

THE SUMMERSIDE GUARDIAN

and PRINCE COUNTY CHRONICLE

WESTERN LOCALS

—This column is reserved for news of local interest but advertising of any nature may be inserted at a rate more strictly payable in advance.

—CREOVIN for stubborn coughs at Taylor Drug Co., Kensington, L-4094.

—WEEBAL HERRING, 45 cents a dozen; tins \$1.20; pails \$1.80. At Strongs, L-4094.

—SUBSCRIPTIONS TO THE CHARLOTTETOWN GUARDIAN may be handed to their representative Miss Olga Green, Albany.

—NEW STAMP mats very latest designs, also hooking yarns and yarn for all purposes. Lowest prices at Strongs, L-4094.

—HOCKEY AT KENSINGTON, Friday, January 29th, 1937, at 8.15 P. M. Holmans of Summerside vs. Kensington Aces. Hour skate after match. Admission 15c and 25c. L-4053-1-28-21.

—QUITE SATISFIED WITH LOCAL SERVICE—The speakers at the recent Board of Trade meeting held at Summerside to discuss the proposed changes in the telephone rates, wish it to be known that they are quite satisfied with the service rendered them by the manager and operators of the local branch.—S.

—RECEIVES APPOINTMENT—Mr. Rendie Bowness, veterinary surgeon, son of Mr. and Mrs. George A. Bowness, Summerside, has been appointed director of fur research for Ontario Government and head of the department of fur bearing animals in the Veterinary College at Guelph. Mr. Bowness was educated at Guelph and has held important positions in various parts of the United States. His many friends here congratulate him upon his success.—S.

—RECEIVES SAD NEWS—Mrs. D. Ramsay has received word of the very sudden passing of her sister, Mrs. Mary Elizabeth Hyde, New London, Conn., on January 15th. Mrs. Hyde was a daughter of Summerside and a daughter of the late Mr. and Mrs. James Caldwell. She will be kindly remembered by old friends here. Besides Mrs. Ramsay there are left to mourn three brothers, Wesley Caldwell of Brooklyn, N. Y.; Mr. A. Caldwell of Meriden, Conn.; and Mr. J. A. Caldwell of Pittsburgh, Mass.; also two sisters, Mrs. J. A. Macleod, Toronto, and Mrs. Smallpiece, Toronto, to whom sympathy is extended. Interment was in New London.—S.

Kensington And Vicinity

Dr. Lea Crozier of Montreal, who is visiting his home in Malpeque, was in Kensington recently, visiting friends.

Mr. Arnold Taylor, Kensington, and **Mr. Aubrey Found**, Clifton, left Friday morning for St. John's, Quebec, to take a six week's military course.

Mr. Miller Waite who for the past three months has been visiting his sisters in Boston, Mass., has returned to his home in Kensington.

Mrs. Alexander Hiltz, Kensington, left Friday for Moncton, N.B. to be with her daughter, Miss Ruth who is in hospital there, following an operation for appendicitis.

Miss Gertrude Buntin, nurse-in-training in the P.E.I. Hospital, came to Kensington on Monday, to be with her mother, Mrs. A. R. Buntin who is ill, suffering from an attack of pleurisy.

The annual meeting of St. Marks Church was held in St. Marks Hall on Monday evening, Jan. 18th with a fine attendance. Rev. B. Freeman, rector, was chairman and opened the meeting with prayer. Minutes of last annual meeting and regular quarterly meetings were read by the Vestry Clerk. These minutes were adopted as read. The treasurer, Mr. John Moore then gave the financial report. Receipts were considerably in excess of previous year. The rector in his comprehensive report referred to the loss the church had sustained in the removal by death of Mr. W. A. Pidgeon and Mr. Edwin Paynter, two of its most faithful members. Reports of the Sunday School, the Women's Auxiliary, the Anglican Young Peoples' Association, Rectory Committee, Cemetery Committee and Missionary Committee were read, all were favorable and encouraging. The election of officers resulted in the reelection of Vestry Wardens, Treasurer, Vestry Clerk, Auditor, Organist and Sexton. Rectory and Cemetery Committees. Newly appointed sidesmen were Walter Moase and John Dobson. Delegates to D. C. S. are John Thompson and John Howard, to Provincial Synod, Ernest Mill, substitute Cecil Mill. A committee consisting of J. A. Thompson, Harold Mill, Cecil Mill, Ernest Mill, John Howard, Lloyd Howard, Regh Sudsary and A. L. Rogers was appointed to make arrangements for the painting of the exterior and the re-decorating of the interior of the church. A substantial sum was subscribed at once for that purpose. Their work of the church has carried on in a quiet and steady manner during the year. The services are well attended and a splendid interest shown.

