

# THE DAILY EXAMINER.

TERMS—FIVE DOLLARS A YEAR.

"This is true Liberty, when Free Born Men, having to advise the Public, may speak free."—EURIPIDES.

SINGLE COPIES TWO CENTS

NEW SERIES.

CHARLOTTETOWN, P. E. ISLAND, TUESDAY, JULY 14, 1891.

VOL. 28.—NO. 45

## EXTRAORDINARY SALE

## Ladies' Dress Goods.

Having a Large Stock of Fine-All-wool Light Dress Materials, we will make the following Reduction in Price to make a speedy Clearance:—

Fine All-wool Dress Goods,	regular price 24c, now 16c
Fine All-wool Dress Goods,	33c, " 23c
Fine All-wool Dress Goods,	36c, " 25c
Fine All-wool Dress Goods,	40c, " 26c
Fine All-wool Dress Goods,	45c, " 30c

Ladies should see these Goods. They are decidedly the best Bargains that have been offered in this City for some time.

J. B. MACDONALD.

## DOMINION BOOT AND SHOE STORE! THE PEOPLE'S FRIEND.

Every Day the People are Saving Money by buying their Boots and Shoes from us  
Charlottetown, June 17, 1891.

### BANK OF BRITISH COLUMBIA

Incorporated by Royal Charter, 1862.

Capital Paid Up.....£900,000, \$3,000,000

(With power to increase.)

Reserve Fund.....208,000, 1,040,000

#### Note Circulation Notice.

In accordance with the provisions of Sec. 55 of the Bank Act, which comes into force on FIRST JULY proximo, this Bank has made arrangements whereby notes of the Bank will be RECEIVED AT PAR by the following Banks at any of their Branches in the Dominion, viz:—

Bank of Montreal, Canadian Bank of Commerce, Imperial Bank of Canada, Bank of Nova Scotia, Traders Bank of Canada, Bank of Hamilton, Merchants Bank of Halifax, Halifax Banking Co., Union Bank of Halifax and Commercial Bank of Manitoba.

Arrangements have been made with the following Banks to ACT SPECIALLY AS AGENTS for the redemption of the Bank's notes at the undermentioned cities:—

HALIFAX, N. S.—Bank of Montreal, Bank of Nova Scotia, Halifax Banking Co., Merchants Bank of Halifax and Union Bank of Halifax.

ST. JOHN, N. B.—Bank of Montreal, Bank of Nova Scotia, Merchants Bank of Halifax and Halifax Banking Co.

CHARLOTTETOWN, P. E. I.—Bank of Nova Scotia and Merchants Bank of Halifax.

MONTREAL—Bank of Montreal, Canadian Bank of Commerce, Molson's Bank, Bank of Nova Scotia and Merchants Bank of Halifax.

TORONTO—Bank of Montreal, Canadian Bank of Commerce, Imperial Bank of Canada, Molson's Bank, Bank of Hamilton and Traders Bank of Canada.

WINNIPEG—Bank of Montreal, Imperial Bank of Canada, Molson's Bank and Commercial Bank of Manitoba.

The Bank of British Columbia will redeem at par the notes of the above mentioned banks at any of its Branches in British Columbia.

W. M. C. WARD,  
June 15—dy 2m  
Manager.

### NASAL BALM

SOOTHING, CLEANSING, NEVER FAILS.

Instant Relief, Permanent Cure, Failure Impossible.

Many so-called cures are simply symptomatic, such as sneezing, blowing nose, etc., but this balm cures the cause, and should be used at once in all cases of Catarrh of the Nose.

Be warned in time, neglected Catarrh results in nasal deformity, and should be treated by consumption and death.

Sold by all druggists, or sent post paid on receipt of price 50 cents and \$1 by address:—

FULFORD & CO., Brockville, Ont.

TRADE MARK

### SHARP'S

TRADE MARK

### BALSAM

OF HOREHOUND AND ANISEED FOR CROUP, COUGHS AND WHOOPING COUGHS.

