

THE OTHER SIDE

The Defendant Gives Testimony in the

McCUTCHEON CASE.

Contradicts the Evidence of Her Husband

AND ALLEGES THAT HE TREATED HER WITH GREAT CRUELTY.

Mr. Baird Offers Testimony in Rebuttal of Defendant's Statement.

The McCutcheon divorce case engaged the attention of Justice Gregory the whole of Tuesday afternoon and was unfinished when the court adjourned for the day at five o'clock. The plaintiff, Benjamin F. McCutcheon, took the stand after recess and was subjected to a sharp cross-examination at the hands of Mr. Blair, but nothing of a startling nature was elicited from him.

Edgar Roy McCutcheon, a thirteen year old son of the parties to the suit, was the next witness, and corroborated the testimony of his father on some important points. He swore that he had seen Abraham Bemus and Irving Earle in his mother's bedroom on different occasions. He was the last witness for the plaintiff.

Irving Earle was called for the defence and gave an emphatic denial to the statements of the previous witnesses concerning him. He had been to the Central hotel, on several occasions when it was run by Mrs. McCutcheon, but denied that his relations with her were other than proper.

Mrs. McCutcheon, the defendant next took the stand in her own behalf, and for the next hour the proceedings were of a decidedly lively nature. She is a woman in the neighborhood of forty, well dressed, and displays plenty of jewelry. She told her story with great snap, and talked so rapidly that Stenographer Simmons, who is one of the most expert of the profession in this province, found himself handicapped and had to have the brakes applied to the witness. The air assumed by her was one of injured innocence, and when she had occasion to refer to her husband she did so in a way that left the impression that she does not entertain a very friendly feeling towards him at the present time.

In answer to Mr. Blair, she said she was the defendant in the suit and was married to Benjamin McCutcheon in March, 1887. She was a widow at the time. She lived at Kingston about a year and three months and then went to St. John. She only got along amicably with her husband about three weeks. He beat her one day for refusing to go out in the rain to drive a cow home. They went to St. John and lived on Adelaide road. Witness objected to Mrs. William Kelly running her house, and because she did so, her husband threw her down stairs. He had been living with Mrs. Kelly before their marriage and was infatuated with her. Witness afterwards lived on Bridge street, and also on Metcalf street. Before she removed from Kingston her husband left her and went to Bangor. She had not cohabited with her husband for eight years this coming July. She stopped cohabiting with him because he became diseased and also because he ill-treated her. If anything went wrong he would pick up the first thing that came to hand and throw it at her. On one occasion he struck her with a curtain pole. Witness admitted that she had a stiff temper and did not believe in letting any man walk over her. While living on Germain street her husband hit her with his fist and she put him out doors and locked the door. He had become enraged at her for some trifling thing and struck her with his fist. Another time he threw a knife at her because she couldn't get the fire to burn. On another occasion while they were living on Bridge street he said he wished their two souls were in the hot place, and afterwards threw the baby down so hard in the crib that it died five days afterwards from inflammation of the brain. Her husband told her that he was keeping company with an Appleby woman, who was better than she (witness) ever dared to be. She complained to Capt.

Jenkins about her husband and afterwards went up to Miss Appleby's house and found him there. He ran out and back home when he saw witness, and afterwards jumped out of the window and hid on a wharf. Shortly after this their furniture was seized and witness removed to Boston. She came back at the end of a few weeks and lived with her father and supported her children as best she could. Her husband lived in the same house, but she had nothing to say to him. He did not contribute anything towards her support, and she was compelled to work out and also to take boarders. The witness swore positively that she had never had improper relations with Irving Earle at any time. She also denied that she had ever had improper relations with Edward Earle either in St. John or elsewhere. Neither had she had improper relations with a man named Dohahoe. Abraham Bemus was never in witness' bedroom at any time. The statement made by her boy in his evidence that he had seen Edward Earle and Abraham Bemus in her bedroom was incorrect; he had been put up to it by somebody; it was a conspiracy. The boy had also told an untruth when he said that he had seen witness intoxicated. She had never taken a glass of liquor in her life and was strictly temperate. She last saw her husband at the Central hotel, when he refused to give her money with which to support her children. He had never cohabited with her while she lived in the Union street house; his statement that he did was a falsehood. His statement that he had found her in a compromising position with Irving Earle was also a falsehood. Her character was clean, if nothing else.

To Mr. Baird she said her name was Ethel Marguerite McCutcheon and that was the name she gave the minister. She was first married when sixteen years of age and was a widow six months later. Mr. Baird wanted to know what became of her first husband, and her reply was that he died like all other men. She married McCutcheon while wearing black eleven months after the death of her first husband.

