PROGRESS.

VOL. II., NO. 397. ST. JOHN, N. B., SATURDAY, DECEMBER 14, 1895. PRICE FIVE CENTS

ABUSING THEIR POWER.

THE MAGISTRATE AND CHIEF GO BEYOND THE LAW.

Illegal Arrest and Imprisonment of Two Women Found on the Street—A Heavy Penalty for no Crime Defined by the Statutes—In Jail for Two Months.

When some well meaning women recently advocated the establishment of a curfew for children on the street after nine o'clock at night, they had an idea there might be some old and nearly forgotten law which could be utilized for their purpose. The police officials, ambitious to shine as moral reformers, thereupon set about to find such a law, and they were stimulated by the remarks made by Judge Tuck, in the Wells trial, on the depravity of young girls whose home training was neglected. They found a section in the Police Act which they thought could be applied to the situation, and which would apply if certain essential clauses of sentences could be ignored. This section was quoted in full in PROGRESS last week, and it is not necessary to repeat it. It gives a policeman authority to arrest certain persons, including night walkers, loose idle and disorderly persons "whom he shall find disturbing the public peace," or be suspected of having committed or being about to commit crime. Further, he may arrest between 9 p. m. and 5 a. m., at this season, any person "lying or lurking" in any highway, yard or other place and not giving a satisfactory account of themselves. This is the extent to which this section of the law can be applied, and any arrest made under it without the essential conditions quoted is clearly an unwarrantable trespass.

As the police magistrate reads the law, however, he considers the words "whom he shall find disturbing the public peace," etc., and the words "lying and lurking" as by no means necessary. In other words, he seems to think the police can arrest all night walkers, loose and idle persons wherever they are found, and that a policeman can stop an orderly man, woman or child on the street, order them to go home, and arrest them if they refuse to do so. As the law makes no distinction as to age or sex, it applies as much to men as to women and children. If it applies to a woman on Walker's wharf it applies to a man on King street. It is simply left to a policeman to judge as to whether the man or woman has a good moral character. If, in his opinion, he or she has not, that policeman can lock him or her up, and the magistrate will endorse his high handed and illegal act. It is time the police were taught better and that the magistrate should be brought to account as well.

So far, Chief Clark's silly order to arrest all children found on the street after nine o'clock has not borne any fruit. Whether he has recalled his order or whether the policemen have had sense enough not to try to carry it out, makes little difference. The arrest of a child under the chief's order cannot legally be made.

Nor can the arrest of a woman., good or bad, be legally made because a policeman tells her to go home and she refuses to go, when she is merely walking the streets. Despite of this, two young women were arrested last week, under orders from Chief Clark, for no other crime, and were sent to jail for two months in default of payment of a fine of $20 imposed by Magistrate Ritchie.

The two women, who gave their names as Jennie Robertson and Annie Thomson, aged 20 and 23, seen on the street early in the evening by policemen Evans and McConnell, who ordered them to go home. They said, as they had a perfect right to say, that they would go when they pleased The policemen encountered them again, later, and took them into custody, on the charge of being on the street at night and refusing to give a satisfactory account of themselves. The policemen were "of the opinion" that the girls were "vagrants and street walkers," knowing one of them to have formerly been an inmate of a house of questionable repute. As a matter of fact, both girls were hotel servants, and by no possible construing of the law could be termed vagrants. They were walking the streets as any woman has a right to do, and there was not a shadow o evidence that they were "lying or lurking" or committing any other offence.

The young women knew nothing of law, and had no lawyer to tell them or the court that they had committed no crime. They knew they had been on the street after nine o'clock and that they had refused to go home when ordered to do so. They knew, too, that their lives were not all they should have been. They pleaded guilty to the charge of being on the streets and not giving a satisfactory account of themselves, and for this crime, invented by the joint mental efforts of the magistrate and the chief, they were fined $20 and sent to jail because they had not the money to pay.

This happened on Friday, while the issue of PROGRESS calling attention to the illegality of the chief's order was going to press. Since then there have been no further arrests, though one of the daily papers, in noticing the case, remarked that the chief was "more determined than ever to see the law enforced.' If he is still of this determination he is likely to butt his head against a very hard stone wall. His success in procuring the arrest of two friendless females, and the abuse of authority by the magistrate in sending them to jail for no crime cognizable to statute cannot be continued in future where there is any show of a defence by persons thus illegally arrested and imprisoned.

