

be satisfied in your own minds—no reasonable doubt must linger there—or you must not find the prisoners guilty. You must look into and try to weigh carefully for what it is worth the shifting mass of testimony which has been laid before you. For, suppose for one instant, that you make a mistake? How terrible will be the result! Then, if there is any reasonable doubt about the truth of the evidence you will—you must—lean to the side of mercy and exercise in this case that attribute of the Everlasting God.

Mary Ellen Byers is the first witness, and she says a conversation took place between the men in the wagon and Rose Chiverie and Susie Inglis. But if you find her incorrect upon that point you must surely regard her as suspicious upon all other points. Two men are said by these women to have held a conversation with two women during nearly half an hour on a bright night. Now, if you find that the alleged conversation did not take place at all what must you think of their testimony? Have these women been contradicted? Let us see. Poor Susie Inglis! No considerations of shame or anything of that sort would prevent her from saying whether or not she was conversing with two men after night-fall, and she swears positively that she never spoke to the two men in the wagon. Then there is Rose Chiverie. No considerations of shame would keep that blooming widow from talking in the night with men on the street; and she swears positively she did not converse with the men in the wagon at all. Then there is another—whom I place among the respectable witnesses—Mr. John Hughes. He was walking near by; and he did not hear anything of the alleged conversation. I am not aware that Dave Inglis was ever up for drunkenness, and he is not, that I am aware, one of those who beat their wives. He says that if a conversation had taken place, as alleged, he could not help seeing it going on. Now, what becomes of the statements of Mary Brown, with her black baby, and Mary Ellen Byers with her white baby. Here are no less than four witnesses who contradict, point blank, what these prostitutes have said regarding the conversation. This has to do with the credibility of the witnesses by means of whom the case against my clients is sought to be established. What, then, becomes of the statement of Mary Ann Ryan and the much-swearer Mary Brown? "False in one, false in all." That is the true principle. When a person has sworn false in one instance, you may be pretty sure that he will not scruple to swear false again. Then again, similar contradictions occur in the statements respecting the exclamations of the men after the shots were fired. In fact the witnesses do not agree in any essential particular of the case. Mary Brown and Mary Ellen Byers say the men exclaimed "Take that, you black son," etc. Susie Inglis, Rose Chiverie, J. Hughes and Son Cusack, all agree in saying they heard nothing of the kind. And they were all present at the time. Even poor little Emily Byers would not swear that she heard the exclamations referred to. Gentlemen, I do not think I ever beheld a sadder sight than when that poor little black child was brought in here to swear away those men's lives. Her evidence, if true, bears strongly against, at least, one of the prisoners. She was not examined in the Court below. Every denizen of the Bog who could be thought of, from Son Cusack down to Pop Eye, gave evidence at the preliminary examination. But five long months elapsed before Emily Byers was produced. And it is to be noted that at the time the preliminary examination was going on—when everything connected with the unfortunate affair must have been fresh in the memories of those who witnessed it, little Emily Byers told Mrs. Burris that she did not know James Millner; but that, if she did (mark the animus of the little thing) she would soon swear against him. Couple this fact with the fact that neither Mary Ann Brown—steady swearer that she is—nor any one else, said anything in the evidence they gave in the court below about Emily Byers jumping up behind the wagon. Mary Brown says she forgot it then, but she remembers it five months afterwards. It is well, gentlemen, that the hearing of this case is not longer postponed, for the longer the time, the more the witnesses for the prosecution remember. But neither Susie Inglis, Rose Chiverie, Emily Ryan, J. Hughes, nor Son Cusack will swear that they saw Emily Byers or any one else hanging on to the wagon. And does Mrs. Burris come here to commit perjury? Or is she to be believed when she says "I asked Emily Byers if she was up swearing against Jimmy Millner, and she told me that she did not know Jimmy Millner." Or are the others who swear that Emily Byers did not jump up on the wagon any less worthy of credit than Mary Brown and that poor black child Emily Byers?

