

GERLINGER CASES MAY BE DECIDED BY JURY

Nine of 12 Men Must Agree in \$50,000 Breach-of-Promise Action.

EX-HUSBAND BREAKS DOWN

Edward Gerlinger Blames Frank for Downfall of Divorced Wife, Who Was "Sweetest Girl" Ever Up to 1909, He Says.

The \$50,000 breach of promise suit of Mrs. Gertrude Gerlinger against Lloyd Frank went to the jury at 5:20 o'clock yesterday afternoon.

At 11:30 o'clock last night, no verdict having been reached, the jury was locked up for the night. It had been deliberating six hours at that time.

Nine of the 12 jurors must agree on a verdict.

Judge's Instructions Brief.

Judge Davis' instructions, which he began immediately after Attorney Moulton for Mrs. Gerlinger had finished his closing argument, were brief. Only 20 minutes was required in their delivery.

Through the jury filed out, passing through the Judge's chambers because of the packed condition of the courtroom, the crowd of curious spectators who thronged it, filling every seat and lined up five and six deep along the rail, the back and sides of the room, began to leave. There were so many that it required nearly ten minutes to empty the room.

A large proportion were women. They appeared to be in a state of nervousness in the most uncomfortable positions, jammed in between men, jostled and compelled to stand on tiptoe to see over the heads of the men. As long as they could hear the arguments of the attorneys. Their apparent desire was gratified.

Single File Necessary.

So large was the attendance at the morning session that those seeking entrance in the afternoon were required to form a line in single file before the doors of the court were opened. The line at one time stretched the entire length of the long corridor on the east side of the third floor of the courthouse, approximately 150 feet. The line at one time stretched the entire length of the long corridor on the east side of the third floor of the courthouse, approximately 150 feet.

Yesterday was the fifth day of the trial. It began last Tuesday, and with the exception of Saturday and Sunday has been in progress every day since then. In the morning, the case was examined in behalf of the defendant, Lloyd Frank, and four witnesses were testified for Mrs. Gerlinger.

The 12 jurors in the case, nine of whom must agree on any verdict, are W. H. Addis, A. C. Mann, S. F. Park, W. S. Darling, J. M. Manning, R. A. Ward, I. E. Langley, W. H. Barber, W. L. Adams, Hanson, C. C. Vance and Frank Lange.

Judge Davis, in his instructions, briefly reviewed for the jury the legal aspects of the case in part:

Did Mole Meet Vital Question?

"The sole question for you to determine is whether or not, during the month of January, this defendant and the plaintiff entered into an agreement to marry, and whether or not their minds met and they had a mutual understanding to be man and wife within the year. If you find there was no such promise, then the case ends, and you must find for the defendant.

"If you find that a promise was made, then the case ends, and you must find for the plaintiff. If you find that the defendant broke that promise in March, as alleged in the complaint, if you find that he did not, then you must find for the defendant.

"If you find that he did, then you have the remaining question, to assess the amount of damages.

"The burden of proof in this case is on the plaintiff and the law requires her to prove, by the preponderance of evidence or by the more weight of belief, if the evidence for or against her contentions is about equal, then you must find for the defendant."

Was Contract Made?

Of efforts to impeach the testimony of Mrs. Gerlinger he said: "Such evidence is not a defense, but is to be considered by you in determining whether or not a contract of marriage was actually made. If you find after consideration of the evidence that she is entitled to recover, then you may take into consideration evidence regarding her character in mitigation of damages.

"The court instructs you that the contract to marry may be proved either by positive or by circumstantial evidence. However, unless you can first find the contract, the defendant actually promised to marry the defendant and that she accepted his promise in earnest, then you must find the issue for the defendant.

"The arguments of the attorneys were limited by Judge Davis to two hours for each side. Arthur I. Moulton, attorney for Mrs. Gerlinger, and George Joseph and Charles H. Carey gave arguments in behalf of Mr. Frank.

Mr. Joseph consumed an hour and three-quarters in his argument and after Mr. Carey had spoken for 15 minutes his time was extended another 15 minutes by the court, Mr. Moulton making no objection.

Witnesses in Apparent.

Between Mr. Joseph and Mr. Moulton an intense bitterness was apparent. Much of the argument of each was taken up with harsh criticism of the other.

In his opening address Mr. Moulton emphasized the bringing by the defense of Felix Blackburn from Birmingham, Ala., to Mrs. Gerlinger, the defendant's former life there. He declared that the defense in producing Mr. Blackburn had evaded bringing the real witness against Mrs. Gerlinger, Dr. Edward Gerlinger, who alleged seduction of Mrs. Gerlinger, whose alleged seduction of Mrs. Gerlinger was the subject of a criminal case in Birmingham, which she feared to have him face a cross-examination in court.