Even had the authorities had law on their side in this instance, and had they power to enforce a curfew law, or a law against immoral people walking the streets, the usual course would have been to impose merely a sufficient penalty to warn others, for the order was but a recent one and it may be hundreds had never heard of it. Instead of this, the magistrate, in his great zeal for public morals, imposed a penalty of $20, an amount which, at servants' wages, it would require three or four months to earn. It is just the sum which, at certain intervals, is levied upon this or that proprietress of a notorious den of infamy, who is charged with the lightest possible offence of keeping liquor for sale, and who is known by the police to sell it persistantly in quantities which make the fine a mere trifle off of the profits. In default of this fine, the two ignorant young women were sent to jail for two months, to be further demoralized by the vile associates they will have there. This term is just twice the length of that to which the same magistrate recently sentenced a man for stealing about $50 in cash and making off with his plunder.

But the main question is not as to the amount of the fine or the length of the sentence. It is that there should have been no fine, no imprisonment, and no arrest in the first instance. If it is desirable to deal with such cases, as good people think it is, let there be a law under which proceedings can be taken. The spectacle of the magistrate and chief overstepping their authority is one that must not be tolerated.

THAT DANFORTH DISPUTE.

Mr Willis Has The Evidence To Prove That He Is Right.

The interesting case brought before the board of review of the National Trotting association in which Mr. E. Le Roi Willis was interested has caused much comment in sporting circles because in some way the decision has been misunderstood and the impression created that Mr. Willis was fined and required to repay some $400 before he could figure upon association tracks again. This rumor was most absurd and can hardly be accounted for. The facts of the case are that when Mr. Willis entered his horse Pilot Jr. in the Danforth meeting he wired to the secretary to enter him in the ree-for-all. Mr. Watson who also entered horses for that meeting wrote his telegram at the same time for the classes he wished to enter in. Mr. Willis was under the impression that the fast race was a free-for-all, and though he sent his telegram on the 19th of August it was not until the 21st that he got an answer from Dr. Porter, the secretary of the track, in these words:

No free for all. Shall I name in 20 and, 25 classes?

It must be remembered that the above telegram was sent to Mr. Willis on the 21st, two days after the advertised date for closing the entries. Dr. Porter considered Mr. Willis' intention correctly to enter his horse in the fastest class and as he stated when Mr. Page made the protest on the day of the race he did enter Pilot jr., in the 2,20 class when he received Mr. Willis telegram of the 19th, authorizing his entry in the free for all.

Mr. Willis replied to the telegram quoted above as follows:

Enter Pilot jr. in '20 class.

And to that telegram he receives this reply signed by M. L. Porter the secretary of the Danforth trotting association.

Pilot jr. entered in 2.20 class.

Mr. Page protested on the day of the race claiming that the horse was not properly entered and the track deferred payment of Mr. Willis' first money pending the decision of the board of review. That decision at present is that the horse was not properly entered, but the claim of Mr. Willis that if there was any mistake it was on the part of the track secretary, would appear from the evidence of the telegrams to be a perfectly just one. The amount of his first money was $120 which he never received, but which he thinks he is justly entitled to from the track.

Agent for the Densmore.

Mr. Ira Cornwall has been appointed agent for the Densmore typewriter, which is said to be one of the easiest running machines upon the market to day. Mr. Cornwall has the agency of the Yost machine an excellent typewriter and also of less expensive machines.

FOR A CHRISTMAS GIFT.

THE CITY GETS A PRESENT OF A LAWYER'S SERVICES.

Dr. Pugsley Says He Will Not Take the Five Hundred Dollars—The Harbor Master's Clerk is Glad to Get that Amount for a Whole Year of Work.

The common council has got clear of one $500 puzzle to take up another. The one got rid of is the salary of the harbor master's clerk, while the one still on hand is the much redneed account of Hon. Wm. Pugsley, counsel for the city in the Connolly suit. The story of the counsel fees and how it was proposed to reduce them was told in PROGRESS last week, and on Thursday the council dealt with the matter as had been proposed. It was recommended that Dr. Pugsley be paid $500, instead of the $841 he claimed, and that Recorder Skinner get $400, instead of the $500 he asked. The latter gentleman is satisfied but the former is not, and he says that rather than accept the $500 he will make the city a present of his services.

Dr. Pugsley was heard on his own behalf before the treasury board earlier in the week. It would probably have been no more than common courtesy had he been heard by the committee in the first instance, before the reduction was decided upon. Whether his bill was too large or not, he should have been allowed to explain his views of it before any action was taken. As it was, the reduction was first decided upon and then Dr. Pugsley was called on to show cause why it should not be made.

