

THE DAILY EXAMINER. JULY 10, 1893.

THE McPHEE-SHAW CASE.

It is said that the jury in this case were "ready to come down before they went up." However this may be, they had not been up in their box for more than fifteen minutes when they sent word to their Sheriff that they were ready with their verdict. When they came down to the court-room their verdict was "not guilty."

The evidence in the case has been impartially placed before the public by THE EXAMINER. It certainly reveals a state of feeling in the West River settlement which is lamentable. With schools and churches and Christian influences around and about them, the parties to the quarrel seem to be actuated most of all by hatred and malice and all uncharitableness. It was pitiable to see men swearing against man, not alone in respect to matters of opinion or recollection, but in respect to statements of fact easily established by impartial witnesses. It was maintained by the prosecution at the beginning of the trial that Mr. Shaw had been sworn falsely before Mr. Hackett, for (1) he could not have seen the McPhees fishing oysters off Lamont's Cove, because there were no oysters there to fish; (2) because Lamont's Cove cannot be seen from Shaw's farm; (3) because Shaw could not have crossed McKenzie's Creek without getting wet up to his hips. The evidence of the McPhees and others was given to substantiate these allegations. But such and every one of them was proven, on the evidence of impartial men, to be mistaken and false. There were inaccuracies and inconsistencies in the evidence for the prosecution, which Mr. Stewart, for the defence, did not fail to point out in the course of his eloquent closing address. When, therefore, the chief grounds of the prosecution had been swept away, and the case was narrowed down to a mere question of credibility as between Mr. Shaw and the McPhees, the jury had to acquit Mr. Shaw. Mr. Shaw's accusers were wrong—evidently wrong—in respect to several of their main allegations, in respect to matters of fact about which there could be no doubt—and it could not, therefore, be concluded that they were right in respect to the crucial point, viz., that Mr. Shaw had deliberately committed perjury when he swore that he saw them fishing oysters on the cove on the 20th of August last. No jury could have convicted Mr. Shaw upon the evidence. The jury did not hesitate about the matter. They were prompt and they were unanimous.

What, then, shall we say concerning the Attorney-General's interference in the scandalous and disgraceful quarrel, and his saddling the cost of an expensive trial, prosecuted by Alexander McPhee with the accused party of driving Mr. Shaw out of the neighborhood, upon the people of the Province? It is certainly the Attorney-General's duty to institute suits for the trial and conviction of criminals. Nor can we blame him, if in certain cases he fails to obtain a conviction. But it is just as certainly the duty of the Attorney-General to see to it that the grounds for his prosecution are tenable and such as will be clearly understood by a jury. In this case the Attorney-General could easily have ascertained from men unblinded by prejudice or passion, whether or not there were really oysters at Lamont's Cove, whether or not a boat could be seen at the edge of the channel opposite Lamont's farm, whether or not a man could cross McKenzie's Creek, as alleged by Mr. Shaw. But he seems to have relied wholly upon the statements of his clients. A lengthy and costly investigation before the Stipendiary Magistrate demonstrated that there was evidence that these statements were all wrong. But the subtle intellect of Mr. Fitzgerald saw some discrepancy in the evidence of Mr. Shaw's little boy—a discrepancy which no jury would see or regard for a moment—and Mr. Shaw was sent up for trial. When the case came before the Grand Jury, only the evidence for the prosecution, that is to say only the evidence of the McPhees and those who belong to their party, was permitted to be heard, and a true bill was, of course, found. In this way the relentless policy of the prosecutors was gratified and the case was brought to a trial by the Attorney-General. But the Attorney-General was not content to press the case for the prosecution in the ordinary way. He must needs call to his aid a most expert and a most expensive counsel in the Province. Our people have cause to remember that costs are apt to run high when Mr. L. H. Davies, M. P., has Her Majesty the Queen (representing the taxpayers) for his client, and we have no reason to suppose that Mr. Davies entertains any less high appreciation of his forensic ability now that he is Leader of the Maritime Liberals. However this may be, we feel sure that the people will condemn their Attorney-General, as one of the counsel for the McPhees in a case for violation of the fishery law, for saddling upon the great expense of a lengthy prosecution against Mr. Shaw for perjury, upon grounds clearly and evidently and admittedly untenable.

The case is remarkable from the fact that it was the first in Canada to be tried under the new criminal code. Never before in Canada was the defendant in a criminal prosecution permitted to give evidence. Mr. Shaw gave his testimony in a manner which must have favorably impressed the jury, and we are bound to admit that the Attorney-General did not unskillfully prolong his cross-examination. But Mr. Shaw effectually removed the supposition which might have arisen that he was perhaps deceived as to the identity of the men whom he saw fishing oysters on the evening of the 20th of August. On this account, he made it more difficult for the jury to come to a decision in his favor than if he had not testified—he compelled the jury to decide upon the point whether he or the McPhees had sworn to the truth.

