

No. 268

Damage
Intra

423
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Baltimore City Court
268

FANNETTE W. PENN

vs.

Boy No 975

ARTHUR M. BRAGG
et al.

Plaintiff's Declaration.

Mr. Clerk:

Please file, issue writ
send copy of Narr to be ser-
ved on Defendants, and make
returnable on the second
Monday of June 1920.

Hawkins & McMechen
Attorneys for Plaintiff.

✓ FILED JUN 10 1920

FANNETTE W. PENN

IN THE

vs

ARTHUR M. BRAGG,
GEORGE L. THOMAS,
and
CINCINNATUS MAJOR,
copartners, trading as
"The Observer."

BALTIMORE CITY COURT.

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Fannette W. Penn by Hawkins and McMechen, her attorneys, sues the defendants, Arthur M. Bragg, George L. Thomas and Cincinnatus Major, copartners, trading as "The Observer" for

That the said plaintiff at the time of the happening of the wrongs hereinafter complained of was, is, and for a long time thereto had been a resident of the City of Alexandria, in the State of Virginia, was and is a married woman and living there with her husband, a well known physician in the enjoyment of a large and lucrative practice; that she was enjoying in the said community and elsewhere, where she and her husband were known, the reputation of a chaste, upright and respectable married woman, and was in the confidence and esteem of a circle of friends in her own city and in other cities on the Atlantic seaboard and elsewhere, yet notwithstanding the said good repute of the plaintiff, all of which was well known to the said defendants, they the said defendants contriving and wickedly and maliciously intending to injure the plaintiff in her good name, fame and credit, and to bring her into public scandal, infamy and disgrace with and amongst her neighbors, friends and the public generally, falsely and maliciously printed, published and circulated, and caused to be printed, published and circulated, of and concerning the plaintiff, in a certain monthly publication, entitled The Observer, of which the said defendants are the owners, editors and publishers, the said publication known as aforesaid being published at Baltimore City in the State of Maryland--the

following false, malicious and wicked libel, to wit:

"HOW ARE YOU GOING TO KEEP THEM DOWN ON THE FARM?"

"After scanning the map of Virginia very closely for three or four days we finally discovered there was such a place as Alexandria, Virginia (meaning the home of the plaintiff). It is just across the Potomac River in the shadow of the National Capital. About a stone's throw from the post office there formerly resided Dr. and Mrs. A. B. Penn" (meaning the husband of the plaintiff and herself.

"On the other side of the river in the Capital City lived Mrs. Maud Baker Quander, who having become sick of Washington (the city having become dry and things were quiet) departed for New York City to see what she could. No real 'big timer' has ever set Manhattan wild, hence Maud though she 'hehewed' as loud as possible discovered that a 'small timer' did not have a chance and forthwith beat it back home. Had she not returned, maybe Mrs. Fannette Penn (meaning the plaintiff) wife of the Alexandria doctor (meaning the husband of the plaintiff) would not have had a chance to 'do her stuff' in the big city, but she did return and thereby hangs a tale.

"Maud returned to Washington and finding everything on the blink, crossed the river and swooped down on Dr. Penn. The doctor 'went out' for Maud as if she was real 'chicken,' and Fannette who had long been the village belle found herself playing the second fiddle. Now if there is anything that Fannettee (meaning the plaintiff) likes it is to be 'made a fuss over,' and as the necessary 'fuss' was wanting and finding herself in the position of 'only a wife' she packed up and made her second annual trip to the 'Big City.'

