THE DAILY EXAMINER.

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ALMANAC FOR MARCH, 1887.

MOON'S CHANGES.

First Quarter 2nd day, 9h. 55.3m., p. m., W. S. W.
Full Moon 9th day, 4h., 21.4m., p. m., N. E. (below horizon.)
Last Quarter 16th day, 9h., 29.6m., a. m., W.
New Moon 24th day, 11h, 57.2m., a. m., S.

D. M.	DAY OF WEEK	Sun rises	Sun sets	Moon rises	High water	Day's len'h
		h m	h m	morn	morn	h m
1	Tuesday	6 43	5 41	9 52	2 9	10 58
2	Wednesday	42	43	10 29	2 54	11 1
3	Thursday	40	44	11 13	3 44	4
4	Friday	38	44	aft 2	5 14	8
5	Saturday	36	47	1 2	6 37	11
6	Sunday	34	48	2 9	7 52	14
7	Monday	32	50	3 26	8 32	18
8	Tuesday	30	51	4 41	9 42	21
9	Wednesday	29	52	6 0	10 28	24
10	Thursday	27	54	7 18	11 9	27
11	Friday	25	56	8 35	11 50	31
12	Saturday	22	57	9 50	aft 31	35
13	Sunday	21	59	11 1	1 13	38
14	Monday	19	6 0	morn	1 59	41
15	Tuesday	17	1	0 10	2 51	44
16	Wednesday	15	2	1 11	3 56	47
17	Thursday	13	3	2 7	5 13	50
18	Friday	11	5	2 54	6 33	54
19	Saturday	9	9	3 38	7 40	57
20	Sunday	9	7	4 15	8 31	12 0
21	Monday	5	8	4 48	9 13	3
22	Tuesday	2	9	5 15	9 49	7
23	Wednesday	0	10	5 42	10 23	10
24	Thursday	5 58	12	6 8	10 54	14
25	Friday	56	13	6 32	11 24	17
26	Saturday	54	14	6 58	11 57	20
27	Sunday	52	15	7 22	morn	23
28	Monday	50	16	7 54	0 27	26
29	Tuesday	49	18	8 28	1 3	29
30	Wednesday	48	21	9 6	1 48	33
31	Thursday	5 46	6 22	9 54	2 26	12 36

MORTGAGE SALE.

TO be Sold by Public Auction, on WEDNESDAY, the Thirteenth day of April, A. D., 1887, at the hour of Twelve o'clock, noon, at the Court House, in Charlottetown, in Queen's County, under a Power of Sale, contained in an Indenture of Mortgage, dated the twenty-seventh day of December, A. D., 1879, and made between Michael Landrigan and Margaret Maria his wife, of the one part, and the Right Rev. Hibbert Binney and Benjamin Gerrish Gray, Trustees for King's College, Windsor, Nova Scotia, of the other part.

ALL that tract, piece or parcel of land, situate on Lot Thirty-four, in Queen's County, and bounded and described as follows, that is to say: Commencing at the southwestern angle of land owned by Edward Auld, thence running along the southern boundary line of said land eastwardly for the distance of thirty-four chains, thence northwardly along the eastern boundary of said land twelve and one-half chains, thence westwardly parallel with the said boundary line till it strikes the east boundary line of thirty acres of land recently sold by Edward Auld to Lawrence Whelan, thence at right angles south until it strikes the southeast angle of said thirty acres of land, thence along the south boundary of said thirty acres until it strikes land held by James Landrigan, thence south to the place of commencement, containing twenty-seven and one-half acres, a little more or less.

ALSO—All that other tract, piece or parcel of land, situate, lying and being on Township number Thirty-four aforesaid, bounded as follows, that is to say: Commencing at a stake fixed on the east side of the road leading from Charlottetown to Stanhope, thence east seventy-two chains, thence south ten chains, thence west seventy-two chains, and thence north ten chains along the said road to the place of commencement, containing sixty acres of land, a little more or less.

And also that other tract, piece or parcel of land, situate on Lot number Thirty-four aforesaid, having a front of six chains on the west side of the Covehead Road, and running west by parallel lines to the boundary line of Township number Thirty-three, containing fifty acres of land, a little more or less.

For further particulars apply to Edward J. Hodgson, Solicitor, Charlottetown.

Dated 4th March, 1887.

HIBBERT BINNEY,
BENJAMIN G. GRAY,
Mortgagees.

