The Philatelic Libel Action.

LOWDEN *v.* EWEN, IN THE COURT OF THE LORD CHIEF JUSTICE.

SPECIALLY REPORTED BY THE "STAMP COLLECTORS' FORTNIGHTLY."

BEFORE the Lord Chief Justice on Wednesday, the action of Lowden *v.* Ewen's Colonial Stamp Market, Ltd., Herbert L'Estrange Ewen, W. R. Russell & Co., Ltd., and Pardy & Son was commenced. Counsel for the plaintiff was Mr. C. F. Gill, K.C., Mr. Gerald F. Hobler, K.C., and Mr. W. S. M. Knight, while Mr. Cavell Salter, K.C. and Mr. Compton Smith appeared for the defence.

Mr, Gill, K.C., in opening the case, said it was an action for libel, and the plaintiff was a young man about 27 years of age, who for the last six or seven years had been engaged in the stamp trade. He first carried on business as J. Stuart Lowden, and consequently, in 1901, he acquired the business of F. Moore & Co., which he carried on until the libel appeared, which affected his business so much that he was compelled to close his shop. Subsequently, with others, he formed the West End Stamp Co., and became the managing director. The defendant was a rival dealer, who seemed to be a young man of considerable enterprise, and appeared to be desirous, in order to forward his own business, to destroy that of the plaintiff, and he seemed anxious also to set himself up as the only real authority on Colonial stamps, and to consider that the Colonial stamp market was his own particular property. The defendant in addition to carrying on business as a stamp dealer, also published a paper called "Ewen's Weekly Stamp News," which was described as a journal for stamp collectors, and the oldest weekly stamp paper published in Europe. The other defendants to the action were the publishers and printers. The plaintiff purchased in perfectly legitimate lines from a young man employed in the office of the Crown Agent a number of surcharged Transvaal stamps bearing the letters "C.S.A.R." and he also purchased a number of unused South African stamps bearing some letters for a Mr. Rosenstein, who was a stamp collector and was in the service of South African Railways. The defendant apparently became annoyed because he could not find out where the plaintiff obtained these stamps from, and very shortly afterwards he published in his paper the following paragraph on October 28th, 1905:—

"TRANSVAAL C.S.A.R.

"From various sources during the last fortnight or so we have been offered unused sets of these stamps, which in all cases of overprints were forged. We therefore warn our readers to be extremely careful in purchasing any of these stamps. The forgeries have even been offered at auction. We shall be pleased to give an opinion on any of these stamps at 1d. each—minimum charge, 6d."

The plaintiff's attention was drawn to this, and his solicitors wrote pointing out that there was no truth in the statement, and demanding its withdrawal. Several letters followed. The defendant refused to withdraw, and exaggerated the injury to the plaintiff by publishing a statement which constituted the main libel. This appeared on November 18th, 1905, and was as follows:—

"MORE ABOUT THE C.S.A.R. FORGERIES.

"We have received a second letter from Mr. Moore's solicitor threatening us with an immediate issue and a writ for libel unless we apologise and retract our statement concerning him and his goods, but the large amount of unfavourable correspondence which we have received from customers of Mr. Moore, and the large proportion of forgeries which have recently been sold, compels us in the interests of stamp collectors generally to run the risk of a libel action and publish the further facts which have come to our knowledge. We are not alleging that Messrs. Moore & Co. make forgeries, but if they have effected these recent sales of stamps believing all the stamps to be genuine, they stand confessed of gross incompetence and deserve to be avoided by all collectors who do not wish to become victims of ignorance. It is in Messrs. Moore's favour that they put the forged stamps in their shop window and are not afraid of letting people see them (here follows two prints of stamps). Both these stamps have forged surcharges, and we purchased from Messrs. Moore recently postmarks of the Orange River, which are also forged.

"FORGED SURCHARGES.

