You Want These Books?

Everyone thinking of going out West should read the free booklets, "Settlers' Guide" and "Western Canada," published by the C. P. R. They contain a mine of information regarding the Northwest, crop features, lands for sale, farming notes, good maps, freight and passenger rates, and particulars of settlers' train service during March and April. Apply at once for copies to local agent or direct to R. L. Thompson, District Passenger Agent, C. P. R., Toronto.

Notice to Housekeepers.

When buying house supplies do not forget to order Gerrie's Perfected Baking Powder. It is the strongest, purest and highest grade powder sold; 2,500 of Hamilton's best housekeepers use it. Try it and you will use no other. Price, 30c per lb.—Gerrie's drug store, 32 James street north.

Something New.

Laxa-Food Cookies are now on the market at ten cents per package. They are very tasty and are equal to home-made; no cheap ingredients are used. Ask your grocer, A. W. Maguire & Co.



Marie Hall, the English violinist, appeared before a large and representative audience at the Grand Opera House last evening, and again demonstrated her right to be recognized as one of the world's great violinists. She has lost some of the pensive features that was noticeable at her former concerts, while artistically she has rounded out considerably. She possesses even more surety and grasp of her work, her tone is broader and her technique more subtle. Her programme numbers indicated the heights to which she has ascended. A Mendelssohn concerto can be undertaken only by a fully equipped violinist, and that in E Minor, played by her last evening, revealed her powers in the most certain manner. It was grandly played, the glorious Andante being given with a big and sympathetic singing tone that was delightful. The four shorter numbers, concluding with Bizet's "Moto Perpetuo," were played most brilliantly. The closing number, Wieniawski's "Souvenir de Moscou," showed Miss Hall's marvelous technique to great advantage. The double stopping, harmonies and dashing execution being extraordinarily effective. Enthusiastic applause was repeatedly showered on her, but she escaped with two encores.

Miss Lorie Basche was again the solo pianist and accompanist for Miss Hall. Miss Basche wisely does not choose too heavy compositions, save, perhaps, an occasional Liszt number, and her execution is brilliant and sure. Last evening's numbers and their rendition caught the fancy of the audience. The first group of Mendelssohn and Dvorak works was played with much skill. "The Hungarian Rhapsody" was given with a good deal of power, and the fair pianist, after each appearance, was warmly recalled, and after the "Rhapsody" played as an encore Chopin's Etude No. 3.

Harold Bealey, the vocalist, did not substitute for the prologue to "I Pagliacci," on the programme, Schumann's grand song, "The Two Grenadiers," and while his voice was not robust enough for it, he sang it with expression, and pleased the audience. He was better fitted with the two light lyrics, "Pride and 'Pretty Little Kate,'" which he sang quite tastefully and was encored.

A GOOD MUSICAL SHOW.

The reserved seat sale for "Forty-five Minutes From Broadway," which comes to the Grand next Saturday, opens tomorrow morning. The cast will be the same as seen here last season, which is a guarantee of a good performance, for the production certainly gave satisfaction. Quite as unique in conception as the story of the play itself is the character of Mary, which differs radically from any role seen on the stage for the past decade, and affords Miss Gordon unlimited range for the display of her versatile powers. Underlying the quiet but effective comedy lines of this play is a deep laid thread of pathos which often brings one to the verge of tears. Miss Gordon's two song numbers, "Mary Is a Grand Old Name" and "So Long, Mary," both of which are written in Mr. Cohen's most characteristic vein, are so capably rendered as to make them features of the performance. Scott Welch will again be seen in his famous role of "Kid Burns," the ex-slange prize fighter retired.

AT BENNETT'S THEATRE.

Large audiences enjoyed the fine bill at Bennett's again yesterday. Of course Fred Bond proves the winner in his skit, taken from "Arabian Nights," entitled "Handkerchief No. 13." Arthur Pitts, a young blonde, takes unto himself a wife. Shortly after the honeymoon he waned his wife goes for a visit, leaving in charge her mother-in-law, Mrs. Calkin, amusingly played by Miss Argyle Gilbert. Pitts has been reading the

