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THE DAILY EXAMINER is for sale every day on the trains east and west, and at the following places:— H. A. HARVEY, Charlottetown. A. D. HAZARD, " T. O'CONNELL, " T. L. CHAPPELLE, " S. T. NELMES, " P. N. PATK, cop. Pownal and Easton streets. G. A. ATKERN, Georgetown. D. SUTHERLAND, Souris East. A. McAULAY, Head St. Peter's Bay. D. EGAN, Mount Stewart. H. BEER, Southport. G. O. O'NEILL, Halfway House. MORTON S. HUGHES, County Line Station. EDMUND CAMPBELL, Prince County Book-store, Summerside. W. D. McNEILL, Alberton. JOHN J. ARSENAUX, Tignish.

THE DAILY EXAMINER,

FEBRUARY 10, 1879.

PITCHES.

It is not pleasing to be always calling attention to the dereliction of the Local Government. But we cannot help censuring the officials who leave the highways full of pitches. The pitches around the city seriously incommode the travelling public. To haul an ordinary load over them—to drive over them at ordinary speed—is, we are informed, impossible; and no effort is being made to abate them. Even in town there are pitches which remain day after day without being levelled.

SUPREME COURT.

ALLEY VS. DUCHEMIN (CONTINUED.) FEB. 10, 1879.

ARCHIBALD WHITE, seign., sworn—Testifies that a one-horse power will make more noise than an eight or ten horse power engine. Has been at Mr. Duchemin's steam factory. Should think the machinery going in Mr. Duchemin's factory would be no annoyance to Mr. Alley's house. Should think the jig saw would cause the most vibration. Don't think the jig would shake the ground or Mr. Alley's house.

EDMUND DUCHEMIN, sworn—There was a large circular saw, one small circular saw, one planer, one boring machine, two lathes, and a jig saw in the year 1853. The weight of the jig saw is 25 pounds. It has a counter balance. The largest saw in the old factory was eighteen or nineteen inches. There was heavier work done in the old factory than in the new. There was a larger business done in 1853 than at the present time. The lignumvitae saw in the old shop made more noise than any machine at present used. We have not used a mortising machine in the shop since 1860. We had a factory on the South-east corner. There was a chimney on that, and Mr. Alley complained of the smoke and we put a pipe on it to carry off the smoke. The pipe was blown down a month before we came into the new factory. Since the injunction was laid on our factory, I noticed smoke rise from the kitchen chimney, blow towards Mr. Alley's house and surround the rear part of it. When this took place the wind would be in a southerly direction. I never saw any smoke from the tall chimney going within ten or fifteen feet of Mr. Alley's yard. The tall chimney was not effected by the Chapel. Saw the smoke from Mr. Alley's own chimney, coming down down on to the street. The brass foundry was situated at the rear of where the new shop now stands. The brass foundry ceased operation about four years ago. I have stood over the engine when she was working, and I would not know that she was working. I am hard of hearing, and can not hear the planer working nor any other machine in the shop, except the jig saw. I never found any shaking of the earth outside the shop.

JUDGE PETERS' CHARGE—CONDENSED. FEB. 10, 1879.

THE FIRST QUESTION FOR THE JURY. Whether the plaintiff's enjoyment of his dwelling house, mentioned in the bill, was sensibly diminished by the nuisance (if any) carried on by the defendants? This, the first question, is the most material. Now, how much injury constitutes a nuisance? The law of England on this point is the same as that of Ancient Rome. Every man may comfortably enjoy his own right without injuring his neighbor's enjoyment. This principle ramifies all the laws. In the country you have perfectly pure air, but in the town you cannot have it so. But the fact that the air of the town is not so pure as of the country, doesn't justify a man in putting up a factory and polluting the air with smoke. A townsman is permitted to enjoy the air as it ordinarily is in town. One or two particular men in the town may not endure any particular inconvenience. If a man burns something in his own house which develops dense masses of smoke, or produces an offensive smell—dust or noise—so that he interferes with the comfortable enjoyment of his neighbor, he is guilty of committing a nuisance. But it is only when you do something extraordinary that you commit a nuisance; and the injury must be so extensive as to produce pecuniary loss or physical discomfort to persons of ordinary health. Now, is the noise, etc., complained of in this particular case so great as to produce such discomfort and loss. Dr. Jenkins testifies that the noise would interrupt conversation and would endanger the health of Mrs. and Miss Alley, and he says he would not live in the house while it continues. Mr. W. Stumbles, Jr., says the noise made the house very uncomfortable. Robert Young and Mr. Morris testify to the same effect. Mr. Brehaut slept there all night, and