"Transvaal overprint C.S.A.R. at top, various values; overprinted C.S.A.R. at top, various values, including 5/- overprint C.S.A.R. inverted. Mr. Moore says fifteen sets have the overprint inverted.

"NOTE.—Those with inverted overprint are entirely bogus. The others are forgeries of varieties actually issued, except probably the 5/-, value of which no originals with genuine surcharges have yet been recorded. Orange River overprinted C.S.A.R., various values; Natal overprint, Official. The forgeries conform to the description given in Stanley Gibbons' Catalogue."

He (Mr. Gill) believed that Stanley Gibbons was recognised in the stamp world as an authority. Proceeding, the defendant wrote:—

"FORGED POSTMARKS.

"St. Lucian, King's Head, with forged postmark, 'Castries'; Transvaal, C.S.A.R., with forged postmarks; Gambia, King's Head, with forged postmark; St. Vincent, King's Head, with forged postmark; Leeward Islands, King's Head, with forged postmark, 'Antigua.' A friend sends us a list which was furnished him by Messrs. Moore & Co., and which purports to be a list of all the C.S.A.R. Transvaal stamps printed. . . . Messrs. Moore & Co. state that this information came from the Colonial Office. If any of our readers are in a position to confirm or deny its accuracy, we should be glad to hear from them. We regret also to have to warn our readers against very dangerous forgeries of the Ceylon, King's Head, 'On Service' stamps, a large number of which are being spread about the country. We do not know who is responsible for them. We shall be willing to pass an opinion on any that are submitted to us free of charge."

The next paragraph was:—

"STARTLING REVELATIONS.

"In an early number we expect to make some startling revelations, which we venture to say will astonish a good many people. Do not miss getting your 'Ewen's Weekly Stamp News' each week."

He submitted that the article reeked of malice throughout. The man who wrote it did it for himself, and his purpose was to destroy his trade rival, or, if he could not destroy him, to discount any reputation he might have. After hearing the article, the jury would not be surprised to hear that his client at once commenced proceedings, and to prevent a continuance applied for an injunction to prevent further publication. Of course, if the "startling revelations" had reference to anyone else, the defendant was perfectly free to publish them, but what this meant was that something even more appalling was to be published for the benefit of those who were to get the defendant's journal each week. An application was made for an injunction, and that was met by an affidavit by the defendant Ewen, in which he said: "I am a stamp merchant with an extensive business of a considerable standing, and editor of 'Ewen's Weekly Stamp News,' and one of the above-named defendants. I am the writer of the article referred to in the summons, and I am also governing director and the person actually responsible for Ewen's Colonial Stamp Market, Ltd. . . . Both myself and Ewen's

Colonial Stamp Co. intend to plead justification in respect of all the alleged libels. . . . All the statements and allegations made by me as to the Transvaal stamp forgeries were made by me after careful and mature investigation and consideration and enquiry, and with absolute belief in the correctness of every one of such statements and allegations, and in the interests of stamp collectors, and such statements and allegations are true in substance and in fact, as I shall prove by the evidence of myself, by witnesses, and by the cross examination of plaintiff." He would only, in conclusion, point out how great the importance of that action was, having regard to the attitude adopted by the defendant, who said he was desirous of having a libel action; not, he (Mr. Gill) suggested, for the purposes of a trial in the interests of stamp collectors, but because he thought by some means he would get an advantage for his business, which he described as being such a large and extensive business.

Plaintiff in the Box.