Now, gentlemen, we come to a more important point—that of the clothes the men in the wagon wore. They say that one of the men had a light coat on. Mary Brown speaks of the one nearest to her as the one who wore the light coat. Lilly Ryan, on the other hand, swore that the one who had the light coat was furthest from her and had a dark hat on. In fact the evidence upon this point is told in no less than four different ways. Four girls have put the men in the wagon in four different positions at the same time. Now, just let us see what Mr. Higgins says. He says when Johnston came home that night he had on dark clothes. Larter says both the men were dressed in black or dark suits. Other witnesses agree in saying that both Johnston and Millner were dressed in dark clothes. Need I say more? No; I feel that I might even now leave the case in your hands. You could not, as honest men, take away the lives of these prisoners on the strength of evidence such as this. But I now go on to touch upon a more delicate subject. I am now going to invade the fold and take out the little lambs who are under the care of the chief shepherd. You want to know who these policemen are. Is their evidence to be believed?

You will look below the blue coats of the men and the gold braid of the Marshal. It is your bounden duty to judge of the credibility of those men. And, in view of the fact that there is scarcely one of them but has been in jail for wife-beating and drunkenness, what confidence can you have that they have told the truth about the so-called confessions of the prisoners? The evidence of a confession is, under certain circumstances, the weakest that can be given to a jury. And when, for the evidence of a confession, you have to trust to the faulty, treacherous recollections of such men as Shea and Bradley, it is of the weakest possible description. Some words may be left out of a statement—some of the circumstances may be suppressed—which may materially change its significance. And, gentlemen, it would be truly a terrible thing if you were to send these two young men to the gallows upon the mere recollections Shea and Bradley have of certain words, which, they say, the prisoner made use of when arrested. Shea is, I have no doubt, an honest old fellow, but he has no brains at all. His head is like a piece of wood. He probably does his duty much as a soldier goes through his drill—without any thought at all. He has probably been under the influence of a prepossession which has misled him. Prepossessions often mislead the clearest minds. For instance, suppose you go down to the wharf on a dark night to wait for the steamer. A light appears in the distance. Perhaps it is in one of the houses on the other side or in one of the vessels in the harbor. But at once every one looking cries out "Here comes the steamer." They thinking it is the steamer because their minds are prepossessed with the idea that the steamer is coming; while in reality it is not the steamer nor anything which would make them think it was the steamer if they were not expecting her arrival. This is exactly the way the policemen regarded the words of Johnston. They were prepossessed with the idea that he was guilty; and every word he uttered was interpreted by them as a proof of his guilt. Dr. Carpenter, in his work on Mental Physiology, quotes the following instance of this sort of mental prepossession:—

"It happened once to the writer to hear a most scrupulously conscientious friend narrate an incident of table-turning, to which she appended an assurance that the table wrapped when nobody was within a yard of it. The writer being confounded by this latter fact, the lady, though fully satisfied of the accuracy of her statement, promised to look at the note she had made ten years previously of the transaction. The note was examined, and was found to contain the distinct statement that the table rapped when the hands of six persons rested on it! The lady's memory as to all other points proved to be strictly correct; and in this point she had erred in entire good faith."—Hours of Work and Play, p. 100.

There are also the prepossessions of fear and the prepossessions of hope. Dr. Carpenter, in an article on the "Fallacies of Testimony," which appeared in the Contemporary, says we may recognize the same influence in matters which are constantly passing our observation, and a better illustration could scarcely be found than in the following circumstance mentioned to me as having recently occurred in the practice of a distinguished physician:—

"The head of a family having been struck down by serious illness, this physician was called in to consult with the ordinary medical attendant; and after examining the patient and conferring with his colleague, he went into the sitting room, where the family were waiting in anxious expectation for his judgment on the case. This he delivered in the cautious form which wise experience dictated: 'The patient's condition is very critical, but I see no reason why he should not recover.' One of the daughters screamed, 'Dr. — says papa will die!' Another cried out, in a jubilant tone, 'Dr. — says papa will get well.' If no explanation had been given, the two ladies would have reported the physician's verdict in precisely opposite terms, one being under the influence of fear, the other of hope."