Though it was spring and people and flowers were budding out, Fannettee (meaning the plaintiff) preferred seclusion, so when she struck the Metropolis she 'put up' (being able to pass) (meaning that she could be taken for a white person) in East 38th Street, and only came to Harlem to get her mail, which was sent to an address in 131st Street. On the whole, things were not so powerfully dull after she became acquainted and she spent some

very pleasant times in such Ofay hostelries as Murrary, The McAlphin and others. In all humans, however, there is that innate desire to be with 'your own' and ere the summer months faded into autumn days Fannette unloaded herself on the Harlem community, which was a signal for some of the 'smallest timers' that ever smoked a Piedmont, to make door-mats of themselves for the small-town belle. The first shot out of the box was Willie Green, formerly John Royal's rent collector and office boy. For a long time Willie has been pining over a 'pearl,' but when Fan moved in 131st Street, Green Willie quit his pearliest attempts 'cold tuckey' and not only willingly laid down such 'iron' as he could rake and scrape, but gladly consent to her keeping those 'luncheon dates' with the guy at the McAlpin, as long as she would permit him to buy her chop-suey at Streety's, or some of the 'goodies' at the Libya, Dolphin or Rose's new up-to date hotel. It wasn't long before Willie, or Billy as she prefers to call him, found out that he would have to share his new find with others besides the 'gent' she used to call up down town. The 'small timers' began to 'crowd' him. First it was Fred Rivers, who tried to demonstrate that he could be more 'mushy' than Willie, that he held the world's record for sending special delivery letters, and best of all he could say 'Fan dear' in such pleading tones as would make the tears run down your back. Then along comes Joe Trent, the man who has invented more things not copyrighted than any other mortal, though Joe did not seem able to invent a device for ridding himself of such close competition. Stewart Swan matriculated and tried to get ahead of the crowd by meeting the lady in the apartment of a friend upstairs, but to no avail. Willie dropped in one evening out of his turn to find Fred Rivers trying to persuade the lady not to return to Alexandria, but she insisted that she must go home and get some warm clothes, but would return for Xmas. When Willie arrived 'Fan dear' retired from the room and left Willie with a gentlemen who resides in the house to play a little 'five up'; finally when she was about

to go out and take the air a heated debate ensued as to who should accompany the 'small-town' jane', which finally wound up by both 'small timers' going to see if they could produce one 'big time' evening. To make things more interesting Dr. Benny Withers, just by way of professional courtesy to Dr. Penn dropped around and took Fannette to the Polo grounds to see a real football game.

Meanwhile Dr. A. B. Penn is having his troubles in Washington beside shipping Fan checks from fifty to a hundred, Maud got bad on his hands, then on top of that, just because he likes his 'rye' and that part of the country is dry, the police authorities stay on his mind and to cap the climax, Fan won't come home.

Well, Fan still insists that she must go back home to hubby, but she adds I will miss my 'small-time' boys as they remind me so much of the gang in Alexandria who use to hang around the village pump", meaning thereby that the said plaintiff was and is a woman of vain temperament and low moral standard; that she hasnt the respect of her husband, nor that of the respectable people of her home town; that she is in the habit of frequenting hotels which cater principally to white people for the purpose of consorting with white men, a practice considered reprehensible by well meaning persons of both races; that she carried out said pretension by visiting such hotels where persons of the colored race are not specially catered to; that tiring of indulging these pretensions and the implied association involved in such conduct; that she sought the association and companionship of men of her own race, but of uncertain standing and of questionable character; that she permitted liberties to be taken with her by these men of uncertain standing and of questionable character, which is not permitted to single, much less to married women; that in addition to this she was guilty of unbecoming, and for a married woman, reprehensible conduct with men of another race; that she was accepting money from these men and permitting them to take her to luncheons and other places, and to quarrel among themselves for the privilege of doing

so; that she was so devoted to the life she is alleged to have led in New York that she would not go home, or to her husband, and that the effect and meaning of the entire scandalous article is that the plaintiff had violated her marital obligations to her husband, and is morally unfit for the association of decent men and women, which article was so understood by the readers of said monthly journal, and was intended to be so understood by the said owners, editors and publishers of the aforesaid journal known as The Observer, and intending thereby to bring the plaintiff into public scorn, contumely and disrepute among her neighbors, friends and acquaintances and the public generally; the said libel being maliciously and mischievously designed and intended to defame and injure the plaintiff by the said false charge.

And other wrongs to the said plaintiff did and caused to be done, thereby to her great damage.

Wherefore she bring this suit and claims \$10,000 damages.

Hawkins & McMechen
Attorneys for Plaintiff.