He did so, claiming that his charges were fair, and reasonable and only in line with the importance of the suit, to which he had given great attention. His fees were less than those willingly given to the counsel on the other side, and no more than he had previously received in large cases. He could not admit that his services and knowledge were worth any less than those of the opposing counsel, and he considered there had been an implied understanding that he should be paid at the rate he had previously charged in cases of similar importance. He had been sought by both parties to the suit, and could have appeared for Connoly had he not decided to espouse the cause of the citizens, for which he is now, no doubt, profoundly sorry. As a climax to his arguments, he stated that rather than make the proposed reduction he would make the city a present of his services.

The council has decided to accept his generous offer It is not often the city gets a Christma present, especially from a member of the legal profession, and it is not likely the custom will be followed to any great extent. According to Dr. Pugsley, the amount of the gift is $841.16, but the city will only be grateful for $500. It is a difference of degree, but not of kind.

Figuring the amount of the gift at $500, the council presently proceed to appropriate an equivalent amount in the settlement of a small but long troublesome question, and end a contention originally raised by PROGRESS. This was the matter of the salary of the harbor master's clerk.

Several months ago PROGRESS called attention to the fact that while the reform council had sought to make a reduction in the harbor master's salary, it had succeded only in bringing down that of the clerk, who had done most of the work of collecting the revenues, and had been ill paid at the best of time. The clerk was appointed by the harbor master, and paid by him, but PROGRESS contended that the city should control both the appointment and the salary.

The story awakened a large amount of interest, which was increased when the clerk in question, Frank Alward, applied to the board of works to have justice done him. Then that body did a foolish thing. It proceeded to take his ex-part statement and act upon it, making its recommendations without calling on the harbor master to state his side of the case. The latter official naturally protested against this summary method of dealing with him, and asked for a hearing. This was given, but it did little to make matters clear as the harbor master had one story to tell and the clerk another, and it was difficult to see just where the mistake happened to lie. The matter has thus been unsettled for a long time in the hands of a committee appointed to deal with it, but a report was presented to the council Thursday, so that the question could finally be settled.

One thing which had been quite clear from the first was that the clerk was getting too little. The harbor master got $1,900 in salary and revenue, while the clerk, who did a very large portion of the work, got only $400. The idea was to made the latter salary $500, but the point was as to how it should be done. The report of the committee was that $400 should the paid by the harbor master as in the past and $100 be added be the city from the general revenue. It was futher recommended that the clerk should be appointed by the council, instead of by the harbor master, as in the past.

Ald. Christie had an idea, and put it in the way of an amendment, that the $500 be all taken out of the harbor master's commission. He wanted the appointment of the clerk left in the hands of the harbor master. This was also the idea of Ald. Blizard, who seemed to think it was no concern of the city if the harbor master could get a clerk even as low as $300.

The principle at the bottom of the question was brought out by Ald. Smith, when he showed that as the city appointed and paid a clerk to the public works it should also do the same in this instance. If it paid the whole or any part of a salary, it should have control of the appointment. After a good deal more talk Ald. McCarthy moved an amendment to the amendment, that the salary of $500 be paid out of the harbor master's commissions and that the city appoint the clerk. This does justice to the clerk, does no injustice to the harbor master and entails no extra cost on the city. Frank Alward was then appointed clerk, and thus the matter came to a final settlement, and PROGRESS scored one more in the list of things it has undertaken to accomplish by calling attention to wrongs which require to be made right.

THAT FIFTEEN CENT SUIT.

Kane, Flett & Co. Explain How They Came to Be Involed in It.

In the suit brought, in Halifax, by Murdock's Nephews against Kane, Flett & Co, where the amount involved was fifteen cents, judgment was received last week, but was delivered on Tuesday in favor of Kane, Flett & Co., with costs. These gentlemen have sent the letter to PROGRESS for publication:

TO THE EDITOR OF PROGRESS: We notice by your issue of Dec. 7 a reference to the now celebrated case Miller vs. Kane.

As the defendants in this suit, we beg to say, that while we have no desire to tell our troubles to the public, or publish our business abroad, at the same time we feel that in justice to ourselves a few additional facts would not be amiss.

When the trouble over the early closing movement arose, we owed Murdoch's Nephews considerably more than a discount of 35 cts. would lead one to suppose, but on account of having been refused the regular discount and to avoid trouble we paid only the due portion of the account.

On the first of the following month we were furnished with a statement of balance due, which was also subject to discount but we only took off the discount on $7.06 which was for goods bought two weeks previously, or in other words a day or two before the unpleasantness referred to.

