

THE EXAMINER.

VOL. 2.

CHARLOTTETOWN, PRINCE EDWARD ISLAND, THURSDAY, FEBRUARY 28, 1878. NO. 245.

THE DAILY EXAMINER

Is Published every Evening.
OFFICE:
INGS' BUILDING, CORNER OF WATER
AND GREAT GEORGE STREETS,
Charlottetown, P. E. I.

RATES OF SUBSCRIPTION:
Six Months, \$2 50
Three Months, 1 25
One Month, 0 50
One Week, 0 12

Advertising at most moderate rates.
Contracts may be made for monthly, quarterly, or half-yearly advertisements, on application.

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

PRINCE EDWARD ISLAND RAILWAY.

TIME TABLE NO. 8.

WINTER ARRANGEMENT.

To come into force MONDAY, DEC. 24, 1877

TRAINS GOING WEST.

STATIONS.	No. 5 EXPRESS	No. 7 Mixed
GEORGETOWN	Dp. 8.4	P. M.
Cardigan	" 9.02	
Mount Stewart Junction	Ar. 10.25	
Royalty Junction	Dp. 10.35	
	" 11.46	
CHARLOTTETOWN	P. M.	P. M.
	Ar. 12.10	Dp. 2.40
	A. M.	
Royalty Junction	Dp. 9.00	
North Wiltshire	" 9.25	" 3.05
Hunter River	" 10.22	" 4.02
Bradabane	" 10.40	" 4.20
County Line	" 11.18	" 5.00
	" 11.28	" 5.10
Kensington	P. M.	" 5.50
	" 12.07	
SUMMERSIDE	Ar. 12.45	" 6.20
	Dp. 2.00	
Wellington	" 2.45	
Port Hill	" 3.28	
O'Leary	" 4.43	
Alberton	" 5.45	
Tignish	" 6.35	

TRAINS GOING EAST.

STATIONS.	No. 2 EXPRESS	No. 4 MIXED.
TIGNISH	A. M.	
ALBERTON	Dp. 8.00	
O'Leary	" 8.55	
Port Hill	" 9.52	
Wellington	" 11.07	
	" 11.48	
SUMMERSIDE	P. M.	A. M.
	Ar. 12.35	
Kensington	Dp. 2.10	Dp. 8.35
County Line	" 2.48	" 9.12
Bradabane	" 3.30	" 9.50
Hunter River	" 3.40	" 10.10
North Wiltshire	" 4.20	" 10.40
Royalty Junction	" 4.35	" 10.58
	" 5.30	" 11.56
CHARLOTTETOWN	Ar. 5.55	
	Dp. 2.05	" 12.20
Royalty Junction	" 2.30	
MT. STEWART Junc.	Ar. 3.40	
Cardigan	Dp. 3.50	
GEORGETOWN.	" 5.12	
	Ar. 5.40	

SOURIS BRANCH.

Going West. Going East.

STATIONS.	No. 5 MIXED.	STATIONS.	No. 6 MIXED.
Souris	A. M.		P. M.
Harmony	Dp. 7.30	Mt. St'w't Jc.	Dp. 3.50
St. Peter's	" 7.55	Lot 40	" 4.26
Morell	" 9.10	Morell	" 4.32
Lot 40	" 9.42	St. Peter's	" 5.05
Mt St'w't Jc.	" 9.48	Harmony	" 6.20
	Ar. 10.25	Souris	Ar. 6.45

C. J. BRYDGES, W. McKECHNIE
Gen. Superintendent Supt. P. E. I.
Govt. Railways. Railway.

Notice to the Public!

SUPPLIES for the "Soup Kitchen" will reach the Committee if left at the Store of Mr. Alex. Horne, Corner of Queen and Fitzroy Streets.

Donations of money will be received by them through Dr. Dodd and Mr. J. Quirk, N. B.—Food for the sick carefully prepared by the Committee.
Nov. 30, 1877.

Bank of P. E. Island.

THE Annual Meeting of the Stockholders of this Bank will be held at their Banking House, in Charlottetown, on TUESDAY, the fifth day of March next, at 12 o'clock, noon, for the purpose of electing Directors for the ensuing year, and the transaction of such other business as may be laid before them.

Proxies for voting must be left with the Cashier at least one day previous to the meeting.

J. R. BRECKEN, Cashier.

Ch'town, Feb. 19, 1878—rg dp

BOOK & JOB PRINTING!

neatly and expeditiously executed,

AT THE "EXAMINER" OFFICE

under the careful supervision of

J. W. MITCHELL.

We are now in a position to execute orders for all kinds of Printing, such as

LETTER HEADS,
BILL HEADS,
CIRCULARS,
CARDS.