March 5, 1887—eod tl sale

In the County Court of Prince County.

EDWARD ATKINSON,—Plaintiff.
and
DUGALD S. WRIGHT, ALLAN MCQUARRIE, and ALEXANDER AFFLECK, } Defendants.

This is an action for breach of an agreement made between the plaintiff, as a teacher, and the defendants, as trustees, under "the Public Schools Act, 1877."

As required by section 72, of said act, notice of action was served on the deiendants within the time prescribed, and suit was commenced by writ of summons issued 28th September, 1885, and made returnable 20th August, 1886.

Upon the plaintiff's application an order absolute was made 18th August, 1886, to postpone the trial of the cause from August term to October term, 1886, at which latter sitting the action was tried and judgment reserved until the present time.

At the trial, and before any evidence was received, a preliminary objection was taken by defendants' counsel that the writ of summons was irregularly made returnable at a term occurring subsequently to three other intervening terms; but I declined to entertain this motion, as there appears to be nothing in the County Courts Act prohibiting a plaintiff from selecting a remote term for the return of his process; on the contrary, indeed, the language of Section 31, which defines the procedure in this respect, seems to confer upon a plaintiff the right of passing over intermediate terms of the court, as it provides that *Mesne* process "shall be served at least eight clear days before the return day thereof, which shall be the first day of the sitting or term to which the same *shall be made* returnable." In fact, cases do occur in practice, where the procedure adopted by the present plaintiff is necessarily unavoidable. In order that a suit may be duly entered for trial at a particular term, the service of the *Mesne* process must be made "at least eight days" before the first day of such term; and when the writ is issued—as it assuredly may—at a period that precludes the possibility of effecting service for the next ensuing term, it would be absurd and equivalent to a denial of justice, to hold that the plaintiff could not select a subsequent term. At any rate, I think the defendants, when seeking to avail themselves of this alleged irregularity as a ground for quashing the writ, should not have reserved their application to so late a day—some thirteen months having elapsed between the date of the service of the writ and the motion to set it aside.

The agreement under which the parties to this suit contracted with each other, is dated 30th June, 1884, and by its terms the plaintiff was to teach a district school in Prince County, during the school year ending 30th June, 1885, and did in fact teach such school for that year, and in a satisfactory manner, so far as the evidence disclosed at the trial would indicate. The breach, of which the plaintiff complains, consists in his not being permitted to continue as such teacher for the next subsequent year, and the neglect or omission of the defendants, to give him notice of dismissal or determination of the agreement. Amongst other stipulations, this agreement contains the two following clauses:—

"And it is further agreed that either of the parties hereto shall be at liberty to determine this contract at any time by giving to the other three months' notice in writing of such intention, provided always that one month's notice, preceding the termination of the legal school year be sufficient."

"And it is mutually agreed that both parties to this contract shall in all respects be subject to the provisions of 'The Public Schools' Act, 1877,' and the amendments and regulations made thereunder by the Board of Education."

It has been proved in evidence and admitted on both sides, that no notice was given by either party to the other pursuant to the above requirements of the contract. It has also been proved and admitted by the plaintiff that, at the beginning of the school year during which he taught, he intimated to the Trustees that he would continue no longer in the position of teacher after the year. It is further proved as a matter of fact, that during the last week of the year, and the early days of the vacation following, the plaintiff waited on the defendants and informed them that he was desirous of being continued in the service as teacher of the same school, and that at one of these interviews the defendant, Affleck, remarked to plaintiff: "I suppose that by the law we are unable to dismiss you, as we gave you no notice." The Trustees, however, at once employed another teacher, and placed him in charge of their school; and, as viewed from the plaintiff's point of contention, this proceeding on the defendant's part, may be regarded as the affirmative breach of the contract.

At the close of the plaintiff's case, defendant's counsel moved for judgement of nonsuit, on several grounds, the principal one being that the plaintiff, by his own conduct—his declarations—virtually notified the defendants of his desire to terminate the contract, and thereby discharged them from the obligation of giving him the notice in question. I refused, however, to grant a non suit.

The issue, then, is really limited to the point concerning the legal effect, if any, of the plaintiffs *oral* announcement of his intention to "abandon the profession" at the end of the year. Did this declaration determine the agreement on the plaintiffs' part? Did it exonerate the defendants from the performance of *their* part of the agreement?

