

CARLILL vs. CARBOLIC SMOKE BALL CO.

(1893) Q. B. D. v. 1, P. 256

Once upon a time, the British nation
Was filled with shivering Consternation,
Ten million sneezing folk or so
By influenza were laid low.

Their noses dripped, their eyes grew red,
Till half the country took to bed,
The sick groaned loud, the well ones too
In fear lest they should catch the Flu.

Now, on one morning in November
In ninety-one, if I remember—
Miss Carlill (her old father's pet)
Read in their favourite "Gazette"
An ad. so worded as to calm
All apprehension and alarm,
To wit: a hundred pound would be
Paid down to any he or she
Who should develop, after buying
And faithfully for the two-weeks' trying
Carbolic Smoke Balls, as prepared
And vouched for by the printed word,
A cold, or snuffles, or should slip
Into the clutches of La Grippe.

She read and ran, nor did she stop
Until she reached the chemist's shop.
Ten shillings paid for this protection
Against the prevalent infection.
And being delicate and scary,

From then till half through January
Three times a day the maid applied
Her little nose, as specified,
And sniffed the harsh fumes of carbolic,
Which, she averred, she found no frolic.

But, ah! alas! one morn in bed,
Miss Carlill woke with aching head,
Burning and dry, yet cold and freezing,
The very house shook with her sneezing,
The diagnosis swift and sure—
'Twas influenza! Drat the cure!

Spring came—Miss Carlill, frail and weak,
 Her hundred sovereigns went to seek.
 The brutes were deaf to every plea.
 "Then will I go to law," says she.
 To law she went and Hawkins, J.,
 Declared that she should have her way.

Defendants cried, "Why, that's a joke,
 A hundred quid go up in smoke!
 Not by our halidom, we'll see
 What wiser Judges shall decree."

But Lindley, L.J., said, "She'll get
 The cash. I hold this was not bet,
 It was an offer which the lady
 By sniffs accepted, and 'tis shady
 To argue otherwise—your factum
 Sets out that this is nudum pactum,
 But plaintiff sniffed the vile carbolic,
 (She testifies it was no frolic),
 Three times a day—this inhalation
 To my mind forms consideration.

Bowen, L.J., 'tis known, a sage is,
 His judgment flows o'er seven pages,
 He says in brief, "I have no other
 Opinion than my learned brother."

And Smith, L.J., "This Smoke Ball Co.
 Have brought no single fact to show
 Grounds for success—their gold must fill
 The pocket of the fair Carlill.

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Mr. Carlill and his daughter
 Supped that night on prawns and porter.

M. E. F.
 From Crustula Juris.