The Nova Scotia Game Society has imported a score of English pheasants and distributed them over the province with the idea of propagating this prolific game bird in our forests. The society is also importing some Newfoundlander grouse, and have made an arrangement with the local government of that province to import a herd of red deer from the forests of New Brunswick.

TRIAL OF WM. LARTER

Charged With Administering Noxious Drugs

To Damaris Watt McEachern.

OPENING OF THE PROCEEDINGS.

His Honor the Chief-Justice Presiding.

The prisoner William Larter was placed in the dock at half-past ten o'clock this forenoon. His appearance is not so rugged as it was a few months ago, but his demeanor was impressive. The case is being tried before His Lordship the Chief Justice, Mr. H. C. McDonald is the Associate Justice, Mr. H. C. McDonald is the Attorney-General in the prosecution of the case, and Mr. L. H. Davies is associated with Mr. Stewart for the defence. From the excellent panel of jurymen selected by High Sheriff Home, the following jury to try the case was easily obtained:

The Jury. Peter Stewart (foreman), Charles Stewart, Peter O'Donnell, William J. Houston, Wellington Young, Justice J. Jenkins, the point, and Robert Robertson, John McDougall, Robert Wood, Angus McDougall, Richard J. Mackenzie, and William J. Gibson.

The indictment. This document is made up of sixteen counts, in which the prisoner is charged with administering and causing to be taken by the deceased Damaris Watt McEachern a number of noxious drugs for the purpose of causing a miscarriage.

On the motion of the Attorney-General an order of the court was made prohibiting the admission of all boys who are not witnesses on the case during the trial.

A Point Taken. After the jury were sworn, and before the prosecuting counsel opened the case, Mr. Stewart, for the defence, moved that the prisoner be discharged on the grounds that the statute under which proceedings were taken had been repealed by the Criminal Code, which came into operation on the 1st July, and that there was no law to punish the prisoner if found guilty. This contention was ably set out by Mr. Stewart, and strongly supported by Mr. Davies, on behalf of the prisoner. The Attorney-General contending that the offence was punishable under the terms of the General Interpretation Act, which in effect enacts that the repeal of any act shall not effect any offence committed previous to its repeal. After some further argument the Chief Justice reserved the point, and directed that the trial proceed in the meantime.

The Case Opened. Mr. H. C. McDonald opened the case for the crown. He pointed out that the offence charged was one of the most heinous in the calendar, and that the penalty was imprisonment for life. He then related the facts which the Crown would prove.

The Evidence. Dr. H. D. Johnson (sworn)—Examined by the Attorney-General—I knew Damaris McEachern. She came to my office on the 4th day of April to consult me. I was called in to see her on the 28th of April. She was living on Richmond Street with her father and mother. She was about 27 years of age. I called about half-past seven on Friday evening, the 28th. She was suffering severely. I took a lamp and she looked at her eyes. They appeared to be very natural, neither distended nor contracted. I came to the conclusion that she was not dying. I found her pulse beating and regular. He asked me if she was not a little clammy. She was vomiting a great deal and almost incessantly. She was also purging frequently. She complained of pain in her throat and in her stomach and in the tube connecting the two. She felt a great tightness and choking about the throat. She was very thirsty. On pressing deeply in the stomach the soreness was worse. She was sick about 2 hours or 2 hours before I was called. There was a large basin of the vomit and it was pretty well filled up. I concluded she was poisoned and I told her so. I said, "You have been poisoned." She asked her what he had taken. She said she had taken a white powder, that she took it in jam, about half a teaspoonful, and that it made her sick at once. She was very much excited. I thought something like camphor. Camphor is a serous poison; it would first stimulate the brain and afterwards produce convulsions. I knew that she had not taken any mercury. I thought that it was an irritant poison, the ordinary arsenic or antimony or mercury. And from the symptoms I concluded that it was antimony or mercury. I concluded that she was suffering from her large quantities of warm water. At first she could not take it on account of the contraction of the throat. I then gave her cold water and the effect of cooling her throat and she could take the water. I gave her morphine to ease the pain. Shortly after I also gave her 5 grains of bismuth. This was about 9 o'clock. I think the bismuth was rather effective. It is commonly given. She was still vomiting and purging up to 11 o'clock. She had no convulsions or cramps, but she had pain. I left her at that time, and she was instructed concerning her. I went back about a quarter past seven next evening. She was still dangerously ill but not vomiting so frequently. She was rather weaker. She thought that she was getting better, but I thought not and told her so. She was showing symptoms of the absorption of the poison. She thought she would get better if her miscarriage were completed—the medicine acted. She thought that she would be better. Later on I found that she was still getting weaker. I called on Dr. Warburton. We made an examination. At three o'clock we found her pulse 130. The other symptoms were those of weakness. She told me that she had vomited three times between 3 o'clock and 5 o'clock. She vomited while I was there. I came to the conclusion that she would die. At about 5 o'clock I found her still weaker, and told her that she was going to die. At 7:30 o'clock I called again, and stayed with her until she died at 8 o'clock. She was sick about twenty-seven hours. After her death I called in the coroner. I had ordered the vomit and everything to be kept. This order was disobeyed.