Mr. John Stuart Lowden, the plaintiff, in answer to Mr. Hohler, said he was the Managing Director of the West End Stamp Co., carrying on business at 20, Villiers Street, Strand, W.C. He had been in the stamp business about six years. In 1901 he traded as Moore & Co., and continued to trade in that name until the publication of the libels. In 1905 the surcharged Central South African Railway Stamps (produced) were offered to him. They were of different values. They were first introduced to him by Mr. Dresch, a clerk in the office of the Crown Agent. Mr. Dresch used to bring handfulls to him. Sometimes the stamps were on the original envelopes and sometimes they had been taken off. He would bring 50 or 100 at a time—used stamps. He received various values of unused C.S.A.R. stamps from Mr. Rosenstein. That gentleman called into his shop one day and purchased several stamps, and he asked witness if he would exchange some of his used stamps for unused ones. The used stamps were worth about face value, or a little less, and the unused stamps were worth half as much again. He first saw Rosenstein in the summer of 1905. Later in the year he sent some of these stamps to be offered at auction by Messrs. Martin, Ray & Co., Stamp Auctioneers, carrying on business at 29, Chancery Lane. He sent the stamps about October 18th, and they would be offered for sale about the end of the month. He sent two lots to Messrs. Ray—one book of used and one of unused, which included all values. The book produced was one of the actual lots offered for sale. Both lots were sold and afterwards returned through the auctioneers. They were returned on the ground that they were alleged to be forged, and as was usual in such cases the money was returned. The prices given were 13/- and £1. His attention was called to the paragraph appearing in "Ewen's Weekly Stamp News" of October 28th, 1905, and he instructed his solicitor to write a letter.

Mr. Hohler: In that letter your solicitors say in substance that the only Transvaal C.S.A.R. stamps bought at that auction were the property of their clients, who could prove their genuineness?—At that time I thought I had practically the monopoly of these stamps.

Has Mr. Ewen ever called to see your stamps?—Never.

From what he has disclosed in this action, you have now reason to think he came?—Yes, but I had no reason to think he did come.

As to the two stamps which have been reproduced, do you know whether they were purchased from you or not?—Neither the 1d. or the 1/- stamps were purchased from me, I have never had any of the 1/- stamps in my possession, I have had some of the 1d. ones. I know that this 1d. stamp was not in my possession by the postmark which I had not seen before.

Proceeding, plaintiff said that he had had unused 5/- Transvaal stamp and overprinted C.S.A.R. inverted. He had the latter both used and unused.

Were the stamps you had genuine or forged surcharges?—Absolutely genuine, they had all come from the same sources.

As to the Orange River Colony overprinted C.S.A.R. various values. Had you as a matter of fact any Orange River Stamps?—No.

Have you had any Natal overprinted official?—None at all.

Continuing, witness said he had never had a St. Lucian King's Head with forged postmark although he had had a St. Lucian King's Head stamp. He got it for Oswald Marsh, but he could not say whether it was marked "Castries." He has had Uganda, King's Head stamps but no Gambia, King's Heads with forged postmarks. He had an order to get some Leeward Island, King's Head stamps and tried to get them but could not. He had given a list of the Transvaal C.S.A.R. stamps which he received from Mr. Rosenstein. He gave the information to a customer about October, 1905, but he had never made the statement that the information came from the Colonial Office. He simply said that he got the information from the vendor. He had had Ceylon, King's Head stamps but they were genuine. As the result of the articles in defendant's paper, stamps were returned to him through the auctioneers and by Mr. C. J. Temple and Mr. F. Roberts. The result was that he had to shut his shop up, and then he formed the West End Stamp Co. Ltd., of which he was the managing director. In June, 1906, he sold a set of Central African surcharged stamps to Mr. Buhl and they were returned to him and he refunded the money. The West End Stamp Co. was formed in January, 1906.

Cross-Examination of the Plaintiff.

