

THE EXAMINER.

VOL. 4.

CHARLOTTETOWN, PRINCE EDWARD ISLAND, THURSDAY, FEBRUARY 6, 1879.

NO. 511.

THE DAILY EXAMINER

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W. L. COTTON, J. W. MITCHELL,
Manager. Office Sup't.

PRINCE EDWARD ISLAND RAILWAY.

TIME TABLE NO. II.

Winter Arrangement.

ON AND AFTER
MONDAY, DECEMBER 30th, 1878.

Trains Going West.

STATIONS.	No. 1. Express.	No. 3 Mixed.
Georgetown	Dp 8.10 am	
Cardigan	" 8.35 "	
M. Stewart Jun	ar 9.55 "	
Royalty Jun.	dp 10.05 "	
	" 11.20 "	
Ch'town	" 11.40 "	
	dp 8.00 am	Dp 3.30 pm
Royalty Jun.	" 8.20 "	" 3.50 "
N. Wiltshire	" 9.12 "	" 4.45 "
Hunter River	" 9.30 "	" 5.03 "
Breadalbane	" 10.08 "	" 5.41 "
County Line	" 10.18 "	" 5.51 "
Kensington	" 11.00 "	" 6.30 "
Summerside	ar 11.30 "	ar 7.00 "
Wellington	" 3.32 "	
Port Hill	" 4.16 "	
O'Leary	" 5.33 "	
Alberton	ar 6.35 "	
Tignish	dp 6.40 "	
	ar 7.25 "	

Trains Going East.

STATIONS.	No. 2 Express.	No. 4 Mixed.
Tignish	Dp 7.00 am	
Alberton	" 7.45 "	
O'Leary	" 8.47 "	
Port Hill	" 10.05 "	
Wellington	" 10.48 "	
Summerside	ar 11.40 "	
	dp 2.30 pm	Dp 8.45 am
Kensington	" 3.00 "	" 9.15 "
County Line	" 3.40 "	" 9.57 "
Breadalbane	" 3.50 "	" 10.08 "
Hunter River	" 4.28 "	" 10.47 "
N. Wiltshire	" 4.45 "	" 11.02 "
Royalty Jun.	" 5.40 "	" 11.55 "
Ch town	dp 6.00 "	ar 12.15 pm
Royalty Jun.	" 3.15 "	
Mt. Stewart	ar 4.30 "	
Cardigan	dp 4.40 "	
Georgetown	ar 6.00 "	
	ar 6.25 "	

SOURIS BRANCH.

Going West. Going East.

STATIONS.	No. 5 Mixed.	STATIONS.	No. 6 Mixed.
	A. M.		P. M.
Souris	Dp 7.00	MtS tw't Jnc	Dp 4.40
Harmony	" 7.23	Morell	" 5.22
St. Peters	" 8.42	St. Peters	" 5.54
Morell	" 9.13	Harmony	" 7.12
Mt S'tw't Jnc	ar 9.55	Souris	ar 7.35

C. J. BRYDGES, WM. McKECHNIE,
Gen. Sup. Gov. Railways Supt. P. E. I. R.
Ch'town, Dec. 27, 1878.
p ne ar h pres kca sp sj ap 6i

COMMERCIAL

Union Assurance Company,
OF LONDON, ENGLAND.

CAPITAL - - \$12,500,000.

INSURANCE effected against Fire on all descriptions of Property throughout the Island.
Low rates and prompt settlement of losses.

HORACE HASZARD,
Agent for P. E. Island,
Ch'town, Dec. 20, 1878—

Administrator's Notice.

THE undersigned, Administrator of the Estate of ROBERT ORR, late of Charlottetown, deceased, intestate, hereby notifies all persons indebted to the said Estate to make immediate payment to him; and all persons having claims or demands against the said Estate are hereby required to exhibit such claims and demands, duly attested, to him for payment within twelve months.

JOHN MCPHEE,
Administrator.
Ch'town, Jan. 8th, 1879—2w 2aw

H. W. Vinnicombe,

Resident Piano Tuner & Regulator,
HAS adopted the Dollar system of Tuning—six visits a year, at one dollar per visit. This system is much more economical and satisfactory than any other, as the cost is less, and the instrument is kept constantly in tune and repair.