After recess the examination of Dr. Johnson was resumed: I took away some of the matter vomited by her about three hours before she died, and preserved it myself. (Witness here detailed his testimony as far as I know. I did not expect to find much traces of an irritant poison in the vomit shortly before she died, and so long after she had taken it. I gave her port wine and ordered that she should have beet tea, but I gave no other medicine than I have previously stated. A post mortem examination was held by Dr. Warburton and myself. (Witness here detailed his testimony of the post mortem examination written immediately after.)

For the remainder of the evidence, up to adjournment, see Second Edition.

It is always pleasant to meet good people, except when they are so good that they are everywhere else appears to them had by contrast.

USE SKODA'S DISCOVERY, the great Blood and Nerve Remedy.

SECTION FOR EDITORIAL.

The Evidence at the Larter Trial Continued.

After this we made a test to discover the poison. We tested part of the vomited matter which I had taken away by Marsh's test. We found no trace of arsenic or antimony. This was not surprising, because the poison would by that time have been extruded. A great deal of the poison would have been thrown up by the first vomit. I poured out a tablespoonful of the vomit, and the next day I scraped some of the bowel. Subsequently to this a test, we got a slight trace of arsenic or antimony on porcelain. We did not proceed to test whether this was arsenic or antimony, but I was obliged to present, introducing strong ammonia, and got a slight white deposit. I could not say what it was. From the symptoms I saw while treating the patient I judged that to woman was poisoned with arsenic. She told me that she had taken other medicine in addition to the white powder. She did not mention the names of anything, but said that she had taken a powder like flax seed. She told me that she had some bottles of medicine. I got some between the ticks of the bed, and one I gave under the bureau. I got another bottle from her mother at the girl's request. I did not keep that bottle. It was a large one, holding 8 to 12 ounces. I got nothing else. I formed an idea as to what had been their contents. I marked the bottles, sealed them up, and gave them to Officer Campbell, to be taken to St. John for analysis.

Cross-examined by Mr. Davies—I had been the physician of the girl, and attended her previously. I attended her for different complaints—I attended her on a previous case of miscarriage in Charlottetown some time in October last. I don't know how it was brought about. She came to me in April to present a miscarriage. She cried a good deal. She was urgent and persistent. I told her that I would not do it. I gave her powdered sub-nitrate of bismuth—five grains. I ordered a case of French brandy and only gave her one dose. That was about 9 o'clock in the evening. I don't know what took place during my absence. I gave her a glass of brandy. I made a test of the contents of the stomach and tested the vomit. The white deposit that I got might be white precipitate of mercury. The powder was a sediment in the test tube. I am sure that I got a black stain upon my porcelain. I got nothing in my vomit. If arsenic were in the stomach it might be stuck to the coatings. After I got the trace from the scrapings I did not test the contents of the stomach, which I did not do with a spoon. I did not apply the stomach pump, because I feared that in her condition it might kill her. Her throat and stomach were in such a state that I was afraid to try it. She was vomiting freely. Fluid extract of ergot is a beneficial medicine and largely used in the profession. Oil of cedar is not official. I do not know what its effects are. In such a case as this, such drugs are more likely to cause death than to cause abortion. I do not know what caused the previous miscarriage. She had previously been doing some heavy lifting.

To the Attorney-General—I got a powder from Mrs. McEachern. It was carbonate of soda.

I sent six packages to Mr. Best containing the stomach and other contents of the uterus and the bottles and boxes of medicine.