PAMPHLETS,
DODGERS,
HANDBILLS,
POSTERS,
AND ALL KINDS OF

Bank and Legal Blanks,

&c. &c. &c.

AT MODERATE PRICES.

Office:—Ings' Old Stand,

Corner Great George and Water Streets.

NORTH STAR
COFFEE AND LUNCH ROOMS

OYSTER SALOON.

MRS. E. COOMBS,

SUCCESSOR TO

J. CARROL.

MEALS served at all hours of the day and evening, at reduced rates.
OYSTERS sent to all parts of the City at the very low price of

30 CENTS PER QUART!

Also for sale by the Barrel, Bushel, or Peck to suit purchasers.
Ch'town, Jan. 14, 1878—2 aw

A CARD TO THE PUBLIC

WHILE taking this opportunity of thanking our numerous customers for the liberal manner in which they have patronized

OUR NEW STUDIO,

we would inform them that we have now increased facilities for the production of first-class work, and are prepared to make PHOTOGRAPHS of a Style and Quality that has never before attempted in this City.

We have on exhibition, at our Rooms, a large number of Photographs of every variety, including the

BEAUTIFUL PHOTO-ENAMEL

the most beautiful style of Photograph known, possessing a softness and delicacy of coloring that has never been equalled. This elegant picture has become deservedly popular elsewhere, and cannot fail to become so here.

Though the finish of our Photographs cannot be excelled, we would direct attention to the beautiful

Glace Pictures

which we make. They possess a highly enamelled surface, and are practically indestructible, and will retain their freshness and beauty for any length of time. If they become soiled they can easily be cleaned, as they will not lose any of their beauty by being wet. This valuable quality, combined with their remarkable elegance, make them very suitable for presents; while the difficulty of their production will prevent them ever becoming so common as to lessen their value. Our patrons can have one or all of their Photos finished in this style—an advantage which cannot be obtained elsewhere.

We give special attention to making Groups of Families, Societies, Schools, &c. Our pictures of children are sufficient evidence of our success in this difficult branch of our art.

Our ENLARGEMENTS, finished in India Ink, Pastel, Crayon, Oil and Water Colors, have made a favorable reputation for them selves throughout the Lower Provinces.

Parties intending to have Photographs made will find it to their advantage to sit early, as the number of our customers makes some delay in the delivery of the Photos unavoidable. We prefer to have our sitters come by appointment.

Photographs can be obtained for less money elsewhere; but in this case we ask that quality be given the preference; assuring the public that they will find our charges very moderate.

ROSS BROS.,

Cor. Queen and Dorchester Streets,

opposite Connolly's Bank.
Sept. 19, 1877—3m eod

1878.

THE Weekly Examiner

FURNISHES MORE NEWS, FOR LESS MONEY THAN ANY OTHER PAPER IN THE PROVINCE.

It Contains Twenty-eight Columns,

nearly every one of which is in closely set READING MATTER.

CONSIDER OUR TERMS:

SINGLE COPIES to the 31st December, 1878—thirteen months—\$1.00 in advance.

SIX COPIES to one address, or addressed separately, as desired, \$5.50 in advance.

TEN COPIES to one address, or addressed separately, as desired, \$9.00 in advance.

FIFTEEN COPIES to one address, or addressed separately, as required, \$13.50 in advance.

TWENTY COPIES to one address, or addressed separately, as desired, \$17.00.

IN DULL TIMES

CHEAPEST AND BEST!

The Weekly Examiner

is acknowledged to be ahead of any other paper in the Province in the item of

LOCAL NEWS

and is always well filled with

Political, Shipping, Commercial and General Information.

The debates of the Local Legislature will be carefully and impartially given. Special telegrams and letters from "Our Own Ottawa Correspondent" will contain everything of interest transpiring in the Dominion Parliament.

A Good Story will be made a specialty.

The Daily Examiner

Will be sent to any part of the Province, the Dominion, United States or Great Britain on receipt of

For Six Months, \$2.50

For Three Months, 1.25

For One Month,50

ADDRESS,

W. L. COTTON,

Manager Examiner Printing and Publishing Company.

Ch'town, Dec. 6, 1877.

Supreme Court.