The prepossessing idea in the mind of one of these young ladies was that her father would get well; so she interpreted the doctor's words to mean that her father could recover. The prepossessing idea in the mind of the other was that her father was going to die and she thought the doctor's words contained no ray of hope. The prepossessing idea in the minds of the policemen was that Johnston was guilty; and, in accordance with their predominant idea, they set down every word he uttered as a proof that he committed the crime. Now, it is not right for anyone engaged in this trial to say whether or not he believes the prisoners to be innocent or guilty. You alone must say that when you come to give your verdict. But a counsel may, I think, say what construction he believes should be placed upon words used by a prisoner. Now, it is stated that Johnston, when arrested, and cowed down by the police, said: "I don't care for myself, but I am sorry for my father and mother." Is that the language of conscious guilt? Are these the words of a murderer? I think not. The guilty man is perpetually thinking of himself. You never saw a hardened criminal who, in difficulty himself, cared much for his father or his mother. The prisoner when arrested does not seem to have been anxious about himself. He was only sorry that his father would be troubled and his mother distressed. He felt that the blow which had fallen upon him would fall upon them also, and he expressed his sorrow. Now, gentlemen, is not this the more reasonable interpretation to be put on Johnston's words? I was reading last night an account of the martyrdom of a Christian who was accused of treachery to the Empire, because he refused to sacrifice to the genius of the Empire. He was heard to say, "I do not care for myself, but only for my father and mother;" and on uttering these words he was seized and condemned to be torn in pieces. And you are asked to condemn this man because when arrested he expressed sorrow for his father and his mother. Gentlemen, we must have stronger evidence than this—based as it is upon the ever changing recollection of a policeman prepossessed with the

idea that Johnston is guilty. You will not, feeling the responsibility of your position, as you do, you cannot hang the prisoners on such evidence as this.

Then comes the evidence for the defence. But I must not forget that I am associated in this case with Mr. Palmer, and he will direct your attention to it. Gentlemen, I here leave the case to you, feeling confident that you will not convict my clients on the strength of the evidence adduced by the prosecution. It would be insulting to you to suppose for one instant that you will allow such evidence to have any weight with you. The conflicting statements of prostitutes and the swaying recollections of policemen do not afford sufficient groundwork for a conviction in such a momentous case as this is. Gentlemen, I am speaking for these two young men; and I ask you not to consign them to a disgraceful death and a dishonored grave. I am speaking for this gray head, all furrowed with the marks of care and toil; I am speaking for an honored father whose earthly hopes will be blighted if his son be convicted; I am speaking for the lonely mother who, on her bed of sickness, is waiting to hear—oh! how anxiously—your verdict. Oh let her never hear that her boy must die the death of a murderer. You remember what was done when last a man suffered the extreme penalty of the law in this city—how the rope broke and the man was hung up like a dog. Will you, dare you, on the strength of the evidence before you, let these boys suffer as he did? Gentlemen, I have spoken to you strongly because I feel strongly. I did not intend to appeal to your sympathies or to go outside of the evidence. Indeed the fact that the mother of my client is lying on her deathbed was imported into the case by means of the evidence. Oh! gentlemen, let not her last hours be agitated by thoughts of her boy in his death struggle. Gentlemen, you will spare these two young men.

[We have been obliged to considerably condense Mr. Hodgson's address, and to leave out altogether some of the finest parts of it. When he concluded, many of those in the Courtroom were in tears.]

Almost a Dreadful Catastrophe.

RAILWAY ACCIDENT NO. 2.

An accident which miraculously escaped an attendance of fatal results occurred on the railway, between Mt. Stewart and Royalty Junction, yesterday. The Georgetown train is usually connected with the Souris train at Mount Stewart—the first taking the passengers and freight of the last to this city. Yesterday morning the train from Souris was detained by snow on the branch. The Georgetown train arrived at Mount Stewart on time, and seeing no signs of the Souris train, proceeded directly on the way. At Bedford Station she came in contact with a heavy snow block. Striking it first she proved unable to pass through. The train was then backed; the passenger cars were left about fifteen chains from the bank, and the locomotives went forward to force a passage. In the third attempt to pass the engines were thrown a few feet from the rails. All efforts were made to replace them. It could not be quickly done, and a brakeman was sent back with a signal to warn the approaching Souris train of the fact.