Arthur Johnson (sworn)—Examined by the Attorney-General—I am a chemist. I don't profess to be an expert, but I am competent to make a test for poison. I assisted Dr. Johnson to perform Marsh's test on the scraping of part of the stomach. I am sure that the agent contained no arsenic or antimony. We tested the stomach. We got a positive result from the test. It was either antimony or arsenic. I am positive on that point. I examined the bottles simply, and I saw a smalling is one of the tests for oil of juniper, ergot and other drugs. I came to the conclusion that the contents of one of the bottles was oil of juniper.

Cross-examined by Mr. Davies—I simply came to the conclusion, as a result of Marsh's test, that arsenic or antimony in some quantity was there.

Charles Cameron (sworn)—Examined by the Attorney-General—I am City Marshal. I was present at the examination before the Stipendiary Magistrate as formal prosecutor. (Bottles and boxes exhibited.) I received those bottles from Dr. Johnson and returned them again to him. While I had them I kept them locked up. I received this box. The pill box received from Mrs. McEachern. I also got the syringe and box from Mrs. McEachern.

Dr. Warburton (sworn)—Examined by the Attorney-General—I live on Kent St. and know the prisoner. I was examined before the Stipendiary Magistrate. I saw the prisoner sometime between the 4th and 15th of April. He said that there was a girl in trouble and he wanted something to bring her right. These were his words. He said that I couldn't give him anything. He told me that the girl's name was McEachern. He said it was the McEachern who lived across the street, in the corner of the house where St. Peter's lives. He said that she had already taken, or been given. I said if she had been taking that she had better leave it alone. I would not have any part in it, giving it to a pregnant woman. He asked me if it could be done in Halifax. He asked if there was anyone in Charlottetown who would do it. I said "no." He asked if it could be done in Boston. I said that I didn't know. He told me that he got the girl into trouble. I was called in on Saturday, at 3 o'clock in the afternoon, to see the prisoner. I saw her and she said she was dying. Her pulse was very weak, small and quick. Her skin was moist and clammy and cold. Her breathing was rapid and loud. She was all more or less cramps. I was in the next room I heard her vomiting. I asked her what she had taken. She said she had taken a powder. She said that she felt sick. I asked her some times used. Never more than that. I only saw the girl alone upon one occasion. I was at the post mortem examination. When Dr. Johnson had said about it I offered to go with him to see that the girl was poisoned. Larter came to my office. I went to the formal investigation, and after that the prisoner came to see me. He seemed to want to find out something about this case. He said if she were poisoned it would be either from Slate or from Dodd's Medical Hall.

Almost every poison can be used as a medicine. Arsenic, strychnine, all these are used.

William H. Murphy (sworn)—Examined by the Attorney-General—I am either 13 or 14 years of age. I know William Larter. I worked with him last winter. I went to work with him and stayed with him until he was arrested. I slept at home with my mother. I tried to help. I have been in the bar by myself. I went out to the fields sometimes. My step father is Peter Trainor. I remember the Sunday before I was examined before the Stipendiary Magistrate. I saw him on the Sunday before the examination. I saw him near the street that runs up from McKinnon & McLean's foundry. Another man was with him. Mr. Larter was with him. This was on Sunday before dinner. Mr. Larter walked to Slate before dinner. I left them. They walked down the other side of St. Peter's, near the Kirk. I can't say what they said to each other. Slate and Larter turned and walked back the same way as they came. I walked back

TELEGRAPHIC.

SPECIAL DESPATCHES TO THE EXAMINER.

Struck by a Thunder Shower.

LONDON, July 10. The yacht Stanton with a party of thirty railway builders and their wives was struck by a thunder storm of Skye and overturned. Twenty-seven were drowned. Twelve bodies have been recovered.

The World's Fair Stakes.

CHICAGO, July 10. Foxhall Keene's colt Eticograph won the \$25,000 World's Fair stakes at Washington Park on Saturday. The race was five and a half furlongs. The time was 1:13.

Freight Shed and Cars Burnt.

NEW HAVEN, July 10. The New York and New Haven Railroad freight shed and sixty cars, mostly loaded, were burnt on Saturday. The loss is about \$175,000.

Orangemen Attend Church.

HALIFAX, July 10. The Orangemen to the number of one hundred, marched in procession here last evening, and attended divine worship.

Young Clay the Winner.

HALIFAX, July 10. The match race between young Clay and Popey on the riding ground, on Saturday, was won by the former. The best time was 2:35.

Drowned on Lake St. Louis.

MONTRÉAL, July 10. On Lake St. Louis on Saturday last, a yacht captained by Charles St. Lévin was drowned. The deceased was a wholesale furrier.

The Behring Sea Court.

PARIS, July 10. The Hon. E. J. Phelps finished his closing address before the Behring Sea Commission on Saturday. The arbitrators are having a private sitting to-day.