He asserted that the defense had been unable to prove that prior to meeting Mr. Frank in 1909, while she was still the office of Edward Gerlinger, Mrs. Gerlinger had committed any indiscretion.

"You have brought your lawyers whom you have brought your array of detectives here, you have brought your great wealth here," he said, "but you have not been able to prove by one word that before he met her in 1909 she had done one wrong act. Up to that time she had been living happily with her husband."

Frank Gets Scolding.

"It stands out as clear as anything that Mr. Frank was going to furnish her house for her and it is shown by the testimony that he must have had one of two things in his mind; that he must have intended to marry her or that he intended to lie to her and to ruin her very soul."

Mr. Joseph in his reply devoted special attention to the evidence offered by the plaintiff to show that Mr. Frank had promised to marry her. "Oh, what a wonderful courtship this defendant had!" he cried. "What a grand courtship!"

"Did this defendant meet her at church?" he asked. "Did she introduce to him? No, she comes into the store with some tags she wanted him to sell—and what a peculiar incident that she immediately comes back to marry her or even know his name at that time! She admits that in her own testimony. The courtship had begun! What a grand courtship!"

He reviewed the testimony of Mr. Frank that after learning that she was a married woman he had soon after ward stopped going to visit her and had not visited her for two years and eight months, up to 1912, when the affair was renewed.

"Did he give her a ring?" he questioned. "Did he give her a letter? Did he write to her when he was gone? Does that look like a courtship? Does it look like your courtship? Was there anything like a courtship except on her part, because she wanted to continue the relationship?"

Date Not Remembered.

Again, he said: "The complaint charges that they were engaged some time during the month of January—oh, she can't remember the exact date when they were engaged!"

"Were they sitting on some cliff at the time? Were they sitting on the rocks? Were they down at the brook as he told her she loved her when this engagement took place? Oh, that is the time that she should remember! We men forget those things, but our wives in after years remember them and remind us of them."

"Mr. Addis," addressing one of the jurors, "your wife can tell you when you were engaged. She can tell you when your children were born. But this woman cannot remember anything like that. She cannot even remember the day when she was engaged!"

Bible Is Quoted.

In his argument Mr. Carey told the jury that it was not for them to decide whether the defendant was to blame for Mrs. Gerlinger's sin, but whether he promised to make her his lawful wife. He quoted in his argument the biblical story of the man and the temptress as compared to a virtuous woman.

In his closing argument Mr. Moulton, too, made a biblical allusion to the man and the temptress as compared to a virtuous woman.

"That old trait in Adam of laying his downfall to Eve," he said, "has come out and been developed. Some do not blame Adam, but others do. And we have them here who repeat the old saying of Adam: 'She tempted me.'"

"Mrs. Gerlinger is good enough for this defendant to associate with; she's good enough for him to call his Valentine; she's good enough for him to give her a purse; she's good enough to give a bed to; but she isn't good enough for him to be seen in public with; and she isn't good enough to say that he broke his promise to marry her, without having it called blackmail."

Ex-Husband in Court.

One of the last witnesses to be called in the case yesterday morning, completing the list of witnesses, was Mrs. Gerlinger, who was called to the stand by her former husband. He came to court with great reluctance, being brought in by the new quarters in the Northwestern National bank building at Sixth and Morrison streets a few weeks ago. This bank and the Northwestern National elected a common set of directors, three-fourths of the stock

BANK DIRECTORS IN PORTLAND ELECTED

Stockholders of All National and State Financial Institutions Hold Sessions.

FEW OFFICIALS CHANGED

One Increases Capital Stock and Another Raises Dividends—Policies for Future Also Are Subjects of Consideration.

Stockholders of every national bank and state bank in Portland met yesterday in annual session, elected directors and decided questions of policy.

Each of the five national banks formally ratified the action previously taken by the board of directors applying for membership in the Federal reserve system as provided by the new currency law; the Scandinavian-American voted to increase its capital stock from \$100,000 to \$200,000, the Northwestern National and the Lumbermens Trust & Savings Bank elected Carl S. Kelly cashier.

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THE NEW CORSET For Fat Women

The new corset designed to coerce over-fat ladies into the new style gowns has three strings. When you have one set adjusted you still have two more strings left. Think of that—and shudder.

TO ESCAPE THIS FATE, FAT LADIES SHOULD

BUY THE MARMOLA PRESCRIPTION, WHICH IS THE ONLY CORSET THAT DOES NOT RESTRICT THE DIET.

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