At five o'clock the cross-examination of the witness not having been finished His Honor adjourned the court until 10 a. m. Wednesday.

Today's Proceedings.

The cross-examination of the defendant was continued by Mr. Baird this forenoon. She said that she rented the Central Hotel in January, 1900, and remained there until the 17th of July. She kept permanent and transient boarders, but could not remember their names. There were no private visitors, but they had some lodgers. Two of these were women, Mrs. McDonald and Miss Smith. Neither of them belonged to Moncton. The witness spoke very sharply in replying to the questions of counsel and had to be several times cautioned by the judge. He told her that she must treat Mr. Baird with civility and must conduct herself as a lady if she wished to make an impression upon him. The witness continuing, said that neither Earle or Bemus had ever been in her bedroom at any time. She never saw her husband after she left the Central Hotel; he never compelled her to close up her shop on Union St. She only kept house on Union St. four days. Her reason for leaving the Central Hotel was that the furniture was restrained and sold out. Was never notified by the police that she was keeping a disorderly house. Her place had never been raided by the police, though she had been fined once for selling liquor. Capt. Jenkins and a policeman visited her house on one occasion to search for liquor, but for no other purpose. Her father or the landlord never complained to her of the class of people kept around the house. The Macdonald woman remained with witness about three months. Witness denied that her husband had continuously sent her money during his absence from home. It was true that she had not cohabited with her husband for seven years. After leaving the Union Street house she sent her children to the Roman Catholic institution at Silver Falls. Her husband paid the bills while the children remained there. Had lately found her two children at Bellisle, living in filth and dirt. She tried to get them away but was not successful. Witness remained in Halifax about four weeks, was not in a house of ill fame there. After leaving Halifax she went to Boston, and went to live on Massachusetts Avenue. She stopped there for some months and afterwards commenced housekeeping on Shawmut avenue. Her rooms were all let to lodgers. She next moved to an empty house on Columbus Avenue. It contained twenty-four rooms and was furnished by her at a cost of \$800. She had bought the furniture on the instalment plan and had it nearly paid for. She kept lodgers and also carried on a hair dressing business. She closed up this branch before coming away and the landlord was looking after the house. She stopped cohabiting with

her husband about eight years ago, because of his having contracted a bad disease. He never visited her or sent her any money after she went to the Union street apartments.

Re-examined by Mr. Blair the witness said her husband never sent her any money since going to Boston. She made from \$15 to \$25 per week there dressing hair. She also made some money working in a shirt waist factory, sufficient to enable her to buy furniture.

This closed the case for the defence. Mr. Blair applied for permission to call witness to contradict certain statements of the defendant and after some discussion His Honor granted the request.

Alfred McCutcheon, eldest son of the parties to the suit, who arrived from St. John this morning, was then called to the stand. He said he did not remember having seen his grandfather at the Central Hotel. The Macdonald girl boarded with them at the time. Had seen William Bemus in his mother's room off the parlor, but had never seen her there with him. Was present once when the police made a raid of the house, they went through the rooms and took away some liquor. Had seen his father twice at the Union street house.

The witness was cross examined by Mr. Blair, but nothing new was elicited from him.

Roy McCutcheon being recalled, said he remembered of the Central House being twice raided by the police. They looked in all the bed rooms and on one occasion took some liquor away. Had often seen Irving Earle at the Union Street house and saw him more than once in his mother's bedroom. Had seen his father once at the Union street house.

Mr. Baird informed the court that he was desirous of calling Clara Earle, but she had not yet arrived in the city. A telegram received from his son stated that she was on her way here, but he did not know how soon she would arrive.

His Honor stated that Mr. Baird should have had his witnesses in court before he rested his case. It was no time now to call witnesses for the plaintiff. He would adjourn the court until 2.15 o'clock, and if the witness was not there in court, he would, unless satisfactory explanations were forthcoming, close the case.

Mr. Baird's additional witness did not put in an appearance when the court resumed this afternoon, and evidence given by her at a previous sitting was ruled out.

The counsel briefly addressed the court on behalf of their clients and judgment was reserved until next term.

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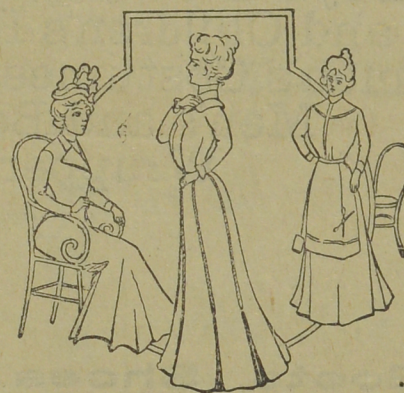
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