The Lobster Fishing Season.

OTTAWA, July 10. Richard Hunt, of Summerside is here to urge the Government to extend the lobster fishing season on the south of the Island.

LETTERS TO THE EDITOR.

THE GEORGETOWN RACES.

Sir,—In your report of the races on Georgetown Riding Park on the 4th inst. I notice that you state, regarding the 2:40 class, that in the first heat Lady Bilda distanced the field, that the other two horses were allowed to "cut off" for second money, with the result that Clemmie B. won the first heat and she in turn was distanced in the next heat by Albert M. I beg to state that in this matter the decision of the judges was, in my opinion, grossly irregular.

In the first heat of the "rot off" Clemmie B. fairly distanced Albert M., but the latter is a Georgetown horse, and the action of the judges in permitting him to start again is being severely criticised by local horsemen. In the next heat Clemmie B. threw her overboard, after which she acted badly and was distanced. It seems strange to me that she did not race, at the hands of the judges the same courtesy that was extended to the owner of Albert M. The race was declared ended, and Clemmie B. was not allowed to start again. I am, Sir, your obedient servant, JOHN MURPHY.

A PLEA FOR OUR CLERGYMEN.

Sir,—The time of recreation for our hard-mental toilers has about come. They give a long recreation to our teachers, who do not work nearly so hard as our clergymen. These men, especially during the last winter, have worked excessively hard. They should and must have some recreation in the summer. The managers of Messrs. Hamlyn, Sutherland, Simpson and Brewer (I am not mentioning Mr. Gordon as he is going away) occur prominently to us. Now, the plan of allowing these men to cease from their routine work for a few weeks is not only advantageous to the workers themselves but it brings advantage to the people as well. The brain, which is the organ of the mind, cannot work satisfactorily if it is compelled to work incessantly. A brain constantly working will produce a small amount and a poor quality of brain force. On the contrary, when the brain is allowed rest from its usual laborious occupations, and the spirits recuperated by change of air, scenery and by rest, the thoughts which are produced are always brighter, more brilliant and more instructive. The summer was a greater misfortune. Brain, far more than any other part of the body, requires rest. Jaded brains will not work satisfactorily. Recuperated brains will do twice the quantity of work for the same amount of time. If the people want good sermons and useful work from their ministers they must give them rest. The advantage of this is reciprocal. Besides, the people have no right to force so much and such incessant toil from their ministers. I would suggest that the ministers shall be allowed at least six or eight weeks of a holiday in the country. A PHYSICIAN.

Arrangements For Montreal's Loan.

A cablegram received by the Quebec ministers informed them that Hon. John S. Hall, Treasurer for the Province, had succeeded in making arrangements with the Credit Lyonnais, of Paris, to advance the first of September next in Education and Physical Education, \$2,000,000 falling due on 15th July. This arrangement extends the duration of the loan for two years more upon the original conditions, and the meeting of the Cabinet was held to ratify the agreement. The advantage of this temporary arrangement appears to be that it will enable the Government to make such permanent arrangements as are not possible in the present demoralized condition of the money market.

USE SKODA'S DISCOVERY, the great Blood and Nerve Remedy.

Charlottetown Board of Trade.

QUARTERLY MEETING.

The General Quarterly Meeting of this Corporation will be held in the Guardian Office, Cameron Block, this city, on the evening of WEDNESDAY, 12th July, inst., at 8 o'clock.

B. D. HIGGS, Secretary.

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B. D. HIGGS, Secretary.

To-morrow and To-morrow and To-morrow

and after that we will sell Rainproof Coats at our POPULAR CLOTHING STORE. ALSO: Ladies' Distingue Waterproofs in Latest Styles. See Our Dry Goods, Mantles & Millinery.

JAMES PATON & CO.

Notice of Assignment and Meeting. Notice is hereby given that Mr. William L. Sterns of Souris, in Kings County, New Brunswick, has this day assigned to me for the benefit of his creditors. All debts due to the said William L. Sterns are required to be paid to me forthwith at my office in Charlottetown. Creditors of the said William L. Sterns are requested to file their claims with me immediately. A Meeting of Creditors will be held at my office in Charlottetown on MONDAY, the seventeenth day of July, instant, at 12 o'clock, noon.

A. A. McLEAN, Assignee. Charlottetown, July 7, 1893—dy 11. wy 11

House to Let.

A DWELLING HOUSE on Bayfield Street, containing nine rooms, stable and coach house. Heated with hot water, and in good condition. Possession given to an occupant. Inquire of A. HERMANS, Queen St.

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