In answer to this we received word that they would not allow us any discount and a memo to the effect that they retained cheque but, afterwards claimed the word was intended for return cheque, but not finding the cheque in the envolope we thought we read aright and so dismissed the matter from our minds for the moment. You can imagine our surprise on being served with a writ in the county court only a day or two afterwards and without the least warning or notice of any kind.

We immediately wrote their lawyers Borden Parker & Co. stating the case and telling them we had no desire to have anything to do with their clients, especially over so small a matter as 35 cents and enclosed them the amount in full.

In reply to this we were told that the writ would only be stopped on the payment of costs, bnt thinking this just a little too much for human nature to stand, we took legal advice and defended the suit.

The plaintiffs admitted in their evidence that we were entitled to 20 cts., discount at least, and so this writ was issued against us on a claim of 15 cts., for purchases of two weeks standing, and without any warning. Yours truly.

KANE, FLETT & CO.

Halifax, Dec. 9.

[While willing to allow of any explanations in the matter, it has been necessary to omit some portions of the above letter as reflecting too much on Murdoch's Nephew's and their alleged motives in the suit.—Ed PROGRESS]

Peck is Very Lucky.

Edson Peck, charged with perjury at Hampton, has been discharged after a trial before Judge Wells. The singular fact remains, however, that while he was in custody, charged with perjury, he was brought from jail to testify in the Scott Act cases against Doherty and Kilpatrick, who were convicted on his unsupported testimony and fined, in the aggregate $200. The sight of a man awaiting trial for perjury being allowed to appear as a credible witness is a rare one in any country. Supposing that Peck had been found guilty of perjury in the Scribner case, of what value would have been the evidence on which Doherty and Kilpatrick were convicted?

HAD A SERVICE OF SONG.

DEACON CLEMENTS LED AND THE PASTOR FOLLOWED.

Exciting Musical Competition Among the Colored Brethren in the Inglewood Church—The Cause of the Contest and the Prospect of Better Days.

When some of the colored baptists of Inglewood, near Bridgetown, N. S. locked their new pastor out of the church, a few weeks ago, they thought they had given him a pretty strong hint that at least a portion of the flock to which he had sought to minister had no use for him. They had dispensed with the services of Rev. Philip Hamilton, the cooper-evangelist, after he had labored for years to bring them to repentance, and they had concluded that there was enough spirituality among them to run the church to suit themselves. They did so, for a time, as PROGRESS has already told, and they might have continued to do so with more or less success had not a new pastor in search of a flock happened to come along and proffer his services.

They were accepted by another portion of the congregation, but this move of the opposition failed to make the de facto government resign and give up the keys of office, including the key of the church. They used the latter to lock up the building, and by this piece of strategy they were able for several weeks to resist the innovation and exclude the innovator.

The adherents of the new minister, after a due consideration of the case and a survey of the door casing, made a brilliant coup d'etat by the summary and simple expedient of taking off the old lock and putting on a new one, the key of which was securely lodged in the custody of one of the faithful. The way being thus prepared for ingress, egress and regress, it was announced that divine service would be held last Sunday evening, when the new minister would officiate. There was a counter announcement that the service would be conducted by Deacon Isaac Clements.

The deacon is one of the late government party which had undertaken to run the church, and he had been preacher after the deposing of Pastor Hamilton. He had not looked with favor on the advent of the new minister and had opposed the proposition to employ him. He considered that he was a good enough pastor himself for all practical purposes, and his friends were of the same opinion. He decided to hold service as usual, whether the new man liked it or not.

Deacon Isaac was on hand betimes on Sunday evening, and so were his followers, who ranged themselves on one side of the hall while the supporters of the new man were ranged on the other side. The situation was strongly suggestive of the sheep and the goats, but which were the good and which were the bad depended altogether upon the point of view from which the opinion was given. There was a pretty fair division of the congregation on the government and opposition benches.

The new pastor had no doubt prepared himself with a timely discourse on brotherly love, and his face beamed with pious fervor as he rose to begin the service of prayer and praise. Just then Deacon Clements also came to the front with a do or die look on his face and a hymn book in his hand

"The brethern and sisters will join in singing the hymn of "Only an Armo Bearer," said the deacon. Then raising his quivering voice he sang out the line. 'On-ly an ar-mor bear-er," while about half the congregrtion joined with great vigor in the words of the familiar hymn.

