

Defense Opens Testimony

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In 'Glue Case'

Arabol Attorney Objects to Future Damages Claim

Little Valley—Decision was reserved Thursday by Justice Hamilton Ward in Supreme Court on a question which he said "may well be the turning point as to whether this case survives appeal." Justice Ward was referring to the claim of approximately \$40,000 for anticipatory damages in the \$500,000 action brought by Fancher Furniture Company, Salamanca, against the Arabol Manufacturing Company, New York City, makers of adhesive products.

When Clayton M. Smith, Buffalo, rested the plaintiff's case at noon Thursday, the question of anticipated damages, which may accrue if pieces of dining room suites fall apart at glued joints in the future and are returned to the plaintiff concern for repair or replacement, was under vigorous objection by Ulysses S. Grant, New York City, trial counsel for the defendant.

Mr. Grant contended that no expert had testified for the plaintiff to establish how many, if any, pieces would be returned and over what period of time in the future. He said, "The statute (referring to breach of warranty) precludes the proof offered as to anticipated damages as too speculative to present to a jury."

Jury Excused

Leonard Erickson, president of the furniture concern, was asked a long hypothetical question under direct questioning by Mr. Smith, ending, "have you reached an opinion with reasonable certainty as to the length of time over which the articles of furniture made with Arabol glue will continue to be returned for repair or replacement?"

The court did not permit an answer to this question, but did not render a final decision.

Virtually the entire Thursday afternoon session was given over to argument by counsel in the absence of the jury of nine women and three men.

Mr. Smith said his client would be precluded from ever suing for the damages which it anticipates, under the statute of limitations, if that item is taken away from the jury now. Mr. Grant rejoined that the defendant should "not be subjected to damages that can't be proved and let the jury speculate as to the amount."