A visit will be made to all parts of the Island once a year, or oftener if desired. Pianos tuned by Hamilton's system of even temperament.
Orders may be left at Mr. Fletcher's Music Store, or at Bremner Bros., Queen Street.
Jan. 6, 1879—

FRANK COX, M.D. C.M.,

Physician, Surgeon & Accoucheur.
OFFICE: APOTHECARIES' HALL.
Residence: Capt. Muten's, Water Street, next door to St. Lawrence Hotel.
N. B.—Particular attention paid to diseases of the chest and stomach.
Ch'town, Nov. 16, 1873—3m

QUEEN INSURANCE CO'Y. OF ENGLAND.

CAPITAL, . . TWO MILLIONS STERLING.
INSURANCE effected on all kinds of Buildings, Merchandise and Produce. Also, on Vessels on the stocks.
Special rates for isolated residences. Losses settled promptly.
GEORGE MACLEOD (Union Bank),
Agent for Prince Edward Island
June, 1877—

WAGSTAFF'S HOTEL.

THE Subscriber having fitted up the Hotel formerly known as
THE RANKIN HOUSE,
in first class style, is now prepared to give comfortable accommodation to
Permanent and Transient Boarders.
Tourists and others will receive every attention at the Wagstaff's Hotel.
WM. WAGSTAFF.
May 25, 1878

DR. CREAMER,

PHYSICIAN AND SURGEON,
Kent Street, Charlottetown,
(Three doors from Dr. Johnson's).
ENTRANCE BY SIDE DOOR.
Oct. 15—3m

RANKIN HOUSE,

CHARLOTTETOWN, P. E. I.
J. J. DAVIES - - - Proprietor
(Formerly of St. Lawrence Hotel, Pictou).

THIS well-known Hotel is now open under the present management; and, having been newly furnished throughout, it offers every comfort to the travelling public. Suitable Sample Rooms for commercial gentlemen.
Oct. 15, 1878—3m

BROADWAY HOUSE, BY MACKENZIE.

THE former "City Hotel," now the Broadway House, Great George Street, opposite the Catholic Cathedral, is now open for Permanent and Transient Boarders.
The rooms have been thoroughly renovated and newly furnished.
The tables will be supplied with the best the market affords, and fares reasonable.
A Suite of Rooms convenient for a small family, together with board &c., can be had in the Broadway House.
Nov. 23, 1878—tf

"THE ENAMORADO"!

A DRAMA IN V. ACTS,
—BY—
HUNTER DUVAR

THE above interesting book is for sale at all the Bookstores on the Island.
Col. Duvar is happy in having selected for the theme of his drama, one of the most romantic incidents of a romantic and soldierly time. The scene is laid in Spain, amid all the accessories of grave and gay, love and chivalry, poetry and song, with room for the display of many types of character,—knights and ladies, priests and soldiers, courtiers and peasants, cooks and clowns. Many lyrics in the author's best style are interspersed in the dialogue, which is, in general, quaint and sparkling.
Price: Paper cover, 50 cents; in cloth, 75 cents.
Summerside, Jan. 25, 1879—

ORGAN FOR SALE.

FOR SALE, a First-Class Mason & Hamlin Organ, almost new, and in perfect order. Will be sold VERY CHEAP.
For information, apply to
THOMAS HAGAN,
EXAMINER OFFICE.
Ch'town, Jan. 24, 1879—2aw tf



Examiner Office!

1879.

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THE WEEKLY EXAMINER.

A few Advertisements only, received.

J. W. MITCHELL, J. W. L. COTTON,
Office Sup't. Manager.

SUPREME COURT.

The Murder Case.

FEB. 4, 1879.
MR. DAVIES' ADDRESS (CONCLUDED.)