when he awoke he heard a sharp rumbling sound. It was loud enough to prevent ordinary conversation. The vibration caused articles in the room to shake. Mr. Reddin says he heard the noise, and it would be very uncomfortable to live in such a house. James A. McDonald says, "If I were renting it I would give more for it without the noise." "The noise is continuous," he says. The next witness is Mr. Charles Heartz. Mr. Heartz is a little theatrical, and perhaps his statements are exaggerated, but he evidently heard something to attract his attention when he passed by. James Heartz says he would not like to live in the house while the noise continued. James Brown—a very respectable man—says he would not rent it if he could afford, such a house as that of Mr. Alley. Cardiff, the brickmaker, would not like to live in the house. Mr. Dodd says he could feel a vibration and trembling all over the house which shook the utensils on the cooking-stove in the kitchen. Sarah Alley and her sister say the noise was the worst thing of all, and the smoke from the new factory came in so as to cover the breakfast table.

On the other hand, the witnesses say that they do not think the noise and smoke could produce inconvenience in Mr. Alley's house. It appears that other mechanics are afraid that the result of this suit, if decided against the defendants, will result in the closing up of their factories. But the law protects them if they do not injure their neighbors. But their evidence is all a matter of opinion. And if the other witnesses have not grossly exaggerated the state of Mr. Alley's house while the machinery was in motion, then there must have been an inconvenience to the inmates.

THE SECOND AND FOURTH QUESTIONS.

Whether the working of the machinery used by the defendants in 1853 made as much noise as now proceeds from the machinery used in the present factory? W. W. Stumbles says, on this point, that he lived with Mr. Alley and that he slept next the blockshop during five years—from 1862 to 1867; he never remembered hearing the noise in Alley's house except when the windows were open. Alexander Alley, who lived with the plaintiff upwards of twelve years, says there was not the slightest inconvenience in 1853. The question, you must remember, embraces the continuousness as well as the loudness of the noise. Judge Alley, Henry Smith, and Mr. Alley himself—all testify that they never heard any particular noise from the old factory. But Albert Duchemin, on the other hand, says there was very little difference in the noises of the old and the new factory. Other witnesses say that the lignumvitae saw could be heard as far as St. Paul's Church. The evidence is conflicting on both sides, and you must only use your own common sense. You must consider, too, whether the injury from the noise is increased by the fact of the house being nearer to the new factory than to the old. Suppose that you decide the noise is the same, it may be that the effect in Alley's house would be very different. The new factory is built upon piles, and it may be that the vibration is greater than it would be if the building were set upon a solid foundation. Whether the noise and vibration felt or experienced in the house in which the plaintiff resided in 1853 was as great as the noise or vibration felt and experienced in the present house.

THE FIFTH QUESTION.

Whether the plaintiff's enjoyment of his property was sensibly diminished by the smoke issuing from the defendant's present factory? The defendant's say that the smoke goes into the house from the other houses surrounding. But the plaintiff is under the impression that it comes from the factory. It is for you to consider which is right.

THE SIXTH QUESTION.

Whether the plaintiff's enjoyment of his property was diminished to the same extent by the smoke issuing from the factory used by the defendants in the southeast corner of his lot from 1872 to 1878, as it is diminished by the smoke from the present factory? There is no doubt about this question. It is admitted that the nuisance from smoke was greater from the old factory than from the new.

THE SEVENTH QUESTION.

Whether the Plaintiff's enjoyment of his property (if it was diminished) was diminished to the same extent twenty years ago as it is diminished by the working of the present factory. This is another question submitted for your judgment. Looking over the whole case, all I can say is this—the Judge has declared the law and the jury is to decide according to the evidence. You have nothing to do with the question as to whether or not all the factories in this town will be put down by a decision against the defendants. The plain law of the land is—that if a man cannot carry on his business without injury to his neighbor, he must move to another place.

The Northern Light.

Nothing has been heard of the Northern Light since she left Georgetown on the "exploring expedition" on Thursday last. Messrs. Irving and Muttart telegraph that she would have no difficulty in crossing between the Capes to-day.