DEATH DUE TO HEAVY FALL JURY FINDS

Inquiry Into Death of Leo Peters Held At Summerside Yesterday.

At the conclusion of the inquest held yesterday at Summerside to inquire into the death of Leo Peters, presiding the jury returned the following verdict: "We, the jury, do hereby find that the death of Leo Peters of Palmer Road, find that according to the evidence submitted, that the deceased came to his death from a heavy fall to frozen ground, by the result of a blow struck by Jos. E. Gallant with his fist."

Nine witnesses were examined. Mr. L. G. Lewis and Corp. Engles appeared for the Crown and W. Henry Noonan, attorney for Jos. E. Gallant, 22 year old resident of the district who is charged with manslaughter in connection with the incident, attended.

First witness called was Dr. J. A. Johnson, Tignish, who stated that he was called to see deceased at his parent's home the afternoon of the 20th, the day after the dance. He found the man conscious but very faint. He raised his head he vomited. He complained of soreness at back of head. Witness could not find any fracture of the skull. He diagnosed the case as concussion of the brain from a fall. The doctor concluded he had fallen in the ice. His parents did not mention that he had been hit. The witness sent medicine to quiet the vomiting. Next day he was called by phone and told that Peters was unmanageable and had to be held in bed. The doctor sent medicine to quiet him, with instructions that if he was no better the following morning to take him to the hospital. The following day the witness heard he was no better and recommended his going to the hospital as soon as possible. There were no bruises of any kind on him, on his face or anywhere else. There were no marks of violence that the witness could see with a superficial examination. His lips were thickened.

Philias Doucette, St. Louis, was the next witness and stated that on the evening of Jan. 19th there was a dance at his house for the benefit of the church. Everything went well until about 8.30 when he heard a racket in the porch and noticed a bunch of the dancers going out. Leo Peters was inside then and had been dancing. On going outside the witness saw there was fighting going on, a little way from the house. It was about over. He saw Russell Perry give up fighting and go to the house. He saw him do so Gallant struck him. The witness grabbed Gallant and told him not to hit a man behind his back. He told Gallant he had better go home as some one else might take up the fight and he might get hurt.

About half an hour later they brought Peters, the deceased, in. They laid him on the couch. It was not long before he talked. About fifteen minutes later he said he wanted to vomit. He was on the couch all night covered up with blankets. There was a stove in the room and it was nice and warm. Only once during the night he seemed dazed and did not appear to know where he was. Witness said his daughter bathed a little blood off his hair at the side of his head.

At 8 o'clock next morning he appeared about the same but at noon witness said he could see there was something wrong, and decided to take him home. Peters got into the truck wagon, with the assistance of others. It was about three o'clock when he was about his home and he was able to walk to the house with help. The doctor was called.

Peters had been talking of taking the fight up for Russell. Witness did not see him drinking. Witness had never heard of Gallant drinking. He has a good reputation.

When he arrived at the dance someone told him Gallant was waiting for him and to be on his guard. Later he and Gallant met and went out to the porch and got into a fight. It might have been he struck the first blow, did not know for sure. They went outside and then the witness gave up the fight and as he went to go towards the house Gallant struck him. As he was washing his face in the porch, he heard someone say, they were going to take it up for him. He recognized the voice as that of Leo Peters. Peters sounded as if he was angry and excited. Gallant and witness had been on bad terms earlier over a basketball game but had made up.

Cyril Perry, Tignish, also gave evidence of seeing Russell Perry and Jos. Gallant fighting but did not see Leo Peters and Gallant in a

fight. Perry followed Gallant out to the porch and as Gallant turned to come back Perry struck him a blow that nearly knocked him down. This started the fight.

Alfred J. Perry, DeBolis, stated he was at the dance and was outside when Leo Peters came out looking for Jos. Gallant. "From what he said, I would say he meant to fight". Witness imagined he had had a few drinks, although he did not see him take any. Peters was standing on the steps when Gallant struck him. He fell backwards on the frozen ground. Peters called Gallant twice and then a third time, and Gallant walked right up and said, "I am right here" and struck Peter a blow on the face.