My learned friends, in trying to save their clients, must not destroy the characters of every one else, and allow their clients to walk out of the dock over the ruined characters of all the witnesses. While the same amount of importance is not to be attached to the evidence of Mary Ann Brown as would be to that of a person respectfully brought up and religiously educated; yet we have nothing to show that she committed perjury. I could not justify the sweeping denunciation of all the people of the Bog. Their color may not be so white as that of some other persons; but if we believe the Scriptures, they all belong to the same great brotherhood as ourselves—"God has made of one blood all nations that dwell on the face of the earth." We have the evidence of Emily Byers, and there is not one word against her chastity or her honesty. She has been brought up under christian influences, capable of reading and writing—a shrewd, keen, sensible girl. Nothing has transpired regarding her character or history which would justify you in branding her as a perjurer. There are good and bad people in the Bog as well as anywhere else. The base passions of humanity are not confined to poor people or to black people. Say those witnesses are mistaken, if you will, if you can start some theory by which you can become convinced of the innocence of those boys and let them clear, in Heaven's name do it. If all the money in the Treasury could have brought a witness here that would clear those boys, I am the man that would have brought him. The father of one of them has been one of my best friends, and were it possible to spare him this sorrow and trouble, I should rejoice to do so. It is a sad picture to see two young men charged with so serious a crime, and there is no man but must feel for their friends; but, if we allow our feelings to sway us, trial by jury would be a farce, the Attorney General's office a sinecure and the Judge's position a mockery. That little girl said she hung on the back of the wagon and James Millner tapped her on the head. If the whole case rested on her evidence, the Jury would hesitate before they would convict the prisoners; but it is only one piece of evidence which I wish the Jury to keep in mind. This evidence was attempted to be broken down by the evidence of Mrs. Burris, who swears that she never shook a carpet for her. No person supposes that the child shook twenty-six yards of carpet; it was evidently mats she meant. There was no reason why this little girl should swear falsely against Millner. One of the counsel spoke of the ineradicable hatred those people had against him, but if they had this, and had no regard for their oath, why did they not come into Court and say they identified the wagon and the persons, and the simple fact that they refrained from identifying them, shows that they only wanted to tell the truth. But Mrs. Burris says that child said she wished to swear against Millner, but she says she paid no attention to this statement until she read that Emily Byers had made this statement in Court. She says she never spoke about it to anyone. But if that was true, how could Mr. Palmer in his cross-examination of Emily Byers tax her with having said it? The little girl says she told Mrs. Burris that she was not the judge or jury, and she did not want to tell her anything. It was a question put to Lilly Ryan before the Grand Jury which brought up the name of Emily Byers, and then she was sent for. It would take a great deal of other evidence to convince me that that child was not telling the truth. The importance of that statement was realized, and an attempt made to show that she was wrong, that she did not know James Millner. I would not say one word against George Millner. His sympathies are for his brother. He was sitting in the front seat, and when the prisoners came in, he heard or thought he heard Emily Byers ask, "Was that Jimmy Millner?" I asked him and he did not know Emily Byers at that time, and he never turned his head to see and he could not recognize the voice because he did not know her. He merely made a mistake in the person. It was Mary Ann Ryan asked the question of Emily Byers, and Emily asked the question of the other. The evidence of Emily Byers therefore stands unimpeached. There are some discrepancies with regard to the length of time the wagon stopped; but time is one of the things on which you can never get witnesses to agree. These discrepancies are not material. It is all the same whether the wagon was there ten minutes or half an hour. The discrepancies are only such as will occur where several witnesses are examined. But the main facts are related with much minuteness. If those parties had any spite against the prisoners all they had to do was to identify them. But that they did not, proves that those people, instead of being against them, have their sympathies enlisted in their favor. We find that Cusack was coming from the pump with water and one of the men in the wagon spoke to him and he answered; and we have Millner's confession. John Hughes was going to the Post Office to get his letters, and he tells you that the wagon he saw was a snug square one with a little space behind, which answers to the description of the wagon in Court. Several swear to the expressions made use of by the men in the wagon after the shots were fired, while others say they heard none. This is easily accounted for, as a number of those persons had their attention taken up with the boy that was shot, and therefore would not hear anything that was said a little distance from them. John Hughes could not tell the words, but heard something said. Those persons who fired that shot must have been animated by malice—it may have been an ungovernable temper,—but, whether it was or not, the man who deliberately fired three shots must have been governed by malice of the worst kind. Every witness agrees that one of the men had on a felt hat and the other a "bucco" cap. There was no proof that Millner had not a light coat with him in the wagon, which he might have worn