In cross-examination by Mr. Salter, witness said the stamps sold to Mr. Buhl were returned as forgeries, and he returned the money. They were not forged; he knew they were genuine. They were all unused, and he got them from Mr. Rosenstein. The object of the surcharging was to prevent pilfering in the railway offices. How he accounted for these unused surcharged stamps being in the market was that interested persons could get hold of them by taking the stamps and putting in the money value. The sheets of stamps were bought by the railways from the Post Office, and they were marked so that the employees could not pilfer them. He suggested that the employees were allowed to buy the stamps. Mr. Rosenstein was not present in Court. The unused set which was returned through the auctioneers came from Mr. Rosenstein. He began to deal with Rosenstein about September, 1905, and continued to deal with him about a month. He did not know Rosenstein's full name. Rosenstein came three or four times, or possibly five, to his shop, and he should think he bought about 50 surcharged stamps of various values from him. Every one of the C.S.A.R. unused stamps came from him. Rosenstein gave no address, but he used to come in and exchange and buy stamps off him. He was in South Africa now, and he supposed his address would be at the offices of the Central South African Railways. He had not enquired as to the present whereabouts of Rosenstein, and except his statement that he was in the employ of the Central South African Railways, he had no information that he was so employed. He had not written to the Railway Company to see if they had such a man in their employ. He took no steps to find out Rosenstein's whereabouts when the stamps were returned by Messrs. Ray because he knew that they were genuine. He knew when he saw the article that large numbers of stamps he was selling were alleged to be forged. On October 24th the paper published the warning. He had since sold about three sets of these stamps over the counter.

Mr. Salter: Knowing that these stamps were charged with being forgeries, why did you sell them?—I knew them to be genuine. There is no question about it.

His Lordship remarked that if the plaintiff believed the stamps were genuine, he was entitled to sell them.

Mr. Salter said that the defendant did not say that the stamps sold in lot 410 at Ray's were forged, and in regard to lot 411 they said that one stamp—C.S.A.R. 5/- stamp—was forged.

Further cross-examined, witness said that none of the stamps sold by Messrs. Ray on October 17th were sent by him. The lots 410 and 411 were sold on October 25th. At the time the articles were published he had possibly 150 or 200 of these C.S.A.R. Transvaal stamps in his possession, and amongst them were some 5/- both used and unused. In the November article it was stated that there were no genuine 5/- surcharges or inverted, but he had two used 5/-

stamps and five unused 5/- stamps in his possession, and he had seven inverted stamps of different values. Mr. H. R. Harmer was not associated with him in the formation of the Company in January, but he joined him about the beginning of May. He was pressed to give an account of what had become of the alleged forged stamps, and he made three successive affidavits. In an affidavit of the 2nd of May he stated that he entered into an agreement with the West End Stamp Co., Ltd., and one Harmer under which all his stock of foreign and colonial stamps were sold and delivered to the West End Stamp Co. All the stamps which were attacked thus passed over to the West End Stamp Co. He did not produce any of the Transvaal inverted. These were not sold by Harmer abroad, but were sold before the action commenced and before the libel. At the time of the libel he had some of the 5/- C.S.A.R. stamps but no inverted, and he sold the 5/- stamps notwithstanding what was said about them in the defendant's paper. Before selling the stamps he did not submit them to any expert, nor did he have any photographs of them taken, but he had produced some of the C.S.A.R. stamps which were attacked.

Did you give any warning to your customers in selling them a large number of stamps which had been attacked in this way?—Yes, I have told them. I have told them I personally guaranteed them as being genuine from my own knowledge, but that they had been attacked by a dealer out at Norwood.

Do you read the "Weekly Stamp News"?—I have since he attacked me. (Laughter.)

In further cross-examination, witness said Mr. Marsh called at his shop in October, 1905, and had some used C.S.A.R. Transvaal stamps, and it was possible that witness asked him if he wanted some unused ones. He did not tell Marsh that he had no unused stamps then, but could get some from a man in Portsmouth. The next day Marsh called, and he shewed him some C.S.A.R. Transvaal stamps, from ½d. up to 5/-, and one used and one unused 1/- inverted Transvaal stamps. Marsh did not tell him that he thought these overprints were forged. Marsh wanted him to guarantee the genuineness of the stamps, and he did so. They came from the same sources as the stamps returned by Ray and Buhl. He believed Marsh called his attention to something in the stocks. Witness said nothing to Marsh about a stereo, but he did say that there was a second printing. He told him there had been a printing with a second type. He gave Marsh a pencil list in his own handwriting, which was what Rosenstein had given him. In November he sent some stamps to a Mr. Page, who returned them, and he told Page that he was certain they were not forgeries. He knew a man of the name of Temple, and had sold stamps to him. Temple was an amateur, and he had sold him a set of ½d. to 5/- unused Transvaal C.S.A.R. stamps in October or November, 1905. It was possible that he sold Temple one Gambia and one St. Vincent. The Transvaal's were returned as forgeries. He had sent Somaliland stamps to a Mr. Morent, who stuck to them (laughter), and also to a Mr. Cresswell, who had now sold them.