An hour after the train first struck the passengers—six first class and six second class—leisurely sitting in their respective cars, heard a whistle quite near. No commotion was created by this, as they thought it was the locomotives returning to the cars after making a passage. A moment later they were horrified to see the Souris train swiftly bearing down upon them. She struck the first class car with a dreadful thud, carrying it three-quarter ways upon the snow-plow, tearing away the after trucks, breaking the rear door and destroying the couplings, railings, etc., between the two cars.

Three men and a young lady were sitting in the rear of the first class car. Seeing the train approach the men opened the rear door with all haste and jumped from the platform. One of the number who did not jump far enough was completely covered with snow, and until he recovered himself, it was thought he had been run over. He received a slight injury to his wrist by being struck with the side of the snow plow. The young lady attempted to escape to the second-class car, but, ere she had gone half the length of the first-class, the train struck, and, as the car mounted the snow plow, she turned a clumsy somersault and was landed among the seats at the lower end of the car. She escaped with slight injuries to her back. Said a cool and collected passenger, who was recovering himself in the second-class car, and who saw the young woman lying among the seats: "That one is off the track, anyhow." The other woman, who was sitting near the front door in the first-class car, held on to the seat and escaped unhurt. A gentleman, dressed in all gait, with beaver, kids, etc., standing at ease in the baggage-room, reading posters, tariff regulations and such like, was the first to fall in that apartment. He fell towards the apartment adjoining the baggage-room; four others who were in the same apartment fell on top of him, and all the loose baggage, buckets and traps fell on top of them. None was hurt except the first gentleman, who was slightly cut on the side of the head.

When it was discovered that none of the passengers or train hands were seriously hurt, and when all got out of the cars, a general wordy row took place between the passengers of the Georgetown train and the Souris train hands. The latter swore by all things holy that they never saw the signal, owing to the smoke and drift. The brakeman who was sent with the signal deposited, in strong terms, that he was not to blame, as he did all in his power to make them see the flag. It soon ended. The trains were righted as quickly as possible and arrived in the City at 6 o'clock.

GREAT CLEARING SALE

—AT THE—

London House

In pursuance of the principle that all goods should be turned into cash during the season in which they are bought, we offer our magnificent Stock at prices to ensure a speedy realization.

This year's sale offers to all economic housewives Special Inducements.

Never was economy more needful
Never was the opportunity better.
Never were the prices so low.

And in anticipation of the speedy adoption of the NATIONAL POLICY, with a largely increased tariff, "a word to the wise is sufficient."

TERMS CASH, On or Before Delivery.

Geo. Davies & Co.

Charlottetown, Feb. 4, 1878.

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, 1878.

FOR SALE,

THE HOUSE and Premises occupied by the Subscriber, at the head of Queen Street. For further particulars apply to the owner on the Premises, or to ALEXANDER BROWN, Esq.

DONALD MCKENZIE,

Ch'town, Feb. 3, 1879—2aw

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

FINAL NOTICE.

ALL amounts due the Subscriber, not paid by the 15th February, will be sued for without further notice.

SIMON W. CRABBE,

Sign of the Store.

Charlottetown, Jan. 31, 1879—4i

Harvie's Almanac

1879!

JUST PUBLISHED!

READY FOR DELIVERY.

WHOLESALE AND RETAIL

—AT—

Harvie's Bookstore,

QUEEN SQUARE.

Ch'town, Dec. 12, 1878—

Wants, Lost, Found, &c.

Advertisements under this heading, in space not exceeding half an inch, will be inserted for Ten Cents per day.

LOST—Between McKenzie's Confectionery Store and Welsh & Owens' building, a LADY'S PURSE, containing a small sum of money. The finder will be rewarded by leaving it at this Office.

Feb. 4, 1879—2i

WANTED—A DENTAL STUDENT. A young man, desirous of studying Dentistry, and suitably qualified, can find an opportunity on applying to DR. STRICKLAND.

Feb. 3—2i