The following is Judge Hensley's charge to the Jury, in the case of the Crown against McCloskey, for riot:—

GENTLEMEN OF THE JURY,—I congratulate you upon the fact that this long and tedious trial is so near its close. In fact, I shall be able to join you in the feeling of relief which its termination will bring. A great deal of time has been occupied in examining witnesses, in legal arguments, and in addressing the Jury, and the time thus taken up must involve expense. There are times when, in order to arrive at the truth and to administer justice, equally and impartially, trials must necessarily extend over many days. This case is more than an ordinary one, and the fact that so many witnesses have been placed upon the stand, whose testimony was deemed necessary, is the principal cause of so much time being taken up. In all probability, this will be the last case in which a traverser will be tried separately. I may here give you the reasons for trying each one that has been tried singly, and not in a body. The Counsel for the defence expressed a willingness to allow the defendants to be tried in a body, and I believe the Counsel for the Crown concurred with them in that; but the Crown insisted upon the defendants giving up their right to separate peremptory challenges. The Counsel for defence demanded the right; the Crown therefore elected to have the traversers tried separately. Difficulties of a similar kind have arisen before. In my opinion, the better course to have adopted would have been to spend a month, if necessary, in obtaining a jury; and then the traversers could have been brought to trial in a body. As it is, we must patiently attend to the case.

It matters not what amount of evidence the Counsel on either side brings into court, or how much time the examination of witnesses may consume, my duty compels me to sit till the examination is complete, if it requires twelve years to accomplish it. Now, gentlemen, I have one word to say about the religious excitement that this trial has given rise to. You, as jurymen, and I as Judge, in this case, must dismiss from our minds everything that would tend to prejudice us. We must remember that it is not our religion that is upon trial, but we Protestants or Roman Catholics. It would be grossly wrong to allow our religious feelings to sway us when justice demands that we thoroughly weigh the evidence before us, and arrive at our conclusions from that evidence, and that alone. In this country, where Protestants and Roman Catholics dwell, side by side, are governed by the same laws, and find redress for their grievance in the same court, any attempt by either to take advantage of the other should be deprecated. I hope, and sincerely trust, that Protestants will always be willing to defend the rights of Roman Catholics, and that in turn the Catholics will endeavor to uphold the rights of Protestants. Cast to the wind everything that is likely to influence you, of an improper nature, and bring your minds to bear directly upon the facts of the case, and as much of the law relating to it as you can remember. I have been impressed with the necessity of speaking to you upon this point, because the learned counsel for the defence, while addressing the Jury complained, and justly, too, of the comments of a portion of the Press while this case is pending. I have nothing to say against the liberty of the Press to publish what may be considered information for the public, but every paper should refrain from publishing that which may influence jurors. It should be remembered that a court of justice also has its rights, and that the accused at the bar of that court should not be deprived of a fair and impartial trial before men uninfluenced by any outside comments upon his case. Gentlemen, complaints have been made in this court, by the counsel for the defence, of attempts to intimidate them while defending the traversers at the Bar, and of the course which they thought proper to pursue all through the trials. A prisoner is entitled to the most complete defence which his counsel can make. Any attempt to intimidate or prevent the counsel from acting with the utmost freedom in cases requiring him to put forth every effort, is punishable by law. This case, it has been said, is a prosecution of the traverser by Orangemen. You, gentlemen, have nothing to do with Orangemen, nor do I see that the charge requires any attention from me. I am not an Orangeman, and have always been of opinion that there was no necessity for such an organization in our day. If our rights and liberties were endangered, then Associations for the maintenance of those liberties would be judicious, and perhaps necessary. There were times, unfortunately, when might made the right, but those days have passed away, we trust, never to return; and any association which exists under the pretence of maintaining rights that the law of the land already secures to the people, is highly injudicious. I will read the opinion of Lord Palmerston upon the existence of such organizations: "I am clearly of opinion that it would be far better for us to look to the future than to the past; and what, let me ask, is the object, and what are the prospective advantages of this Orange association? Is it an organization which belongs to the age in which we live?"

I have no intention to say anything offensive to the Orange association; but I must be allowed to say, that the very foundation on which it rests, casts a reflection on the institutions of the Empire; and coupled as it is, with old recollections of periods when the action of the Government, and the authority of the state were less efficient than they are now to protect life and property. I do think that the protection of individuals should be left to the law of the land, and that the formation of private associations for the purpose of supplying defects in the law, is not a system suitable to the spirit of the times in which we live.

Notwithstanding the fact that disturbances have occurred by processions appearing upon the streets with colours flying, yet there is nothing illegal in a body of men walking, provided nothing is done to disturb the peace or violate the law in any way. I will now read to you what constitutes a riot. Although you have so often heard the term riot explained,

and may be as well acquainted with its meaning as the judges on the Bench, yet it is my duty to place before you the law bearing upon the case which we are trying.