Were these Somaliland stamps forged?—Not in my opinion; they were genuine.

From whom did you get them?—From Major Johnson.

And what did you do with them?—He returned the money. He is an officer in the Bengal Lancers.

Did you tell Mr. Temple that you had ascertained that the overprints on these Somaliland stamps were forged?—No.

You say that J. S. Lowden is your name?—Yes.

And you are also Stuart & Co.?—No.

Were you?—No; I used to have a friend trading as that.

At Spring Grove, Isleworth?—Yes.

Did you tell Mr. Temple you were Stuart & Co?—No; I said I used to work there.

Are you Lowe, of Cumberland Park, Acton?—No.

Have you traded there?—No.

Have lists been addressed to you there in that name?—Never.

Did you tell Temple that you had letters addressed to you there?—Never.

Did you trade as F. Lowden?—Yes. From my private address, 18, Buxton Road, Mortlake.

You corresponded and advertised under that name?—Yes, carried on business under that name.

Did you deal as Frank Moore?—Yes.

Did you know Messrs. Bright & Son?—Yes.

Leading stamp dealers?—Second-rate dealers, I believe.

Did you have an action brought against you in the Westminster County Court to recover money for stamps sold?—Yes, in 1903 for £9. It was against me and my partner, Mr. Howardson.

Did you swear you were not Frank Moore?—Yes.

Answering His Lordship, witness said that the account with Messrs. Bright & Son was opened in 1902 by Frank Moore, and the plaintiffs tried to prove that witness was Frank Moore. He swore that the account was opened by Frank Moore, and he was then Moore's clerk at 25/- a week, and that Moore had gone to Australia. He did not remain Moore's clerk right up to the time he went abroad. He bought Moore's business on August 1st, 1902.

Further cross-examined by Mr. Salter, witness said the stamps he was sued for by Bright & Sons were not delivered to Villiers Street, but 4, Duke Street, which was Moore's place. He was a witness at the Old Bailey against a man named Waterhouse, in September, 1903, who was charged with stealing a quantity of Government Parcel Stamps from the Admiralty, by whom he was employed. He then said that his name was Frank Moore and he bought quantities of these stamps for Waterhouse.

Did you say, "I have been engaged in the stamp trade just about a year. I did not know these stamps were never issued to the public; I said I would take all I could get, as I could get £1 for the 1/- ones; I was doing good business, it does not often come"?—Yes.

Did a man named Lamb, who gave evidence after you, say "I gave the advice to prove that had nothing to do with the stamps, I thought it was a risky business"?—He said nothing of the kind to me.

Did you buy for Waterhouse about 130 unused 1d., 120 unused 2d., 20 1/-, 40 or 80 6d., and 10 9d.?—Yes,

And did you say "I have been making an enquiry about the nature of the stamps and heard they were scarce; it did not occur to me to ask what prisioner did for his living, as it was not my business"?—Yes.

You said "I never asked him his name. On January 30th, I bought 120 2d. Queen's Head Government Parcel Stamps and he said he was so miserably paid that his conscience was quite clear upon the matter"?—Yes.

Continuing, witness said it was true that he had an interview with Ward, a detective, who asked him to go to the Registrars Office at the Admiralty to try and recognise the seller of the stamps. He went through the rooms and recognised Waterhouse but he did not say so as he did not wish to give him away. Later on he was confronted with Waterhouse, Ward told him it was a risky business dealing in stamps and said if he did not give information there would be trouble.

