

Summing Up of Heberling Case

Famous Divorce Action Will Soon be a Matter of History

SOME CAUSTIC REMARKS

Attorney Raines Declares the Whole Transaction Was a Conspiracy—
The Matter Will Be Finished This Morning

Yesterday marked the beginning of the end in the celebrated Heberling divorce case. The summing up of the evidence, which has been taken behind closed doors, was begun and doubtless will be finished to-day. Mr. and Mrs. Heberling were both present, but David M. Kirkpatrick, the co-respondent named in the action, was not in attendance. The secrecy which has invested the case so long was thrown aside yesterday and a number of spectators were present in the afternoon.

It was expected that there would be another witness in the case, but when the court opened yesterday morning the witness was not present, and Attorney George Raines announced that he was ready to close the case. Upon this John M. Stull, attorney for Mr. Heberling, began the summing up. His summary yesterday was brief, but he will have another chance to-day. He said in part as follows:

The plaintiff's evidence of infidelity on the part of Mrs. Heberling, the defendant, is so strong that it cannot be contradicted. Your honor has had told by witnesses the story of how Kirkpatrick, the co-respondent, and Mrs. Heberling were found by several reputable persons "in flagrante delictu" in a room at dead of night.

There was no possibility of mistake on the part of those who saw these things on that night, when they came upon the defendant and the co-respondent in that room. Those witnesses may have been mistaken about some minor points, such as the color of the gown worn by the defendant, or other small matters. But in the important facts there can be no question.

At the conclusion of Mr. Stull's brief introductory summary, the defendant's case was taken up by Attorney George Raines. He occupied the greater part of the day, and his remarks abounded in scathing denunciations of the methods employed by the plaintiff and his associates in the case. He said:

We have met the evidence in this action squarely on its merits. My friend has referred to the position Mr. Kirkpatrick held in this city. But in other cities he had served as a pastor without causing any suspicion.

It is a fact that stands out in this case that at the time when this charge was brought against Rev. Kirkpatrick that his record here was unimpeachable. Being in that position the court must see to it that the

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charge must be sustained by clear, indisputable proofs. The same thing can be said of the lady in the case.

There was a suggestion of some letter which had been torn in pieces and which was brought here as evidence. Your honor tried to decipher it, but gave up in despair. Mrs. Heberling, with her poor vision, was unable to make out this letter.

The malevolence of this plaintiff seems to know no limit. He was determined to stop at nothing. He was actuated by the spirit of revenge and was bound to leave no stone unturned to accomplish his purpose.

There is a story in connection with this case that is interesting. Mrs. Heberling went from the Parkhurst home, where she had lived for months, subjected to all the petty annoyances that make life unbearable, and began to study dressmaking. Merely to illustrate the unfair way in which this defendant was used, your honor has been obliged to listen to a long discussion about such small payments as one dollar and two dollars. I bring these things out to show that there was nothing fair about this man's treatment of his wife.

In September, 1895, this defendant had a dressmaking business in the Hayward block. She worked there until the next February, when a Mrs. Dayton became her partner, when they went to the Sibley building. Here they remained until the first of September, 1896, when the material facts of this case develop.

You have a story here of a woman who is trying to earn her living as best she can in a woman's way. In the summer of 1895 she herself was compelled to get a detective, not to watch her husband, but to protect herself.

Kirkpatrick and Mrs. Heberling first met by chance in the fall of 1895. They were introduced at Seneca Point. This came after the defendant and her husband had been in trouble. In the fall of 1895, after leaving the hospital, Mr. Kirkpatrick, being an unmarried gentleman, asked her, as he had a right to do, to go to the theater with him. This was done publicly on two separate occasions. There were messenger boys used to carry messages back and forth, but the topic was only such as two cultivated friends carry on together.

Mrs. Heberling was invited to Kirkpatrick's church, and the fact that she was separated from her husband caused comment and the defendant refused to go there any more.

On January 16th, inst., there was a letter written by Heberling saying to his wife that he did not get as much money for his work as he should have. There is evidence to show that on the previous night Heberling and Detective Walworth were shadowing Mrs. Heberling for

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the purpose of obtaining evidence against her. They claim that they learned that Mrs. Heberling and Kirkpatrick were together on the night of December 16th in this city, and still on the day following the plaintiff wrote to Mrs. Heberling at Mt. Morris, when he knew at the time she was in Rochester. Who is lying here? Who is open and above board?

As near as I can learn this was about the time that Heberling went to a newspaper in this city and told of his suspicions, saying that it would be a good chance to get out of a libel suit. Following this came the alleged expose.

A number of letters from Mrs. Heberling to her husband asking for back alimony were ready by Mr. Raines. The details of the night visit to the Campbell street house were then repeated by him. His explanation of the affair was based upon the premise that Mrs. Heberling and Kirkpatrick were forced together by the stress of circumstances over which they had no control. He said that the turn of affairs in the libel case made a conference necessary, and that this is what the plaintiff was depending upon, and which he had waited patiently for.

When this came about, said Mr. Raines, the opportunity was made the most of. He denied the allegations of the witnesses for the plaintiff that there was anything in the appearance of Mrs. Heberling or Kirkpatrick, when seen together on that night, to indicate anything wrong.

Justice Dunwell had an engagement at 4:30 o'clock and court adjourned for the night before M. Raines finished. He will make the final address for his clients this morning, and Attorney Stull will conclude his summing up immediately afterward.

Democrat and Chronicle, Rochester NY, Wed. 22 Dec 1897

Transcribed on 19 Feb 2008 by Karen E. Dau of Rochester, NY