OVER 40 YEARS IN USE.

PRICE 25¢ PER BOTTLE.

ARMERSON & CO. PROPRIETORS

St. John, N. B.

## SELLERS VS. TOOMBS.

An Interesting and Important Case.

Judge Alley's Decision.

In the County Court of Queen's County, Sixth Circuit, 17th June, 1891.

William Seller vs. John G. Toombs.—The plaintiff in this action claims \$150 damages from defendant for negligence as a physician, under the following facts:—

On 10th July, 1889, John Coffin, of Charlottetown, who had been in ill health at St. Peter's, visited plaintiff's house at Mount Stewart—he being connected with plaintiff by marriage—and he remained there ill till 5th August. While there defendant attended him professionally, and on one occasion plaintiff asked him what was the matter with Coffin, to which he replied that he had liver and stomach complaint and would soon be all right. According to defendant this enquiry was made on the day after Coffin's arrival; according to plaintiff it was made three weeks, or as he stated at Dunstaffnage Court, two weeks afterwards. Plaintiff contends that at the time this information was furnished, and upon which he relied as true, Coffin had typhoid fever. Defendant claims that at that time he had liver complaint, and that typhoid fever was afterwards contracted by him. It is conceded by defendant that he did not inform plaintiff of the change in Coffin's complaint during his (Coffin's) stay in plaintiff's house, while plaintiff claims that he not only did not do so, but that he took means to conceal from him the true nature of the disease. Owing to the plaintiff's want of knowledge of the nature of Coffin's complaint, no precautions were taken by him and his family to prevent their contracting it, and as a result, one of the plaintiff's children became sick before Coffin left there, another shortly afterwards, then plaintiff's wife, female servant and two men servants—all in quick succession from typhoid fever. From plaintiff's evidence defendant did not make known to him the nature of the disease till after the second child took sick, and till the disease had been contracted by the others, while the defendant alleges that he informed plaintiff of it after the first child contracted the disease, or about the 10th August.

The defence is that the defendant was not under any duty to tell plaintiff the nature of Coffin's complaint, and therefore incurred no liability for negligence,—that the statement he made to him was true when made, and that as no privity existed between him and the plaintiff he was not obliged to inform him of the change in Coffin's complaint, when he afterwards contracted typhoid fever,—that he discharged his duty in this respect in telling Mrs. Coffin, who was her husband's nurse, and in giving her all needful precautions to prevent the spread of the disease, and that if she did not carry out his instructions he is not responsible for her neglect. He also contends that the disease arose from the filthy condition in which plaintiff kept his yard and premises and would have arisen if Coffin had not been there at all, and that plaintiff, having been guilty of contributory negligence, cannot recover even if negligence can be imputed to defendant.

A large mass of conflicting evidence has been heard by me, which I have since read over with much care and have given my best consideration. The case also involved some very important legal principles, and I have examined the authorities quoted by counsel on both sides, as well as a number of others bearing upon the questions involved. Let us now discuss these questions. The first to consider is, what liability attaches to defendant for negligence in not disclosing to plaintiff the nature of Coffin's complaint apart from any question of fraudulent concealment or false representation on his part. Upon this point the rule of law is that in order to maintain an action for an injury to person or property by reason of negligence or want of due care, there must be shown to exist some obligation or duty towards the plaintiff which the defendant has left undischarged or unfulfilled to the plaintiff's injury (Sweeney vs. Old Colony and Newport R. R., 10 Allen, 372 Addison on Torts 23). It is not necessary that this duty should arise out of contract. It may arise out of the relative situation of parties between whom no privity of contract exists (Smith on Negligence, p. 2, Stewart vs. Harvard Coll, 12 Allen, ps. 58-67, 1878.) The party injured must be in the exercise of a right available against the defendant (Addison 21). The plaintiff's right must be of that sort which he is able to oppose to the right which is being exercised by defendant, and to make available against him by saying: "It is true you are lawfully exercising your right, but I am in the exercise of a right which I am able to oppose to yours, and you must therefore exercise care towards me" (Smith, p. 3. See also per Byles, in Collis vs. Selden, L. R., 2 C. P. 498.) In the latest case upon this subject, Heaven vs. Pender, 11 2 B. D., 503, the following is the rule of law as laid down by the Master of the Rolls: "That whenever one person is by circumstances placed in such a position with regard to another that everyone of ordinary sense who did think would at once recognize that if he did not use ordinary care and skill in his own conduct with regard to those circumstances he would cause danger of injury to the person or property of the other, a duty arises to use ordinary care and skill to avoid such danger." See also Elliott vs. Hall, 15, 2 B. D. 315, Addison on Torts, 6th Edn.,

