

had permanently alienated the affections not only of the plaintiff but also of all his children. He admitted that they were all against him, and he characterised all their evidence as to his violent actions as sheer inventions.

In this statement he was incorrect; acts of violence were established.

The learned Judge's conclusion, however, was based upon the finding that these acts of violence were not of such a character as to have produced in the plaintiff physical illness or mental distress of a nature calculated permanently to affect her bodily health or endanger her reason, and that it was not established that there was reasonable apprehension that in the future acts would occur likely to produce such a result. She was not afraid of him, and she would not be in any danger if she continued to live with him.

The statements made in evidence on behalf of the plaintiff as to the violence of the assaults upon her were seriously exaggerated. The defendant was a sober, industrious, hardworking man, holding an excellent and important position as foreman of bridge-construction on a section of the Canadian Pacific Railway.

The learned Judge also found against the allegations as to the husband's failure properly to maintain his family; the evidence shewed that he did furnish the plaintiff with all proper necessities according to his position in life.

Upon the whole testimony, and considering the demeanour of the witnesses, and the manner in which their evidence was given, the learned Judge found that the acts of violence proved were not such as to cause reasonable apprehension of danger to the life, limb, or health of the wife. In the witness-box the plaintiff appeared a strong and healthy woman, both able and willing to maintain her views and enforce her rights, real or supposed, in the domestic forum.

For a summary of the law, reference was made to the judgment of Riddell, J., in *McIlwain v. McIlwain* (1916), 35 O.L.R. 532, at p. 538.

Upon the defendant signing and filing an undertaking to receive back his wife and children and to treat his wife in all respects with consideration and as a wife should be treated and to abstain from all acts of violence, the action is to be dismissed. There is to be the usual order for costs in case of dismissal as provided in Rule 388.