The plaintiff elects to have this case tried by a jury.

Hawkins & McMechen
Attorneys for Plaintiff.

No. 268 June R. D. 1920

Baltimore City Court.

Fannette W. Penn

Edward D. Gump
George L. Thomas

.vs.

Arthur M. Bragg = 1425 Maculloh

George L. Thomas = 1109 Druid Hill

Cincinnati Major = 1109 Druid Hill

WRIT OF SUMMONS

3 Copies of Nar and Notice to plead
within to be served on defendant.

Hawkins & M. Meachen
Attorney for Plaintiff

Filed 14 day of June 1920
10-11

Some admitted
for Cincinnati
Major June 12, 1920
P. J. Jain atty
for Cincinnati Major



Summoned Arthur M. Bragg vs. George L. Thomas
and a copy of Nar left with each defendant -
Also summoned Cincinnati Major and a
copy of Nar left with J. Stewart Davis the
defendant's attorney -
Thomas F. W. Keedy
Clark W.
(Keedy)
Tues 2.40

WRIT OF SUMMONS

STATE OF MARYLAND

BALTIMORE CITY, To wit.

To the Sheriff of Baltimore City, Greeting:

You are commanded to summon

Arthur M. Bragg
George L. Thomas
Cincinnatus Major,
copartners trading as "The Observer"

of Baltimore City, to appear before the Baltimore City Court, to be held at the Court House in the same city, on the second Monday of June inst 1920, to answer an action at the suit of

Fannette W. Penn

and have you then and there this writ.

Witness the Honorable MORRIS A. SOPER, Chief Judge of the Supreme Bench of Baltimore City, the 10 day of May 1920

Issued the 10 day of June in the year 1920

Geo. Carey Lindsay Clerk.

423
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50.

Order for Appearance.

Baltimore City Court

423
52.

Fannette W Penn

Baltimore City Court.

No. 268 June Return Day 1920

VS.

MR. CLERK: Enter out appearance for the
defendants in this case.

Bragg, Thomas & Mayor

J. Stewart Davis

trading as "The Observer"

W. Norman Bishop

Attorney

Filed June 24th 1920

Source of within plea admitted; Jan 18, 1921 and copy of same received

In The Baltimore City
74
7
Court

Harriette Penn

vs

Arthur Bony
George Thomas
Circumstances Major
Tracy in the Obvious

Plea for Rule for Security for Costs

Mr Clerk please file

(Signature)

Service of copy admitted
Jan. 18th 1921
Hanskins & McMechan
attys for plff.

DAVIS & BISHOP
ATTORNEYS AT LAW
118 E. LEXINGTON STREET
BALTIMORE, MD.

FILED JAN 18 1921

Fannette W.Penn

::::

In The Baltimore City Court

Vs.

of

Arthur M.Bragg,
George L.Thomas,
and

::::

CinCinnatus Major,
Copartners, trading as
"The Observer."

::::

Baltimore City.

The defendants by their Attorneys Davis & Bishop, plead for that the plaintiff Fannette W.Penn filed against the defendants an action in libel; and that in the said declaration the plaintiff by her Attorneys Hawkins & McMechens stated that she is a resident of the city of Alexandria, State of Virginia; that Article 24, Section 9 of the Anotated Code of Maryland provides that such non resident plaintiff be ordered to give security for costs; the defendants pray that your Honorable Court will issue a rule upon the said defendants that unless security of the costs, payments and charges which may be recovered against the said non resident plaintiff, Fannette W.Penn; be given before the next return day after notice of same that the plaintiff action shall be non suited.

Davis & Bishop

Solicitors For Defendants.

Ordered this 21st day of January, 1921.

that the non resident plaintiff Fannette W. Penn, be ordered
to show cause why she should not be required
to give security for the payment of cost and charges which

may be recovered against her, on or before 10th day of

February 1921, provided a copy of this
order be served on the plaintiff or her
attorney on or before the 28th day of
January, 1921.

Mrs. A. L. Spence

Solicitors For Defendants.