p. 23, and Smith on Negligence, p. 5, where authorities on this subject are collected and reviewed.

Now, then, let us apply this law to the case before us. While Coffin was sick as a visitor in plaintiff's house and defendant was attending him, plaintiff and defendant enjoyed equal rights to go in and out of the house. Plaintiff had the right as master of the house to oppose the right of defendant to enter there if he saw fit, and hence a duty was cast upon defendant to exercise care towards plaintiff in the discharge of his duty towards his patient. A medical man is bound to show more than ordinary care—the law demands greater care where a person has or professes to have greater skill, or where the law deems it for the public good to require a greater amount of care. (See Smith p. 17.) There is a current of decisions that where the act of negligence endangers human life, it is inherently wrongful and the party in fault is liable to anyone misled or otherwise involved in injury through his negligence. (See Shearman and Ledfield on Negligence, p. 67. See Thomas and wife vs. Winchester, 6 New York Reports 397, considered an extreme case by Brett, M. R., in Heaven vs. Pender, but approved in Pollock on Torts, p. 412. Norton vs. Sewell, 106, Mass 143. In George vs. Skivington, L. R. 5, Exch. 1, defendant was held liable for injuries sustained by plaintiff from a mixture carelessly prepared, though not dangerous to life, and bought by plaintiff's husband. See also Langridge vs. Levy, 4 M. and W. 337, in support of same principle, which latter case, however, was decided on the further ground of fraudulent representation. In Parry vs. Smith, L. R. 4 C. P. D. 325, Lopes after consideration said:

"I think the plaintiff's right of action is founded on a duty which I believe attaches in every case where a person is using or is dealing with a highly dangerous thing which, unless managed with the greatest care, is calculated to cause injuries to bystanders. To support such a right of action there need be no privity between the party injured and him by whose breach of duty the injury is caused, nor any fraud, or representation or concealment. It is a misfeasance independent of contract."

Somewhat similar to the case of possessing or using dangerous things is that of a man pursuing a course of conduct which is likely to prove dangerous, and although such a course may be perfectly legal, or even for the public good, yet he is bound to exercise more than ordinary care in the presence of a danger known to himself. (Smith, p. 184.) Typhoid fever being a disease communicable from one person to another under certain conditions, plaintiff's family were exposed to risk of contracting it if proper precautions were not taken by them, and the omission or failure to inform plaintiff of the danger to which he was subject in this respect, having regard to the relation then existing between him and Coffin, would seem to me to be clearly such an act of negligence on defendant's part as would render him liable in damages under the principle enunciated by the Master of the Rolls in Heaven vs. Pender. The telling Coffin's wife in the expectation that she would tell plaintiff, cannot, in my opinion, be such a discharge of defendant's duty towards plaintiff as will relieve him from liability for negligence, for she might naturally be, as it is alleged she was, prompted by self-interest to conceal the fact for the benefit of her husband. If the performance of a duty be omitted by defendant, the fact of his having intrusted it to a person who also neglected it, furnishes no excuse either in good sense or good law. Pickard vs. Smith, 19, C. B. N. S., 480, see Mersey Docks vs. Gibbs, L. R. 1 H. L., 493, where many cases on this point are reviewed.