Both in the case of Waterhouse and Rosenstein you did not ask the address?—No.

Mr. Salter:—Waterhouse was acquitted.

Counsel proceeded to ask witness questions as to his connection with the prosecution of a man named Richards, witness said two men were implicated and sentenced to six months' imprisonment, but he had had no dealings with them. He had had dealings with Richards, jun., who was charged with the illegal possession of stamps, but no evidence was offered against him.

Mr. Salter: You said then, "I am a fairly honest man"?—Yes, but you missed all the parts out where it cleared me.

Since then you have been in trouble at Bow Street. You were convicted in February, 1905, of selling indecent photographs?—I was convicted for selling some photographs of Millias' picture, "The Bath of Psyche," and fined £20 and £5 costs.

Did you get Mr. Temple to write a letter to Mr. Ewen on November 1st, 1905?—No, he suggested to me that he would do so.

Did you give him the information necessary to enable him

to do it?—No, he communicated with me what was put in the letter that was sent.

Did you approve?—No, I said he had made a mistake as to where I got the stamps from. The part I objected to was the statement that he had got them from the Colonial Office.

The Court then adjourned at this stage.

After the adjournment.

Mr. Salter: You told us that before writing this letter Mr. Temple talked the matter over with you and you gave him certain information?—No, he came and told me what he recollected of the letter he had sent.

He told you, he said, that the stamps came from the Colonial Office and you disapproved of that?—Yes.

Did you take any steps to let Mr. Ewen know that the statement was untrue?—No, because Mr. Temple told me he was communicating with Mr. Ewen over the telephone and had had several conversations on the matter.

Did you tell him to correct the statement?—No, I told him he was wrong.

Re-Examination by Mr. Gill.

In re-examination by Mr. Gill, witness said that in the case at the Central Criminal Court two persons were prosecuted—Creek and Richards. He was not in that case as a witness. He was a witness in the Waterhouse case. He sold the stamps he purchased from Waterhouse to leading dealers in the trade. Waterhouse was acquitted. He never told Temple to mention the Colonial Office in writing to Ewen, and pointed the matter out to him. When he was buying stamps from Dresch, he drew his attention to the fact that one had a violet cancellation. All the used Transvaal stamps in his window were obtained from Dresch.

Mr. H. Dresch.

Mr. Harry Dresch, clerk in the office of the Crown Agents, Whitehall, said that during the years 1905 and 1906 he sold stamps for parcels and letters which had come to the Crown Agents. They were taken off the envelopes, and sometimes sold on the envelope. Amongst the stamps which came were a considerable number of Transvaal C.S.A.R. stamps. They first came in the summer of 1905. They were stamps of different values, from ½d. to 5/-. He sold the plaintiff a considerable number of these stamps, which were his perquisites. Sometimes he would have a considerable number at one time. He had seen violet postmarking on the stamps he had sold to the plaintiff, and on one occasion there was a conversation about the violet cancellation. After a time the stamps came over without the "C.S.A.R." He had sold the plaintiff some Somaliland stamps, which had come to the office in the same way. During 1905 and 1906 he had sold thousands of stamps to the plaintiff.

In cross-examination by Mr. Salter, witness said he had sold no Transvaal stamps to the plaintiff until the beginning of 1905. All the stamps he sold were used ones, but the majority would not have the "C.S.A.R." on. He had never sold plaintiff Somaliland stamps with "O.H.M.S." on them.

Are you prepared to swear that you were aware of the values of the Transvaal stamps you sold?—Yes, from ½d. to 5/-

Are you prepared to swear that you have ever seen a Transvaal 5/- stamp surcharged with the letters C.S.A.R.?—Yes.

What is the colour of the 5/- stamp?—Yellow.