Small-Pox at Alberton.

DESPITE all efforts which have been made to the contrary, this loathsome disease continues to spread in Alberton. We are credibly informed that there are eight cases at present in that village, and four deaths have taken place since Friday.

Go one go all to St. Paul's Schoolroom this evening and assist Mr. Earle in getting up a musical society in this city. This being a meeting for business, gentlemen only are expected. We learn that upwards of sixty ladies and gentlemen have formed already, all that is needed now is a good committee and secretary to make it a success.

St. Patrick's T. A. Society.

A MEETING of St. Patrick's Total Abstinence Society was held in St. Patrick's Hall, on Sunday evening, the 9th inst., at which the following Officers were elected for the ensuing year:—

- Spiritual Director—Rev. Stephen Phelan (re-elected.) President—Maurice Blake (re-elected.) 1st Vice-President—John Leahy (re-elected.) 2nd Vice-President—Thomas Flynn (re-elected.) Recording Secretary—Richard Walsh (re-elected.) Corresponding Secretary—Charles J. McKenna. Treasurer—Francis McRory. Managing Committee—Simon Higgins, Francis Murphy, Patrick Treanor, Michael Kelly, John Madigan, Francis Treanor, Thomas McCabe. Investigating Committee—Rev. Stephen Phelan, Maurice Blake, Bernard McQuillan, John McAleer, Thomas Flynn. Marshalls—Francis Treanor, chief; D. J. McCarthy, Francis Keenan, Michael Power, Patrick Boylen. Standard Bearers—Stephen Toal, James H. Purcell, Nicholas Collins, Patk. Hand, jr., Thomas Hogan. Committee on Resolutions—Jas. Hughes, Michael W. Smith, Andrew F. Murphy.

This Society was organized five years ago, and has now in Bank the sum of \$900, and owns property amounting to about \$660. It is the intention of the members when they have \$1000 on hand, to use the interest on that amount, and all monies which may be collected for dues, etc., for the relief of the poor.

The Presbytery.

At the meeting of the Presbytery on the 5th inst., the following supply was appointed for New London: Rev. Mr. Gunn on the 3rd Sabbath of February, at Long River at 11 o'clock, a. m.; in Clifton, at 2 o'clock, and in Summerside at 6 1/2 o'clock, p. m.; Rev. Mr. Scott on the 4th Sabbath of the same month; and for the month of March, Rev. Mr. Cameron on the 1st Sabbath, Mr. Allan, 2nd Sabbath, Mr. McLeod, 3rd Sabbath, and Dr. Murray, 4th Sabbath. The following supply was appointed for Belfast, viz: Mr. White till 3rd Sabbath of Feb'y, and Rev. A. Brown from that date till the end of March. A letter was read from Mr. A. Stewart intimating his acceptance of the call to Belfast. The Presbytery agreed to meet in Zion Church on the 2nd Wednesday of March, at 12 o'clock, noon, to hear Mr. Stewart's ordination sermon.

Gas vs. Electric Light.

The London Journal of Gas Lighting (Jan. 14) says:—

"The electric light may, at the present time, almost be considered dead; but at all events it has had one very good effect, it has roused the gas companies; and not the least consequence is the display made by the Phoenix Company, which clearly demonstrates that gas can successfully compete with electricity."

"The Phoenix Gas Company, under the direction of their engineer, Mr. Corbet Woodall, made a bold experiment on Saturday evening last. They confronted the electric light with Mr. Sugg's new burners, and we may be excused for expressing a strong opinion that the new burners give a superior light to that afforded by the electric lamp. We can express an unqualified opinion that the lights, as exhibited at the corners of Stamford street, York Road, and the "refuges," were superior to the electric light. Taking it altogether, the experiment made by the Phoenix Gas Company is eminently successful. It is satisfactory to learn that the cost of this greatly improved illumination is not much in excess of the old system. Of this more will be said anon, when we possess fuller details; but whatever it may be, if the interests of the travelling public be considered, we are perfectly certain the authorities will be in favor of the light afforded by the gas company. The beauty of the light and its diffusibility cannot be disputed. Demonstrations of a similar kind are shortly to be made by the Chartered Company."

Special Notices.