Leo Perry, next witness, said that he was at the dance and had seen the fighting. When Russell went into the house Leo Peters came out and asked him why he stood for the fight. He called Gallant once and Gallant came over from the barn and said, he was right there. Peters was struck, but witness did not see who struck him. Peters appeared as if he had a few drinks. He was not in a fighting mood when talking to him, but by his actions, he judged he was looking for a fight with Joe Gallant. He was pretty wild looking. Witness had known Gallant for five years and had never known him to get into any trouble.

Edward Arsenault, St. Louis, gave evidence of the fight, corroborating the evidence of previous witnesses. Supt. Peters, Palmer Road, gave evidence of seeing Russell Perry and Gallant fighting. Perry had Gallant by the head and the witness told him to give Gallant fair play. They then went outside and soon after Russell turned to come in, saying he was too drunk to fight that night—as he turned to go in Gallant struck him. Leo Peters acted as if he had been drinking. He corroborated the evidence of other witnesses as to Gallant's good character.

Dr. J. G. Simpson testified that he had been asked by Mr. L. G. Lewis to perform an autopsy on the body of Leo Peters. He was assisted by Dr. J. A. MacPhee. He had found a fracture 3 to 3.1-2 inches long running backward and upwards behind the left ear about two inches behind the mastoid. Fracture was between the brain and brain covering. Heart, lungs and abdominal organs were normal. There was a slight bruise on left side of forehead. Death was caused from brain injury and hemorrhage resulting from a fracture at back of skull. Dr. Simpson did not think a fracture of that nature could come from a blow of the fist. It would take a tremendous punch to cause such a fracture. It was more likely caused by the man striking a large object with great violence. There was no evidence of an external blow, only a slight bruise wound. There was very slight evidence of scalp bleeding.

HAD RHEUMATIC PAINS for 25 YEARS

His Arms Were Becoming Useless

It was about 25 years ago that rheumatism first marked down this sufferer; and finally the day came when he could hardly lift his arms. But he found relief—here in this letter he tells the whole story:—

"About 25 years ago I first experienced slight muscular rheumatism in my arm and shoulder. A few years later numbness also attacked me. My arms gradually got worse until the pain got acute in both arms and loins. I could not lift a jugful of water with my arm extended straight out. About 15 months ago I bought a bottle of Kruschen Salts and by the time it was finished I was agreeably surprised at a slight improvement in the way I felt. I bought another one, and when that was finished all the pain had disappeared, and has never appeared since."—T. R.

The pains and stiffness of rheumatism are frequently caused by deposits of uric acid in the muscles and joints. The numerous salts in Kruschen assist in stimulating the internal organs to healthy, regular activity, and help them to eliminate this excess uric acid.

PRIVY COUNCIL

(Continued from page 1)

ions. In the totality of her legislative powers, Dominion and provincial together, she is fully equipped.

"But legislative powers remain undisturbed, and if in the exercise of her new functions derived from her international status she incurs obligations, they must, so far as legislation is concerned when they deal with provincial classes of subjects, be dealt with by cooperation between the Dominion and the provinces.

Declared Ultra Vires

Their Lordships accordingly dismissed the appeal of the attorney-general of Canada against a judgment of the Supreme Court of Canada declaring ultra vires the Weekly Day of Rest in Industrial Undertakings Act, the Minimum Wages Act, and the Limitation of Hours of Work Act.

The judicial committee also found unconstitutional the employment and social insurance act, providing for the creation of a contributory system of unemployment insurance and the setting up of employment agencies. The judgment said their lordships found "themselves unable to differ" from the finding of the Canadian Supreme Court that the act, intended to be permanent, could not be supported upon the contention that it dealt with an emergency."

The Natural Products Marketing Act, also adjudged unconstitutional, would have provided for the setting up of marketing boards for various classes of products with wide powers for control by the majority of producers.

Validity Upheld

The Dominion Trade and Industry Act, authorizing the establishment of a federal commission with powers to regulate business provincially, inter-provincially and in relation to the Dominion as a whole, was held valid. Their lordships said they agreed with the Supreme Court, with the exception of the Canadian judges' opinion as to the validity of sections 18 and 19, which were held ultra vires at Ottawa. Their Lordships declared three sections valid, as well as sections 23 and 26. The appeal of the Ontario attorney-general was dismissed and the cross-appeal of the attorney-general of Canada upheld.

Section 498A of the Criminal Code of Canada, providing penalties for violations of the regulations set up by the Dominion Trade and Industry Commission, was upheld.