It should be borne in mind that all contracts between trustees and teacher under which the latter is employed in that capacity, are required "to be in writing."—Sec. 59; sub-sec. (C.) It may be presumed that before this agreement was executed, the particulars and conditions thereof were discussed by the parties directly interested; and as both parties after such discussion, deliberately bound themselves, each to the other, by the several clauses it contains, it follows that this instrument embraces the ultimate conclusions of such discussion and contains the entire mutual contract; and all merely oral expressions and utterances on either side, are irrelvent to the issue, and incapable of controlling or altering this written contract. The statement made by the plaintiff, and before referred to, touching his contemplated retirement from his then occupation cannot, therefore, be construed as varying the expressed stipulations of the agreement; nor can such statement be deemed sufficient to relieve the defendants from their written undertaking. Had the plaintiff, in fact, done any *act* incompatible with his privileges as a licensed teacher—had he disabled himself from entering upon the subsequent year's service, by engaging, for instance, in business inconsistent with the ordinary duties of a teacher, then such act or disability would become significant when viewed in connection with his previously expressed intentions, and would estop him from enforcing his present claim.

If Trustees can capriciously dismiss a Teacher at a moment's notice, or without any notice, they would be invested with an unjust privilege, and must by its exercise do serious injury in many instances to the character and prospects of a Teacher. Hence, under the powers conferred upon them, the Board of Education in their wisdom, have insisted that this class of school contracts shall contain a clause imposing upon either party the condition of giving a written notice before the contract can be rescinded; and this condition clearly operates as a protection as well to the interests of the school district, represented by its Trustees, as to the Teacher himself. Under it, neither Teacher nor Trustees can abrogate its provisions without previous notice. Did either party possess the power to determine the contract at pleasure, in many instances schools would be suddenly closed, children denied the advantages proposed by law, and Teachers deprived, it might be, of their only means of securing a livelihood. These not improbable consequences have been anticipated by the Board of Education, and have been reasonably provided against. And upon further consideration I think the evidence of the *viva voce* declarations was inadmissible, and should have been rejected at the trial.

From this brief review of the circumstances of the case, I must hold that the defendants are liable in damages. What should be the measure thereof? The plaintiff was entitled to a statutory salary of $180 a year and a supplement of $30. After his official connection with the school ceased, he remained without employment for a period of over two months; and although he appears to have subsequently procured a situation to which was attached a remuneration much in excess of that which he could legally claim as a school teacher, yet that circumstance cannot satisfactorily be relied upon as a criterian of the true *quantum* of damages, and clearly cannot prevail as an answer to the plaintiff's demand.

Judgment is for the plaintiff for $52.50, being the equivalent of one quarter's salary and supplement.

Mr. McQuarrie, Plaintiff's counsel,
Mr. Bell, Defendant's counsel.
29th January, 1887.

Foster on the Fisheries Dispute.

Speaking of the Canadian fisheries dispute, Hon. Mr. Foster said:

"The present Government would make no change in its attitude with reference to the fishery question. The old Government took no extreme ground, but simply stood for the rights of Canada as guaranteed by the treaty of 1818. Its enforcement of that fishery protection, last season, was courteous, inclining even to leniency strictly within the lines of established precedents. The Government is not yet prepared to abandon its former ground, and steps will be taken, in case no arrangement is reached in the meantime, to still more thoroughly and effectually guard our coasts and protect the interests of our fishermen during the coming season."

The Montreal *Witness* (Independent-Opposition) remarks:—

"If the Minister of Fisheries, Mr. Foster, has succeeded in proposing a *modus vivendi*, even for the coming season, he will deserve the gratitude of three nations and great honor as a statesman. The task of statesmanship is not diminished but very much aggravated when one has to deal with ignorance and indifference on one side, and wilful ignorance and unreason on the other. The ordinary language of both the United States and England towards Canada is contemptuous. They seem to vie with each other in their efforts to tread upon her. But for the utterly unassailable justice of her position and the mildness and firmness of her rulers, she would be like a grain of wheat between the upper and the lower millstone."

Above all other earthly ills,
I hate the big, old-fashioned pills;
By slow degrees they downward wend,
And often pause, or upward tend;
With such discomfort are they fraught,
Their good effects amount to naught.
Now, Dr. Pierce prepares a pill
That just exactly fills the bill—
A pellet, rather, that is all—
A pleasant purgative, and small;
Just try them as you feel their need,
You'll find that I speak truth, indeed.

f a w

A RING round the moon is said to be a sign of rain. A ring around a girl's finger is also often a sign of rain.