In the Baltimore City
Court

Annabelle P. Jones

07

Amelia Jones
George Thomas

James M. Major

Mayor of the Observer

Special plea of justification

W. B. Pleas file

P. W. Jones

Service copy admitted
Jan. 18th 1921

Handwritten & M. M. Keenan
Attys for P. W. Jones

DAVIS & BISHOP
ATTORNEYS AT LAW
118 E. LEXINGTON STREET
BALTIMORE, MD.

Service of writs from Baltimore City Court Jan 18, 1921 and copy of same received

x

Fannette W.Penn :~::~: In The Baltimore City CT.
 Vs. :~::~:
Arthur M.Bragg, :~::~: of
George L.Thomas,
 and
Cincinnati Major :~::~:
Copartners, trading as
 "The Observer" :~::~: Baltimore Maryland.

The defendants by their Attorneys Davis And Bishop plead that the subject concerning which the articles complained of was written, was written in good faith and without malice and they made only such statements and comments as they believed on due inquiry and reasonable grounds to be true and just and warranted by the plaintiff's acts.

WHEREFORE the defendants says that the statement of the acts of misconduct alleged in the defendant's publication were true.

Davis Bishop

Solicitors For Defendants.

Plaintiff's Jury
Wish

Verdict in
favor of the
Plaintiff for
\$500.00

546423 No 268
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BEFORE THE JUDGE-AT-LARGE. No. 3

~~No. 509~~ **5th—3 Weeks January Term, 1921**

(Beginning Monday, April 4, 1921)

BALTIMORE CITY COURT

James H. Brown
Wm. H. Walker, Jr.
Arthur M. Stagg *George L. Thomas* and
George B. Walsh (Vincennes) Major
Robert W. Strading and *John Observed*

Jury Sworn *14th April* 1921.

S. Staley Foreman.

- 2 ~~WM. A. CAMMANN, Blank Book Mfr., 2718 E. Hoffman.~~
- ~~MILTON W. GATCH, Sup't, Bromwell Brush Co., 2600 N. Calvert.~~
- ~~CHAS. H. BREMMER, Machinist, S. B. Sexton Stove Co., 1412 N. Central Ave.~~
- 3 ~~HOWARD R. DISNEY, Clerk, Standard Oil Co., 1504 Mosher.~~
- S. STALEY TRUMPET Advertising, 1621 Eutaw Pl.
- 4 ~~HENRY J. KOLBE, Car Inspector, Un. Ry. & Elec. Co., 405 S. Smallwood.~~
- ~~DONALD M. MUNROE, Salesman, Carey Machinery & Supply Co., 2130 N. Calvert.~~
- ~~JOHN R. PARKER, Mngr., Singer Sewing Mach. Co., 1622 E. Federal.~~
- 5 ~~ELMER L. CLEFFLER, Dispatcher, Un. Ry. & Elec. Co., 307 Garrison La.~~
- ~~SAMUEL E. LAFFERTY, Librarian, Peabody Institute, 21 W. 25th.~~
- ~~WM. H. PENTZ, Clerk, C. & P. Tel. Co., 2421 Barclay.~~
- ~~LOUIS F. HODES, Accountant, White Co., 604 Dennison.~~
- 6 ~~LAURANCE M. BUCK, Treas. Buck Glass Co., 1228 St. Paul.~~
- ~~JAS. E. LEIZEAR, Instructor of Conductors, Un. Ry. & Elec. Co., 1737 N. Broadway.~~
- 7 ~~JOHN M. MURPHY, Clerk, Bethlehem Slide Bldg. Corp., 604 N. Luzerne Ave.~~
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- 9 ~~AUGUST BECKER, Conductor, U. S. Smallwood.~~
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- ~~SIGMUND ECKHAUS, Merchant, Esplanade Apts.~~
- ~~CLAUDE A. HAMMOND, Correspondent, B. & O. R. R., 2410 Arunah Ave.~~
- 11 ~~GEO. D. CROTSLEY, Storekeeper, Fin. Discounting Co., 20 N. Linwood Ave.~~
- ~~J. ROBERT HOGG, Clerk, Carter-Webster & Co., 605 Dumbarton Ave.~~
- ~~JOHN C. HETTINGER, Motorman, Un. Ry. & Elec. Co., 418 E. 26th.~~
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- ~~JOHN W. MONOSMITH, Plumber, John Trainor Co., 2 E. 26th.~~
- 12 ~~EDWARD N. PAGE, Stonecutter, 1920 W. Fayette.~~