VALENTINES! VALENTINES!—Just received, by mail, the best and largest assortment in the City, from one cent to one dollar each. Come one, come all, before they are gone. T. O'CONNELL, Queen Street American Variety Store, feb 10—6in

HARD TIMES—MONEY SCARCE.—You can get good Photographs made at LEWIS' for \$1.50 per dozen; also, 4 good Tintypes for 50 cents. GET your Pictures Framed at LEWIS', large Pictures—22x28—framed for \$1.25. All sizes in proportion. Motto Frames, 40 and 50 cents each.

FOR the Skating Carnival, Domino and bright gauze masks, at Hazard's Bookstore.—3 in

TEN barrels Fresh Oysters by rail to-day. Step into the BEEHIVE and get a boss Stew.—3i. CRANBERRIES only 8 cents per quart, at W. F. Carters—1w

VALENTINES, new style, for 1879, at Hazard's Bookstore, Queen Square, West.—3i

PICKLES, in bulk, 12c. a pint, at Beer and Goffs

VALENTINES have just arrived at Kent Street Book and Stationery Store. Nice Scented Satchels. Between Great George and Prince streets, near Mr. Sellar's Grocery. Feb. 7— S. T. NELMES.

CUTLER'S POCKET INHALERS cure Catarrh Bronchitis, Asthma, Hoarseness, and all diseases of the throat and lungs. Sold at the Apothecaries' Hall, Jan 24—t

WHERE can you get the best Boots and Shoes for the least money? At Gass!

NEWS BY TELEGRAPH.

LONDON, Feb. 8.

The Admiralty publishes the following statement:—"The committee appointed to investigate the disaster on H. M. ironclad 'Thunderer' have discovered that the gun which exploded had already been loaded with an extra charge, which missed fire when a fall charge was inserted and fired, and the explosion occurred."

A cable special, dated Tashkend Feb. 7, says that Shere Ali is sick at Bazar Shihit, and has abandoned the journey to Tashkend, sending ambassadors instead.

The Russian General Rasnariif, who is visiting Aiguaniastan with the nephew of Shere Ali, the ambassadors and the Vizier will reach Tashkend by the 20th.

It is estimated that, from 30,000 to 35,000 men are on a strike at Liverpool. The demeanor of the crowd yesterday was most threatening, in consequence of the sailors joining the strikers.

The laborers employed in the provision trade also struck. At Waterloo Dock a mob broke up the staging and did much damage. After they were driven off by the police, they attempted to storm the gates.

Prince Edward Island.

IN CHANCERY.

HENRY JONES CUNDALL, Administrator cum Testamento annexo of the last Will and Testament of John Hodges Winsloe, deceased, John Hodges Winsloe, Alfred Winsloe, Alice Hyndman, formerly Alice Winsloe, and Albert Hyndman, her husband; Amy Winsloe, by Henry Jones Cundall, her guardian; Isabel Winsloe, by Henry Jones Cundall, her guardian; and Arthur Winsloe, by Henry Jones Cundall, his guardian; Ann Smith, Edward Jarvis Hodgson, and Robert Robinson Hodgson, Trustees, under the marriage settlement of the said Ann Smith and Amelia Evans, and Sydney Tudor Evans, her husband, complainants.

CHARLES GREEN, Defendant.

IN pursuance of a decree made in this suit by His Honor the Master of the Rolls, bearing date the sixth day of February, A. D. 1879, there will be sold by Public Auction, on Wednesday, the twenty-first day of May next ensuing, at the hour of twelve o'clock, noon, in the Supreme Court House, in Charlottetown, in Queen's County, all that tract, piece, or parcel of land situate and being in Lot or Township Number Twenty four, in Queen's County, in the said Island, bounded as follows, that is to say:—By a line commencing at a stake fixed in the southwest side of the New Glasgow Road, in the north angle of land now or lately in the occupation of Donald McDonald, and running thence by the magnetic meridian of the year 1764 south, fifty-eight degrees west, one hundred chains; thence northwesterly parallel with the New Glasgow Road aforesaid ten chains; thence north fifty-eight degrees east to the said Road; and thence along the same southeasterly to the place of commencement, containing one hundred acres of land, a little more or less, together with all the rights, easements, and appurtenances thereto belonging. Date of this tenth day of February, 1879. J. LONGWORTH, Master in Chancery.

E. J. HODGSON, Solicitor for Complainants. Feb. 10, 1879. 3m-law

To Inventors and Mechanics.