[CONCLUDED IN OUR NEXT.]

### A Fine Painting.

In St. Columba's Church, Lot 47, can be seen a magnificent oil painting, 9x14 feet, of Scotland's Patron Saint, Columba, more commonly known as "St. Columbkille." The painting was executed by Mr. Porta, a leading artist of Rome, and cost about \$175. This fine work of art was ordered by the Rev. Monsignor D. J. Gillis when that gentleman last visited the Eternal City in 1889, and was framed by Mark Wright & Co., of Charlottetown, and had only arrived at its destination a few days previous to the departure of "Father Gillis" from East Point parish to his new field of labor. The saint is in a standing attitude, with outstretched hand, and holding a small wooden cross in his left hand close to his breast, and addressing a motley multitude in an open air. To the right, as we look, is an abrupt promontory, on which is the king's castle and other buildings, and on the left the figure stands a rough wooden cross. The painting shows a group of people descending the mountain side, attired in the costumes worn by the barbarians of that period, and seemingly eager to join the throng below.

The great saint is said to have exerted a powerful influence over the turbulent spirits with whom he came in contact in his "native heath," and wherever he preached numbers would assemble to listen to his utterances. St. Columba was born, A. D. 521, and died in the year 593. He founded a great number of monasteries in Scotland, including the grand monastery on the Island of Iona, which was the ecclesiastical centre of education, of not only Scotland, but also parts of England, and which was for a long time the burial place of the early Scottish Kings; many of whom received their coronation at his hands. After he had converted the King, the Island of Iona was assigned to him.

The wearing apparel of the saint, which is of a light grey, and the greyish appearance of the scenery, make a pleasing contrast to the dark lowering sky overhead, and the blue and dark-blue background.

The painting is pronounced by competent judges to be a work of art of great merit, and will show to good advantage when placed in its proper position.

### Boston Markets.

Boston, July 9.

Eggs.—Receipts have fallen off a little and demand has been more active, especially for choice fresh stock. Prices have been advanced slightly and close firm at quotations. Strictly extra eastern are in light supply and sell quite readily at 19c. Best Nova Scotia, P. E. Island and New Brunswick in fair demand at 17½c. Most sales of western at about 17c.

Fish.—There has been very little change in the general condition of the market. Receipts of codfish are still running light and prices are fully sustained. Herring remains quiet with prices still largely nominal. There is a good fair demand for muskeler, with very little change in prices.

Hake	.....	\$ 2 00
Haddock	.....	3 00
Herring, round shore	.....	3 00
Mackerel, extra, per brl.	.....	18 00
" No 1	.....	17 00
" No 2	.....	15 00
" No 3, large, rim'd, new	.....	12 00
" No 2, plain	.....	10 25
Canned Lobsters, 1 lb tin, labelled, per dozen	.....	1 95

## MUCH BETTER, Thank You!

THIS IS THE UNIVERSAL TESTIMONY of those who have suffered from CHRONIC BRONCHITIS, COUGHS, COLDS, OR ANY FORM OF WASTING DISEASES, after they have tried

## SCOTT'S EMULSION

Of Pure Cod Liver Oil and HYPOPHOSPHITES—Of Lime and Soda.—IT IS ALMOST AS PALATABLE AS MILK. IT IS A WONDERFUL FLESH PRODUCER. It is used and endorsed by Physicians. Avoid all imitations or substitutions. Sold by all Druggists at 50c. and \$1.00. SCOTT & BOWNE, Belleville.

J. PIGOT, Paris, Sole Proprietor.

## LESSIVE PHENIX

- Makes Hard Water Soft.
- Makes White Clothes Whiter.
- Makes Flannels Soft and Clean.
- Makes Fruit Stains Vanish.
- Makes Tin Like Silver.
- Makes Paint Like New.
- Makes Glassware Brilliant.
- Makes Earthenware Spotless.
- Makes Windows Like Crystal.
- Makes Baths and Sinks Clean and Bright.