546423 No 258
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5th—3 Weeks January Term, 1921

(Beginning Monday, April 4, 1921)

BALTIMORE CITY COURT

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Off. and ...
Arthur M. Stagg *George L. Thomas* and
George J. Walsh (Cincinnati) Major
Robert ... *Observed*

Jury Sworn *H. ...* 1921.

S. Staley *Hogal* Foreman.

2 WM. A. CAMMANN, Blank Book Mfr., 2218 E. Hollman.

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REUBEN E. OTTENHEIMER, Pres., Ottenheimer Bros.,
2260 Linden Ave.

8 GEO. W. WASHINGTON (Col.), Waiter, Jas. W. Hughes,
838 Tyson.

9 AUGUST BECKER, Grocer, E. S. Smallwood.

FRED JOHNSON, Driver, Johnson Wrecking Co.,
1103 W. Lanvale.

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11 GEO. DE CROTSLEY, Stockholder, ...
20 N. Linwood Ave.

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JULIUS S. KEGAN, Weigher, Balto. Copper, Rolling & S. Co.,
215 N. Belnord Ave.

ALEX. BLUMBER, Merchant, 2204 Linden Ave.

EUGENE C. STARKEY, Inspector, Continental Can Co.,
2129 E. Chase.

WALTER H. STEWART, Accountant, Standard Oil Co.,
213 E. 35th.

MILTON C. GREER, Salesman, Greer Live Stock Co.,
Bellevue & Belvedere Aves.

MEYER GOLDSTEIN, Retired, 1612 Appleton.

ERNEST M. DUVALLE, Sup't Daniel Miller Co.,
2424 Edmondson Ave.

De laudant
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423 No. 268
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No. 509 5th-3 Weeks January Term, 1921

(Beginning Monday, April 4, 1921)

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- MEYER GOLDSTEIN, Retired, 1612 Appleton.
- ~~ERNEST M. DUVALL, Sup't Daniel Miller Co.~~

Prayers

The Plaintiff prays the Court do instruct the Jury that as

James

Plaintiff first prayer.

The Plaintiff prays the Court to instruct the Jury that if they find from the evidence that the defendants caused the publication of the periodical called the Observer containing the libellous words of and concerning the plaintiff set forth in the declaration in this cause, then their verdict must be for the plaintiff.

Franklin

Third.

The Plaintiff prays the Court to instruct the Jury that in considering the evidence and pleadings in this case ^{they} are instructed that an unsustained plea of justification is in the nature of a repetition of the libel, and is to be taken as evidence tending to show express malice in the original publication and is therefore a matter in aggravation of damages.

Respectfully,
The Plaintiff

Fourth.

The plaintiff prays the Court to instruct the Jury that if the Jury find from the evidence in this case that the libel complained of in the declaration was false and without probable cause so far as relates to the plaintiff, then such falsehood and want of probable cause are evidence of express malice towards the plaintiff.

Francis

Fifth.

The plaintiff prays the Court to instruct the Jury that if the Jury believe the facts as set forth in the plaintiff's first prayer, the law imputes malice to the defendants, by the publication of the words, and the jury in awarding damages may take into consideration the publicity of the libel and the injury to the feelings and reputation of the plaintiff, and the mortification such a publication and such charges would be likely to produce; and if the jury further find that the said publication proceed from express malice, or ill will to the plaintiff, then they may award punitive or exemplary damages.

Franklin

Sixth.

The Plaintiff prays the Court to instruct the jury that as a matter of law that any words imputing to a person conduct or qualities tending to injure his character or to degrade or expose him to contempt ridicule or public hatred are libellous per se.

Franklin