

About 20 years before the application, or when Dr. Maclean reduced the dislocation of the hip.

6. State whether the existence of the disease of abscess or open sore was something material to be stated by Dillon in answer to the question.

No.

7. Did Dillon suppress or withhold any information respecting his past or present physical condition which was material for the insurance company to know?

No.

G. T. Blackstock, K.C., and R. B. Henderson, for appellants.

I. B. Lucas, Owen Sound, and W. H. Wright, Owen Sound, for plaintiff.

The judgment of the Court (MOSS, C.J.O., MACLENNAN and MACLAREN, JJ.A.), was delivered by

MOSS, C.J.O.— . . . In view of their finding upon the first question, it was unnecessary for the jury to express any opinion upon the other questions, but there is ample evidence to support their conclusions with regard to them, and they may be regarded as not wholly immaterial.

As to the first question, the jury on the first trial found that the answer made by Dillon was not true, and on the appeal this Court expressed the opinion that the finding was in accordance with the evidence. But that opinion was formed having regard to all the evidence then before the Court, including a book or register of marriages and births produced upon the examination under commission of the Reverend Thomas O'Dwyer, described as administrator of Pallas Green, county Limerick, Ireland. At the first trial the register was received without objection, but at the second trial plaintiff, as she was entitled to, objected to its reception, and it was admitted subject to the objection.

The authorities shew that no proper case was made for its admission, and it should have been rejected. Nothing was shewn with regard to it except that the witness, who is described apparently by the commissioner as administrator of Pallas Green, county Limerick, says that he produces the registers of the parish in his custody. By what law or under what authority, if any, they were kept, is not disclosed. Reference is made to entries thereon, but the office or handwriting of the person by whom they were made is not shewn.