The new pastor was surprised beyondr measure, and his indignation at this usurpation of his functions was beyond the power of words to express at the moment. He gazed at the deacon and at the people with a look of righteous wrath that may have been intended to silence them, but which had no apparent effect except to make them sing the harder. Presently he found his voice to shout silence but his adversaries only sang the louder. They were getting warmed up to it, and were tuned to sing all night if need be. Then the pastor finding his words drowned by the flood of melody, began to wave his arms and jump around, calling on the singers to cease They wouldn't do anything of the kind. They were having a good old-fashioned sing and they liked it, and far out on the evening air were borne the strains of "Only an Armor Bearer", sung by a chorus of mighty voices, which waxed louder with every line.

Then the happy thought came to the pastor to fight the adversary with his own weapons, and he accordingly shouted to his adherents to sing the doxology. They did so, and with a will, for they were fresh and full of fight. The other party continued to sing for all they were worth, and the mingling of "Only an armor bearer" with "Praise God from whom all blessings flow" made a discord worthy of Babel. The fearful racket was kept up, both side singing at full strength, until the sinners who were listening outside the building wondered if there wasn't some danger of the roof flying off.

Finally the singing stopped, for both sides wanted a breathing spell. Then came the pastor's opportunity, and he made a very much more lively address then he had had in mind on his way to church. With all the vigor of outraged dignity he denounced the proceedings, and asserted his right to alone conduct the services in that church. He concluded his remarks by a scathing rebuke of the leader of the singing, whom he indignantly denounced as "that old nigger Clements." With this parting shot he dismissed the congregation and left the building.

Better days may be in store for the colored brethern of Inglewood, for a number of prominent baptists of Bridgetown, including Rev. F. M. Young and W. A. Craig, are striving to put an end to the contentions and to restore peace among the colored brethern.

THE GLOBE'S "TRADE" EDITION.

An Enterprising Departure Successful From a Business View.

The diverting of the Globe from its usual pessimistic policy and issuing a sixteen page "trade edition" has been the topic in journalistic circles this week. PROGRESS congratulates them upon the enterprise which prompted such a venture and the success which their advertising canvassers met with. Perhaps there were too many of these "notices," however, to suit the man who would naturally look in a "trade" edition for some facts and figures of the general trade of the city. It may be that one proud of the appearance of his city would look with some interest for illustrations of public buildings, of handsome streets and residences showing that St. John is indeed a city where those in trade prosper. But of course people have different ideas of these things and it could hardly be expected that the two American hustlers who canvassed the people for the edition should enter into the spirit of St. John citizens and give them what they wanted. Still these gentlemen had ideas and carried them out in an ingenious fashion. No merchant was asked to pay anything for his notice but unless he could use a certain number of papers the notice did not appear and the length and character of the article depended upon the size of the the order for copies. One hundred copies called for $25 and half a column of business and personal description was thrown in.

It is only just to the Globe to say that the scheme was not advertised in its columns but still the mantle of its name was thrown over the efforts of the itinerant canvassers who go from city to city selling people "gush"—as one merchant advertises it—and doing legitimate advertising all possible harm by disgusting merchants with this sort of stuff.

Suffered by the Big Failure.

BRIDGETOWN, N. S. Dec. 12.—Among the many victims of the financial disaster, occasioned by the failure of the late firm of Farquhar Forest & Co., of Halifax, is th Rev. John Cameron of this place. Mr. Cameron is a retired minister of the presbyterian church, who can ill afford to lose the amount which he had in the firm's hands. The loss, although considerable for one in his circumstances, might have been much greater—indeed all the savings of a lifetime would have been swept away—had he not, fortunately, withdrawn from them a year or two since, the greater portion of the amount, in order to purchase some land. He was intending to withdraw the balance a few weeks hence in order to erect a new barn, and fix up the premises in which he resides; but the failure came, and now this loss has upset all his plans. Much sympathy is felt for Mr. Cameron in this community, where he is highly respected for his many sterling qualities of head and heart. Aged—being now seventy eight years old—somewhat infirm, though still able to look after his little farm, he bears his loss with quiet composure, and while freely expressing sympathy for the many who have lost their all, feels much chagrined, that a portion of the economical savings of a lifetime should be spent by other people. Mr. Cameron's many friends all over Nova Scotia, and especially in Eastern Hants where he has spent the greater part of his life in preaching the gospel, will regret to hear of the loss he has met with.

Winter in Real Earnest.

It will interest the foreign readers of PROGRESS to read that winter in all its glory has begun in this part of the country. Perhaps not enough snow to make good sleighing everywhere in the lower part of this province but it has been cold enough to make ice thick enough to carry the biggest team of horses in the country. Plumbers are reaping a harvest from ice congested water pipes and woolen goods are in demand. Not in many years have St. John people seen so severe an early December.