

the appeal, and subsequent proceedings, more especially in view of the charges of fraud which have failed; the costs to be added to their claim. In default of redemption the action to be dismissed with costs, including the costs of the appeal and subsequent proceedings.

As to the defendants the Moores, the appeal must be allowed, but I think that as between them and the plaintiffs there should be no costs of the action or appeal.

Upon the one hand, the plaintiffs made charges against these defendants of personal fraud, which were not sustained, while, on the other, these defendants did not confine themselves to a defence on the charges, but put forward claims which they were not entitled to, and a considerable portion of the trial was taken up with matters not relevant to the real issues.

MEREDITH, J.A., gave reasons in writing for the same conclusions.

OSLER, GARROW, and MACLAREN, JJ.A., concurred.

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SEPTEMBER 23RD, 1907.

C.A.

REX v. ARMSTRONG.

*Criminal Law—Carnal Knowledge of Girl under 14—Conviction—Motion for Leave to Appeal—Proof that Girl not Applicant's Wife—Testimony of Girl—Knowledge of Nature of Oath—Instruction for Purposes of Trial—Criminal Code, sec. 1003—Corroboration.*

Application by John Armstrong, the defendant, for leave to appeal from his conviction and for an order requiring the police magistrate for the town of Napanee to state a case for the opinion of the Court.

The motion was heard by MOSS, C.J.O., OSLER, GARROW, MACLAREN, and MEREDITH, JJ.A.

W. G. Wilson, Napanee, and F. M. Field, Cobourg, for defendant.

J. R. Cartwright, K.C., for the Crown.