"Unlawfully, riotously, and roguishly did assemble.—It must be proved that three or more persons assembled together; and that their assembling was accompanied with some such circumstances, either of actual force or violence, or at least of an apparent tendency thereto, as were calculated to inspire people with terror; R. v. Hughes, 4 C. & P. 373; such as being armed, using threatening speeches; turbulent gestures, or the like. 1 Hawk. c. 65, s. 5. If an assembly of persons be not accompanied with such circumstances as these, it can never be deemed a riot, however unlawful their intent, or however unlawful the acts which they actually commit. Id.; Lamb. 178; Dab. c. 137. It is a sufficient terror and alarm, however, to sustain the indictment, if any one of the Queen's subjects be in fact terrified. R. v. Phillips, 2 Mood. C. C. 252; S. C., as R. v. Langford, C. & Mar. 602. If persons meet at a fair or wake, or on any other lawful and innocent occasion, and on a sudden quarrel they fight together, this is no riot, but an affray merely; but if, upon a dispute arising, they form themselves into parties, with promises of mutual assistance, and then fight, it is a riot; for, in this latter case, the design to break the peace is as premeditated as if they had originally met for that purpose. 1 Hawk. c. 65, s. 3. Where a riot is proved to have taken place, the mere presence of a person among the rioters, even although he possessed the power and refused to exercise it, of stopping the riot, does not render him liable as one of the rioters. R. v. Atkinson, 11 Cox, 330; per Kelly, C. B. In order to render him so liable, it must be shown that he did something by word or act to take part in, help or incite to the riotous proceedings."

The Crown is not always in a position to prove premeditation. It is a very important point to ascertain whether a number of men assembling upon the street have done so with the intention of carrying out a preconcerted purpose. The alleged facts on the part of the Crown were that, "On the 12th of July last, the Orange procession quietly marched through the streets from the wharf, and entered the Lodge room on Queen Street; that before the procession had arrived to its destination, a shot was fired from the gangway of Charles Quirk. "Furthermore, it is stated "that when the procession had broken up, one of the Orangemen came from the Lodge-room and attempted to cross the street to his home. In doing so, he was struck with stones, and then a row began between the assailants and the Orangemen." It has not been denied by the defence that an attack was made upon McKenzie; but it has been said that the disturbance was merely a personal encounter. If such be the case, then the disturbance was not a riot. But whether it was merely a personal encounter, or what the law considers a riot, is a point which you have to determine. The evidence respecting the throwing of stones at the time of the attack upon McKenzie is far from being unanimous. It is conflicting. I have not heard it disputed that shots were fired from pistols by Orangemen from the platform. The witnesses for the crown maintain that the shots were fired up into the air, while for the defence it has been said that the shots were aimed in the direction of the crowd. It has been stated by the defence that a rush was made up stairs, and pistol shots were fired from the windows of the building, down into the crowd below. If the shots from the platform were fired into the air then there was not sufficient reason for the assault on the building. But, whether there had been an attack upon the building before the shots were fired, or not, there is no justification for firing shots unless life was endangered, and men were only defending themselves. In fact, there is no justification for carrying pistols at all, unless men believe their lives are in danger. The law allows every man the right of defending himself when life is attacked. It has been stated by the defence that the traversers had a right to throw stones in retaliation for the firing of pistols at them. Suppose a man is assaulted upon one of our streets, he has a perfect right to protect his life, but no right to punish his opponent in retaliation for the assault, or to take the law in his own hands, and seek to wreak his vengeance. If the defendant's statement be correct, I may say that the law does not go so far as to permit an attack in return unless for the purpose of saving life. If the defendants went farther than was necessary to save their lives, then they were guilty of riot. It has been stated that a demand was made by the alleged rioters to have the flag lowered. If they had made a demand of that nature, or had attempted to carry out their wishes in that respect, then they went beyond what the law permits. There is one point upon which much stress has been laid by the counsel on both sides. It has been said by the counsel for the prosecution that the traversers were the aggressors; while the counsel for defendant say that the Orangemen were the aggressors. It is not for you to decide who were the aggressors; the points at issue are to ascertain if a riot took place, and also to find out what part the traverser took in that riot.

(Judge Hensley here read the evidence of the City Marshal and Policeman Pollard respecting the conduct of the crowd.) I now come to the evidence specially bearing upon the part which McCloskey took in the disturbance. (The Judge again read the evidence of Thomas Flynn and others who had seen McCloskey upon the street and engaged in throwing stones.) It is not necessary, gentlemen, for the Crown to prove that McCloskey was a ringleader to convict him of riot. If he was assisting those who were ringleaders and acting under their directions, he was just as culpable as the foremost man in the "mass." If the jury takes the evidence of the witnesses just named, there would be no difficulty in arriving at the part which the traverser took in the quarrel.

In conclusion, I ask you to apply the laws which have been explained to you, and which have been so often repeated in your hearing. Take also the testimony of witnesses examined before you, and weigh that testimony, and I have no doubt you will be able to arrive at a true verdict.