THE ONLY ARTICLE THAT WILL CLEAN ZINC.

For sale by Grocers and Druggists Every where. Factory in Montreal.

EVANS AND SONS, Sole Agents.

july1—dy 6m

### EVERYBODY'S PILLS

These Pills are guaranteed purely vegetable and perfectly safe for persons of all ages and constitutions.

PRICE: 25c. Per Box.

Prepared only by A. S. JOHNSON, CHARLOTTETOWN, P. E. I.

OTHER COMMON TROUBLES CAUSED BY A SLUGGISH LIVER, KIDNEY'S AND BOWELS

### Men Wanted.

FROM Ten to a Dozen workmen—Bench Hands, Carpenters and Machine Hands. Also, three smart boys.

MARK WRIGHT & CO.

july8—1w

### 2,000 Butter Tubs.

CARVELL BROS.

Ch'town, May 22, 1891—2aw pat guar

## LIME JUICE!

A FRESH STOCK of this Pleasant, Refreshing and Healthy Summer Drink just received in Bottles and on Draught.

ALSO "Sanitas" Disinfecting Fluid, Condy's Fluid, Chloride of Lime, Insect Powder, Hellebore, Fly Poison, Pads, Sticky Fly Paper, etc., etc., at

A. S. JOHNSON'S DRUG STORE,  
Ch'town, July 4, 1891. Corner Kent and Prince Streets.

## A Reputation of Five and Twenty Years Standing THE GREAT INVIGORATING TONIC, CAMPBELL'S QUININE WINE.

INVALUABLE in cases of Loss of Appetite, Weak or Painful Indigestion, Malaria, Lowness of Spirits, Fevers of all kinds, and as a general Strengthening of the System when weakened by changes of the season.

It is necessary to remember that there are many so-called Quinine Wines, but that the GREAT ORIGINAL is "Campbell's," and that the genuine bears our signature upon the label. The best proof of its value is the fact that its sale at the present time is larger than ever before.

The following certificate shows how CAMPBELL'S QUININE WINE is appreciated. Having submitted two samples of Quinine Wine, imitations of the genuine, along with a sample of our own, to the Public Analyst, we received the following reply: "CAMPBELL'S is the only genuine Quinine Wine of the three samples examined at Messrs. Kenneth Campbell & Co's request."

JOHN BAKER EDWARDS, Ph. D., F. C. S., Public Analyst.

## GEO. H. COOK, PHOTOGRAPHER

HAVING secured the services of Mr. CLOUD HILL, for many years Chief Operator with Hills and Saunders, and Gabes Hughes of Ryde Photographer to the Queen and Royal Family, persons wishing high class Photos taken would do well to call and see specimens.

Special attention paid to beautiful enlarged Portraits on opal and paper, finished in monochroms and colors which are greatly admired for truthfulness and delicacy of finish. These really high class permanent Portraits are rapidly taking the place of all interior kinds, and are produced at prices consistent with conscientious work.

They can be produced from negatives, or taken by us or from any photograph sent however old and faded, Daguerreotypes, Ivory Miniatures, Glass Positives, etc., etc., and will not fail to give entire satisfaction.

Remember the place. Over Apothecaries Hall.  
May 9, '91—2aw & w 5m

## Great Bargains in Furniture!

\$14,000 WORTH!

IMMENSE STOCK! BEST QUALITY!

At Prices to Suit Everybody.

SELLING OFF!—New and Fashionable Drawing Room and Parlor Suites, Bedroom Suites, Mirrors, Chairs, Bedsteads, Tables, Washstands, Window Blinds, Window Poles and all kinds of Window Furniture.

Lounges, Easy Chairs, Rattan Chairs, Feather, Hair, Flock and Wool Beds, Mattresses, Pillows, etc.

Gilt Moulding, every style, cheap. Call and examine.

JOHN NEWSON.  
Charlottetown, June 4, 1891.