part of the time. Pat Hand has always been considered an honest, respectable man, and his evidence should be taken. He said he thought it was Millner's horse. But it is said that he goes to the country in pursuit of a horse and wagon. There is nothing inconsistent in that. The Marshal sends McGonnel and Keating to Millner's, and employs Hand to drive two more to the country. What object could Hand have in coming here to swear away a man's life? McGonnel and Keating saw the wagon in Millner's yard, and saw that it turned in from the eastward. I will show directly how it got there. Mr. Higgins saw those two young men driving together. He proves that Johnston had a revolver; and, on the night of the murder, Johnston came home between half-past nine and ten, and after that his father sent him to the Post Office. This will be material when I come to deal with the alibi which has been set up. Now, where is that revolver. Mr. Johnston is called and says he took it away with the intention of concealing it. If the revolver had been produced it might have been material evidence. If Keating is to be believed, he says when he asked Millner if the wagon was out that, that he answered "No;"—that only the express wagon had been out that evening, and as it was proved that this wagon was out, Millner must have had some object in telling that lie. The next we come to is the free and open confession of the prisoners themselves, which places the case beyond doubt. Voluntary confessions of crime made out of a Court of Law, is one of the strongest evidences against a man; for no man would make a confession against himself unless it was true.

Russell on Crimes (Vol. 3, page 365) says:—"A free and voluntary confession of guilt made by a prisoner, whether in the course of conversation with private individuals or under examination before a Magistrate, is admissible in evidence as the highest and most satisfactory proof, because it is fairly presumed that no man would make such a confession against himself if the facts confessed were not true. And the highest authorities have now established that a confession, if duly made, and satisfactorily proved, is sufficient alone to warrant a conviction, without any corroborating evidence *alibi*."

Again, Taylor on Evidence (Vol. 1, pp. 724-725) says:—"Still, the actual instances of false confessions of crime are very rare, and their just value has been happily stated by one of the most accomplished of modern jurists. 'Whilst such anomalous cases,' says the writer, 'ought to render courts and juries at all times extremely watchful of every fact attendant on confessions of guilt, the cases should never be involved, or so urged by the accused's counsel, as to invalidate indiscriminately all confessions put to the jury, thus repudiating those salutary distinctions which the Court, in the judicious exercise of its duty, shall be enabled to make. Such an use of these anomalies, which should be regarded as mere exceptions, and which should speak only in the voice of warning, is no less unprofessional than impolitic; and should be regarded as offensive to the intelligence both of court and jury.'

"Indeed, all reflecting men are now generally agreed, that deliberate and voluntary confessions of guilt, if clearly proved, are among the most effectual proofs in the law; their value depending on the sound presumption that a rational being will not make admissions prejudicial to his interest and safety, unless when urged by the promptings of truth and conscience. Such confessions, therefore, so made by a prisoner to any person, at any time, and in any place, are at common law receivable in evidence, while the degree of credit due to them must be estimated by the jury according to the particular circumstances of each case."

Johnston's father sent him to the schooner next morning, but the officers could not see him there during the day; and at twelve o'clock at night he was found hidden in the hold. The Marshal told him he arrested him for the murder; and does he then declare his innocence and say he was, at that time, talking to those young girls on Prince Street? No; he said "I suppose I will have to suffer for what I have done." Is it to be supposed that Flynn and Shea coined this story? We have no right to throw aside the evidence of a man, because that man has been drunk once in his life. Marshal Flynn asked Johnston where his revolver was, and he replied either "I gave it to my father" or "my father has it." That tallies with the fact that Mr. Johnston concealed the revolver. Johnston then said to McKinnon, "you have made a good thing of selling my life." If you believe this evidence, how can you doubt that he was the man who fired the shot. Johnston confessed that three shots were fired with no intention of doing harm. How did he know how many shots were fired unless he was there? There was nothing read here to show that any of the witnesses contradicted what they said in the lower Court.

Mr. Hodgson said Shea's evidence was directly contrary to what he gave in the lower Court.

Mr. DAVIES said if there was any difference it should have been pointed out.

Mr. PALMER said Shea stated in his deposition that he said "it was foolish firing shots in the street, and he swore here that he did not say it."

Mr. DAVIES said Shea declared he did not remember making use of the words. There was no contradiction. He does not deviate in his account of the confession which Johnston made. McKinnon says Millner said it would be all right if Cusack held his tongue—he only spoke to Cusack. Now, the person who fired the shot did speak to Cusack; and why did Millner introduce Cusack's name unless he was there. Are we to disbelieve McKinnon. He was to have been contradicted by Mrs. Wares, but her evidence proved that it was she, who said to McKinnon "if Johnston had been as cute as Millner it would have been all right," and not McKinnon who used the expression. They have attempted to prove an alibi, but they have failed. I would not attack the character of those young girls, but out of their own mouths they will show they were either mistaken in the day or in the time. Miss Scott says they all agreed upon the time before they came into Court. She says that they came around Hobbs' corner, and when they got past