PATENTS and how to obtain them. Pamphlet of 60 pages free upon receipt of stamps for postage. Address GILMORE, SMITH & CO., Solicitors of Patents, Washington, D. C.

CATARRH.

Constitutional Catarrh Remedy CURES CATARRH.

Hear what a Reverend Gentleman says of the Constitutional Remedy.

T. J. B. HARDING, Esq., Brockville, Ont.:—"DEAR SIR—It is now two years since your 'Constitutional Catarrh Remedy' was introduced to me. I have waited this long to see if the cure would remain permanent before doing this, my duty, to you, as at first the happy effects seemed to me to be 'too good to be true.' I was afflicted in my head for years before I suspected it to be Catarrh. In reading in your Circular I saw my case described in many particulars. The inward 'drop' from the head had become very disagreeable, and a choking sensation often preventing me from lying long. I would feel like smothering and be compelled to sit up in the bed. My health and spirits were seriously affected. When your agent came to Walkertown in August, 1876, I secured three bottles. Before I had used a quarter of the contents of one bottle I found decided relief, and when I had used two bottles and a third, I quit taking it, feeling quite cured of that ailment, and have not used any since until of late I have taken some for a cold in my head. A sense of duty to sufferers from that loathsome disease, Catarrh, prompts me to send you this Certificate, unsolicited, with leave to make what use of it you may see proper. Yours truly, W. TINDALL, Methodist Minister. Port Elgin, Ont., Aug. 24, 1878.

Ask for Littlefield's Constitutional Catarrh Remedy and take no other. T. J. B. HARDING, Dominion Agent, Brockville, Ont. For sale by all Druggists at only one Dollar per bottle.

BUY IT. . . . TRY IT.

SUBSCRIBE for the DAILY EXAMINER the Cheapest and most newsy Paper published in the Province.

NOTICE.

THE ANNUAL GENERAL MEETING of the Shareholders in the St. Lawrence Marine Insurance Company will be held at their Office, in Charlottetown, at 3 o'clock, p. m., on WEDNESDAY, the 12th day of March next, in compliance with the Act of Incorporation. By order, FRED. W. HYNDMAN, Sec'y. Ch'town, Feb. 8, 1879—Law till date.

FLOUR!

200 bbls. "GREENHOLM," 100 bbls. "CAMLACHIE," 100 bbls. "NORVAL." A consignment for sale at a bargain, for cash. Wright & MacGowan, Queen's Wharf. February, 8, 1878—law for 2m

NOTICE.

OWING to ill health I shall be unable to return to the Island before March, and I would respectfully request my customers to reserve their orders until that time. Meanwhile any party desiring to communicate with me can do so by addressing letters to me, Post Office box 188, Montreal.

JOHN H. CATHRAE, Agent for Reinach's, Nephew & Co., Teas, London, England; Wilson, Matheson & Co., Dry Goods, Glasgow. Feb. 3, 1879—6i pat 2i

Great Cash Sale

—OF— DRY GOODS, CLOTHING, ETC

The Whole Stock in Trade OF THE LATE ROBERT ORR,

—TO BE— SOLD OFF AT COST,

—CONSISTING IN PART OF— Dress Goods, Shawls, Mantles, Millinery, Silks, Velvets, Hosiery, Gloves, Linens, Winceys, Shirtings, Sheetings,

Prints, Grey and White Cottons, Hats and Bonnets, Furs, Blankets, Flannels, Pilots, Beavers, Coatings, Tweeds, etc., etc. etc.

Readymade Clothing

Hats, Caps, Linders and Drawers, Scarfs, &c.

Cotton Warp, Small Wares, &c.

The above Stock must be cleared out from this date, and our Customers, and the public generally, can depend upon getting Bargains.

John McPhee, Administrator. Charlottetown, Feb. 4, 1879.

A GREAT RUN

—TO THE— FLOUR & TEA STORE!

And it cannot be stopped while they are selling SUCH EXCELLENT TEA

For 36c., 40c., and 44c. per lb. GOOD SUGAR

For 7 1/2c., 8c., 8 1/2c., and 9c. per lb. CHOICE FLOUR

From \$5.50 to \$6.00 per bbl., and OTHER GROCERIES

RIGHT CHEAP. Save your money by buying at BEER & GOFF'S. Ch'town, Jan. 17—