In declaring valid the Farmers' Creditors Arrangement Act, Their Lordships declared they were "unable to accept the contention that the act is not genuine legislation relating to bankruptcy and insolvency." The measure provides means for insolvent farmers to liquidate their debts along bankruptcy lines but without actual recourse to the bankruptcy courts.

PROSECUTION

(Continued on page 9)

country only one punishment—death by shooting."

Testimony by the defendants, who pleaded guilty to charges of conspiracy and treason, recounted hundreds of train wrecks in which more than 60 persons were killed—part of the plan for sabotage the defendants said they counted upon to aid their cause.

The defendants will be given an opportunity for "final words" tomorrow and Saturday after which the judges will take the case. Their verdict is expected 12 or 15 hours later.

SPECTATOR'S NIGHTMARE

STOCKTON, Kas.—(CP)—Stockton high school basketball followers get headaches trying to keep track of Lyle and Lynn Litton, forwards. They are identical twins.

COACHES COLLEGE TEAM

FREDERICTON, N. B., Jan. 28.—(CP)—Bill Gill, former star of Maritime hockey and now coach for Fredericton Capitals, will coach the University of New Brunswick hockey team. It was announced today.

TOURING CRICKETER BEREAVED

ROMFORD, Eng.—Mrs. Florence Farnie, mother of Kenneth Farnie, Essex fast bowler touring with the M. C. C. in South Africa, was killed in a motor accident near Mayfield, Sussex.

ON CONVOCATION COMMITTEE

HALIFAX, Jan. 28.—Miss Kay Finlayson of Ottawa was elected life secretary of the graduating class meeting today. Gordon Thompson of Halifax was chosen life president.

The convocation committee included Kevin Meagher of Halifax, chairman, Earl Fraser of Saint John, N. B., Helen Holman of Summerside, P. E. I., and Mabel MacKenzie of Halifax.

JUDGE DUFFY ACQUITTED OF MANSLAUGHTER

(Continued from page 1)

came to its conclusion it would decide on the evidence and not on anything the jurymen might have heard outside.

The accused was charged with manslaughter, that was to say, the culpable homicide or killing of a person not amounting to murder.

A homicide was culpable where there was an element of guilt present arising either out of an unlawful or a malicious act, or out of legal excuse, to perform any lawful act, or both combined.

Homicide, that is the killing of a human being, where there was no guilt involved and where the occurrence was purely an accident was not a crime.

The Attorney General had rightly quoted section 247 of the Criminal Code in his address to the jury. The judge said that section read:—

"Every one who has in his charge or under his control anything whatever, whether animate or inanimate, or who erects, makes or maintains anything whatever which, in the absence of precaution or care, may endanger human life, is under a legal duty to take reasonable precaution against the same, and use reasonable care to avoid such danger, and is criminally responsible for the consequence of omitting, without lawful excuse, to perform such duty."

An automobile was a dangerous thing and a person must use reasonable care in its operation. If it was used in a reckless way without proper care and a person was killed the operator was just as guilty as if he had gone out on a street and shot off a gun without regard to the safety of persons and in so doing killed someone.

To constitute manslaughter there must be gross or criminal negligence. The test of negligence was not the same in a criminal case as it was in a civil case the jury was told by His Lordship. In a civil case there was no question of mens rea or intention.

In criminal proceedings, on the other hand, the liability for punishment depended on the intention, that was to say there must have been such negligence as in the opinion of the jury amounted to criminal misconduct deserving punishment.

He could not reason the case in any other way.

The explanation given by the accused and the person with him

had to drink. They took it immediately before they left.

So far as finding the liquor was concerned the witness confirmed the evidence of Inspector Phipps.

When Mr. Horgan stated that the witness came across the road at an angle at 35 miles an hour it was not true. At no time that night did he drive at 35 miles an hour. It was not true that he struck the Horgan car and pushed it into the ditch.

The break on the Hudson extended in 20 inches from the edge of his car. A plan had been prepared by Mr. Reardon, a witness, that there was no damage to his car except at the left hand front corner.

Cross examined by the Attorney General the witness said he gathered that the car moved some when he tried it but immediately the power was released the car swung back.

The Horgan car was only two or three car lengths away when the witness distinguished which light was out. The right side of the Horgan car was about the centre of the road. The witness was travelling about a foot west of the centre line of the road just before the accident. It was not until the witness discovered it was the west light of the approaching car that was out that he realized the danger. The witness jumped on his brake and the other car swung to the left.

His car would be moving just a little at the moment of impact.

Summary of Evidence

The following is a summary of evidence heard yesterday.