"Arabian Nights," and is fascinated by the story of the caliph, who sallies forth into the night. Pitts acts on the suggestion contained in the story, sallies forth, and meets Rosie St. Regis, of the music halls, capably played by the captivating and beautiful Miss Fremont Benton. Pitts, a little under the influence of the bowl that cheers, unconsciously gives the lady his handkerchief and card. The next day Rosie calls at the house of Pitts, and the complications that ensue from the naughty benedict trying to shield the identity of the unwelcome chorus lady in the bosom of his family provide many hearty laughs. The stage setting is decidedly picturesque and the appointments handsome. Love of music and music will thoroughly appreciate the clever Charles Cartmell and the captivating Laura Harris, who are again in our midst, in one of the cutest singing and dancing skits of the season. Cartmell's methods are on the order of George M. Cohan's work, and dainty Miss Harris is the quintessence of grace and loveliness. In fact, by many she has been called a pocket edition of the beautiful Maxine Elliott. George B. Snyder and Harry Buckley in their latest offering, "No Smoking Allowed," score a substantial hit. In fact, all are worthy of praise.

AT THE SAVOY.

The best performance yet presented by the Selman Stock Company is "Arabian Nights," according to the verdict of the two large audiences that were present at both performances yesterday. The play is handsomely staged with magnificent scenic effects and special electrical apparatus, and the small number of players in every detail. The individual members scored "big hits" and the frequent curtain calls testified to the appreciation felt by the players. The scenes are laid in the west at the time of the uprising of the Indians, and three intensely interesting plots are so interwoven that the drama is full of stirring dramatic situations. John Swiftwind, assistant surgeon at the army post, is forcibly portrayed by Mr. Selman, and by many of this young actor's staunch admirers is considered the best work he has given in Hamilton. He makes him a heroic figure struggling with the ways of civilization, when all his instincts tend toward the rugged truth of the savage. In this role he adds another triumph to his record. The variety of expression, both vocal and facial, is little short of wonderful. The method of expression is ultimately to the highest degree. There is great force and power in his interpretation of Swiftwind, and the play is a triumph of the actor. Miss Marie Pottos is sweet and sympathetic as Florence Sherwood. Cecil Owen is a revelation as Sidney Sherwood. This production receives the best art of all, and the players take advantage of every opportunity to give an inspired performance. Seats are now selling for "Shiloh" Holmes, in "The Sign of the Four." Seats are now on sale for "The Merchant of Venice."

WESTERN DRAMA TO-NIGHT.

Life on the western plains is well portrayed in "Montana," which comes to the Grand to-night and to-morrow evening. While the characters are all people of that locality, there is not that excessive use of gun powder and red fire generally seen in plays of this kind, for "Montana" has a sufficiently interesting story to carry it through. It tells of the troubles the cattle raisers have to contend with in protecting the cattle from the rustlers and incidentally has a very pretty love story and some good, clean comedy. A very capable company is said to have the play in hand, and as it was well received in Toronto last week, the performances here should attract good crowds.

MENDELSJOHN CHOR.

Toronto, March 3.—The Mendelssohn Choir started on their journey to Chicago last night in two special G. T. R. trains, splendidly appointed. The first train, consisting of six Pullmans and a baggage car, carried the ladies, and the men gathered on the station platforms and gave them a rousing send-off. The second section also consisted of a half-dozen sleeping cars, but a day car to be used as a smoker will be added. The choir will give a cycle of three concerts in Carnegie Hall, Chicago, in conjunction with the Theodore Thomas Orchestra of that city.

Port Colborne Boy of Nine Pulled Comrade Out of Icy Water.

Welland, March 2.—An example of splendid youthful heroism was shown at Port Colborne yesterday afternoon, when Lyle Anderson, aged nine years, rescued Frank Neff, aged ten, from drowning.

The two boys were playing on the harbor ice when Neff went through a hole. Though a young lad, he was a good swimmer, and was going for the last time as he was coming up for the last time.

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Our \$1.05 hardwearing Brussels carpets 87 1/2c  
Our \$1.15 hardwearing Brussels carpets 92c  
Our \$1.25 hardwearing Brussels carpets 97 1/2c

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20 to 50 yard lengths—enough for one room of a pattern—fawn, green or crimson grounds, in floral or Persian designs. Splendid qualities.

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Over two hundred pairs of these fine Swiss Point Curtains started the sale. They are all fresh, perfect and new. But they come in small lots of two to twelve pairs of a pattern; hence the little price. This is one of the best curtain offers we ever made; don't miss it.

Pretty, effective, lacey border styles, in several very handsome patterns. Good