Have you seen any Transvaal 5/- stamps with the C.S.A.R. upside down?—No.

Then you never sold any of these to the plaintiff?—No.

In re-examination, witness said he should think he had sold 100 surcharged Transvaal stamps to the plaintiff. The stamps produced (offered at Ray's auction) were similar to the stamps he sold to plaintiff.

Mr. T. Buhl.

Mr. Theobald Buhl, 8, Lancaster Gardens, Southend-on-Sea, stamp dealer, carrying on business at 49, Lime Street, E.C., said that in June of last year he saw Mr. Ewen at his house at Norwood, and sold him a set of stamps which he had purchased from plaintiff. They were Transvaal stamps unused. Ewen paid him £9 for the stamps. The next day Ewen told him over the telephone that he wanted his money back, as they were forgeries. He was not certain whether Mr. Ewen knew when he bought the stamps where they came from.

In cross-examination, witness said he paid defendant a second visit, and offered him some more stamps, which he declined to buy. The stamps he sold to Mr. Ewen was the first lot he had ever had from the plaintiff, and when he had them returned he sent them back to Lowden. He did not go to the defendant from the plaintiff. He had offered the stamps to other persons before offering them to Mr. Ewen, but when he returned them he at once sent them back to Lowden. He had been 27 years a dealer in stamps.

In re-examination: There was no foundation for the suggestion that his visit to Ewen was a plant to put the stamps off on him. He first asked Ewen £12 for the stamps, but afterwards accepted £9. He had seen a great number of stamps with a surcharge upon them.

Mr. Ernest Harmer, of the firm of Messrs. Ray & Co., stamp auctioneers, Chancery Lane, produced his catalogue for October 17th, 1905, and identified Transvaal stamps sent for the plantiff for sale. There were two lots, the first being sold for 30/- and the other for 17/-. Both were returned after the sale. They were bought by an auctioneer who handed them to a man who said that they differed from the set he had in his possession.

Mr. F. Foster.

Mr. Fredk. Foster, engineer, of Westminster Chambers, a collector of postage stamps, said he had also dealt in stamps. He had visited Messrs. Moore & Co.'s shop, as the plantiff sold stamps on commission for him. He had been present when Dresch sold stamps to the plantiff, and had bought some himself. He had noticed differences in the postmarks—some were thinner and clearer than others.

In cross-examination, witness said he had seen two distinct types of marking. There was a slight difference in the "s."

This concluded the case for the plaintiff.

The Case for the Defendant.

Mr. Salter, in opening the case for the defendant, said the jury would now be sufficiently acquainted with the outlines to hear the defendant and his witnesses without much introduction. The case was brought in consequence of two paragraphs which appeared in a paper. It was not a newspaper in the ordinary sense of the word, but was one of those specialist journals which dealt with things which interested a circle of readers. The defence which was raised in the case was what was known as "fair comment," that is to say that in dealing with a matter of public interest, the writer had not exceeded his right to make proper comment. In order to avail himself of that right it was necessary to show that the statement of fact on which the comments were based was true, and what defendant said was this: A paper of this kind undoubtedly existed to protect the public against such forgeries. He had good reason to think that forgeries were getting about and were even being sold by public auction, and therefore it was his right and his duty to say so in plain chapter and verse, and that was what Mr. Ewen had done. His first article had no reference to Mr. Lowden, and as a matter of fact when he wrote it he did not know that Mr. Lowden had sent stamps to the auction, nor, as it turned out, had he done so. It appeared that the stamps sold by Ray at the first auction did not come from the plaintiff at all, but from Messrs. Bolton & Co., and therefore the first of the articles had no reference to Mr. Lowden at all. They would hear a succession of the first experts in business in London, who would give their opinion about these stamps to say that they were undoubted forgeries and not at all difficult for skilled persons to detect.

The case was proceeding when our reporter left. The conclusion will be fully reported in the next number of the *Stamp Collectors' Fortnightly*.