Charles Gavan Duffy, who had been giving evidence when court adjourned Wednesday, resumed his testimony. At no time after the collision were the witness and Mr. Gavan there alone. Quite a crowd quickly gathered and most of the people were strangers. The witness had his attention drawn to Mr. Robison who was haranguing the crowd and telling of the fine young man cut off in the prime of life. He appeared to be blaming the witness.

"My car was never across the centre line of the road that evening," the witness said.

When Robison says he saw the car angled across the centre of the road it was false, the witness continued.

The mark at the right rear wheel was made when the witness tried to move the car. It sort of swung in a semi-circle as far as the locked wheel would permit.

The mark from the right rear wheel of the Chevrolet looked as though it had been made by a car wheel sort of skidding.

William Taylor piled up some of the glass that night with the object of taking it out of the line of traffic.

The witness didn't know where Sergeant Anderson got the idea that the witness had identified some glass as that from his left headlight. The only glass the witness identified was a piece right below the headlight.

All the part the witness took in the conversation about police the night of the accident was to say "some of you boys who know where the telephone is go and telephone for the police." It was not true that he had ever said that "the police would not come."

Probably the other witnesses were under the impression it was the witness who was speaking when it was some of the other men.

He was sober on the night of the accident. Nobody suggested that night that he was not.

The witness had taken the ginger ale bottle full of rum on the trip. He opened it at the cottage and then had one drink each before they started to row to the fishing spot. That was about 5 o'clock. They returned to the cottage about 9 o'clock and had another drink each. There was 2 or 2 1-2 inches of liquor still in the bottle; that was all the liquor they

MOTHER NATURE

O man, frail offspring of my loins
Be still;
Thy fretted spirit irks my calm repose
Beneath the forest's hush and mountain snows
The winds that wander of their own free will,
The changing season but my thoughts fulfill,
As I lie dreaming of the labor throes
Which wracked my frame, until that world arose
Wherein gust monsters with their lust to kill.

My child, crowned godlike by the encircling mind—
That every which wrought me from the dust,
Of broken worlds in ageless ages past—
Learn of thy mother, for her voice's kind,
Calmness and strength and the unwavering trust
That consummation will be reached at last.

—Frederick George Scott in Toronto Saturday Night.

PAY EXECUTORS BY HOUR

(By The Canadian Press)

SIDCUP, England.—The sum of \$750 and \$10 for "every hour or part of an hour when employed in the trust" of his will was left to two executors by Frederick Jackson, who left \$36,000.

PUSHES BABY IN CANAL

(By The Canadian Press)

RUNCORN, England.—An over-exuberant dog toppled a perambulator containing a 15-month-old baby into a canal here. The baby's mother jumped to the rescue and saved the baby with assistance from bystanders.

NEW TRIAL ORDERED

(By The Canadian Press)

LIVERPOOL, England.—Justice Finlay at the assizes here ordered a new trial in a criminal case when, during a luncheon adjournment, a solicitor was seen to shake hands and converse with a jurymen.

Mindard's Liniment removes stains.

J. L. DAVISON
FUNERAL DIRECTOR AND EMBALMER
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Day and Night Calls Promptly Attended.
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Provinces Are Ready To Co-operate

(Continued from page 1)

legislatures though the Dominion might reach agreements with countries of the British Empire and foreign nations.

Premier Thane Campbell of Prince Edward Island had only brief comment. "The Privy Council seems to have upheld the decisions of the Supreme Court of Canada," he said. "Under the circumstances there seems little to say."

Premier Angus Macdonald of Nova Scotia considered it "desirable that these questions should be settled by the highest court in the Empire and it is a very good thing to have settled."

Beyond this remark he said there was little he could say.

Hon. H. H. Stevens, former minister of trade and commerce, responsible for some of the legislation, declared the Privy Council's findings "merely accentuate the need for an early nonpartisan conference with regard to necessary modification of the British North America Act."

Premier William Aberhart in withholding his comment said he would not care to give any snap judgment at present.

One important angle of the judgments' effects was the position now of boards set up under the legislation. When the rulings were learned Premier Mackenzie King told the House of Commons in reply to a question that positions of those on the employment and social insurance commission would now be abolished.

CHALLENGE

We, the Cape Traverse ladies, do hereby challenge the Hampton Hay-makers to a friendly game of hockey to be played in Victoria rink at a date that can be conveniently arranged.

Winnie M. Williams, Captain.

P. L. Bowness & Son
FUNERAL DIRECTORS AND EMBALMERS
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