

SUMMING UP.

Commissioner KERR: Gentlemen, the issue has been narrowed at last to this, and that is the question which I would put to you. *Has the plaintiff satisfied you that in ruling in the way that he did the defendant was actuated by an indirect motive. If she has, then you will be good enough, disregarding other questions, simply to decide that question yea or nay, and, if you decide it affirmatively, then you will say what damage. You cannot say more than a farthing damage, because no damage whatever has been proved, but you have nothing whatever to do with the law of the case.* It is a most unfortunate thing that this letter was managed in the way that it was. There is no doubt whatever that it was a registered letter, and there is no doubt whatever that if that letter had been put into the hands of any one of you gentlemen, and you had been asked whether it was a registered letter, you would probably say that it was not, simply because you are accustomed to receive a registered letter crossed in blue pencil and with marks; but crossing in blue with marks is simply evidence that the letter has been registered. A letter may be registered, and yet not be marked either with the R or with the blue strokes, as is the case here. It may be a general advantage that you should know nothing of law, but in this particular case, seeing what the result has been, it was most unfortunate that they did not adopt the other course, as it were, and let this be considered a registered letter, and let the matter go to the meeting. However, that is the question for you. The question for you simply is this: have you been satisfied by the evidence given before you that Sir James Crichton-Browne, on this occasion acted (I put it in the words adopted by the plaintiff's counsel) indirectly? If you are, you will find your verdict for the plaintiff; if not, find your verdict for the defendant.

A JUROR: I should like to ask if it was after the receipt was handed up to Sir James Crichton-Browne that he gave his decision not to hear the case.

Commissioner KERR: It was before, unfortunately.

A JUROR: He had seen the receipt when he gave the decision?

Commissioner KERR: He had not, but the receipt was called for and handed up, and he did not alter his decision, according to the shorthand notes.

MR. MUIR MACKENZIE: That is so.

MR. SCARLETT: That is so.

[The jury having considered their verdict]

Commissioner KERR: How do you find?

The FOREMAN: *We find a verdict for*

THE PLAINTIFF,

a farthing damages.

MR. MUIR MACKENZIE: I would ask your Honour for judgment for the defendant, on the ground that the action does not lie at all.

MR. SCARLETT: I think our friend had better fight that out somewhere else; I ask for judgment.

Commissioner KERR: I would rather you would, because it is a most important question.

MR. SCARLETT: I ask for judgment in accordance with the verdict. I ask your Honour, as this is a matter of importance to a body of persons, to certify for costs on the higher scale.

Commissioner KERR: They admit that; both parties have told the jury it is a very important question to all parties. My first disposition was to non-suit; I tell you that frankly. Looking at the nature of the case, and how much is involved, I cannot help thinking that it would be better for you to go elsewhere.

MR. MUIR MACKENZIE: I ask you formally for judgment.

Commissioner KERR: Yes, formally.

MR. MUIR MACKENZIE: On the ground I suggested—that the action does not lie unless there is a grievance, and there is no grievance here.

MR. SCARLETT: I am quite willing that there should be a stay, but I ask for judgment for the plaintiff, with costs on the higher scale, according to the certificate.

Commissioner KERR: That would be so if the judgment will hold, but I want the matter settled. I will consider it, Mr. Muir Mackenzie.

MR. SCARLETT: Will it be necessary for us to come again?

Commissioner KERR: No, I think not. I know Mr. Muir Mackenzie's arguments perfectly.

AS WE GO TO PRESS WE LEARN THAT MR. COMMISSIONER KERR DELIVERED HIS JUDGMENT, ON THE IMPORTANT POINTS OF LAW WHICH HE HAD RESERVED FOR CONSIDERATION, IN COURT ON THURSDAY MORNING. HE ENTERED JUDGMENT FOR

THE PLAINTIFF,

WITH HER COSTS ON THE HIGHEST SCALE. HE GAVE LEAVE TO THE DEFENDANT TO APPEAL, AS THE CASE WAS ONE OF GREAT PUBLIC IMPORTANCE.

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