

EQUITY COURT.

Case of J. B. Hawthorn vs. Sheriff Sterling

JUDGE BARKER REFUSED TO GRANT A POSTPONEMENT.

Particulars of Case as Set Forth in the Bills and Answered.

Plaintiff Claims That There is \$4,000 Due Him by the Sheriff.

The trial of the much talked of suit of John B. Hawthorn vs. A. A. Sterling, Sheriff of York, was commenced before His Honor Judge Barker in the Supreme Court in Equity this morning. Messrs. Phinney & Crockett are conducting the case for the plaintiff and A. J. Gregory, K. C., is looking after the defendant's interests.

At the opening of the court Mr. Phinney stated that he had only lately returned from a visit to another part of the province and did not know until the last moment that he was to take part in the case. Hon. L. J. Tweedie had been retained as counsel by the plaintiff, but had notified him by wire that he would be unable to be present.

Mr. Gregory said that Attorney General Pugsley, counsel for the defendant, had telegraphed that he was detained at home by important public matters, and he (Gregory) would like on his behalf to have the case postponed. He explained that the defendant was willing that the trial should go on, but the attorney general being unavoidably absent, he hoped the court would grant the application for a postponement.

Mr. Phinney said that personally he would be willing to consent to a postponement, but his client was anxious to have the case disposed of. Under the circumstances therefore he would not be able to consent to the granting of Mr. Gregory's request.

His Honor remarked that he had come to the city especially to try the case, and would not grant a postponement unless the plaintiff's counsel consented. He added that the case was set down for hearing two months ago.

After a consultation with Mr. Hawthorn, Mr. Phinney announced that he could not consent to a postponement.

The court—Then the case will go on.

The Complainant.

The bill of Mr. John B. Hawthorn, plaintiff in the suit, was then read to the court by Mr. O. S. Crockett. It set forth that the plaintiff had been appointed deputy sheriff of the county of York in November, 1885, and by an agreement with the defendant he was to have for his services one half of the fee of the office, the use of the county jail as a place of residence and the salary a jailer to be paid by the county council. It was understood at the time that all expenses incurred by the plaintiff in serving writs and proceeds were to be borne in equal proportion by the sheriff and deputy sheriff. The plaintiff alleged that the defendant failed to keep the agreement, by refusing on several occasions to make a division of the monies received by him but retained them for his own use. In this connection the case of the City of Fredericton against the Shore estate was mentioned, and it is alleged that the defendant not only failed to divide the fees, but neglected to make an entry of the case on the sheriff's books, where all records are supposed to be kept. It was further alleged that the defendant frequently omitted to enter cases on the sheriff's books, but made the entries in a private book to which the plaintiff did not have access. The defendant had also declined to make a settlement with plaintiff on the basis of their agreement.

The plaintiff claims that there is due him from the defendant, as his share of the fees and emoluments of the office, as per their agreement, the sum of four thousand dollars.

The Defence.

The answer of the defendant, read by M. Gregory, admitted that under the

agreement the deputy sheriff was to act as jailer and was to have one half of the fees for serving writs and executions issued out of the supreme and county courts. It was understood that after all reasonable and proper expenses incurred by the deputy sheriff should be paid out of the fees and that the balance should be equally divided between them, and in addition the deputy sheriff should have the sum of \$200 per annum allowed by the county council for performing the duties of jailer.

The defendant alleges that the plaintiff was at times negligent in the performance of his duties as deputy sheriff; that he on one occasion went to the United States for a week without advising the defendant, and that he frequently absented himself from duty. The defendant claims that he always paid the plaintiff promptly, treated him generously, and never on any occasion refused to make a settlement with him. He did not owe the plaintiff the sum of \$4,000 as alleged, but there might be a small balance due him for his services. The plaintiff was always paid his full share of the receipts of the office, though in the case of the Shore estate no division had been made because it was a city matter and the defendant did not consider that the plaintiff was entitled to any share of the fees. The allegation of the plaintiff that all entries were not made in the books, was denied, and it was claimed that a complete record of all writs and processes passing through the sheriff's office was kept at the office.

The Evidence.

John B. Hawthorn the plaintiff, was the first witness called, and was still on the stand when the court adjourned at one o'clock. He said he had been appointed deputy sheriff in November 1883, and had continued in office down to May last, when he was dismissed. The sheriff had accused witness of trying to persecute him, and suggested that they dissolve. The sheriff wanted to have the matter in dispute adjusted between them by one man, but the witness wanted it referred to three arbitrators, and to this the sheriff would not consent. In the general election of 1900 the sheriff sent a clerk from his office into the country to post the proclamations, and when the witness asked why he had not been delegated to do the work, as heretofore, the reply he received was, "On you want all the fees." When witness called the sheriff's attention to the fact that no entry of the Shore estate business had been made in the books, he was told that if he said nothing about it, he would be paid his share of the fees. It was through the advertisement in the papers that the witness learned that the proceedings against the Shore estate were being taken through the sheriff. He never received any share of the fees from this estate. Witness did not get any fees from the Fleetwood estate in the parish of Douglas against which the municipality took proceedings for overdue taxes. This case was settled without the sale taking place and witness could never find any entry in the sheriff's books. The witness explained that he was paid \$200 per annum by the county council for keeping the jail, and in addition obtained the turnkey fees from debtors.

Mr. Hawthorn was cross-examined by Mr. Gregory at this afternoon's session.

UNWELCOME IMMIGRANTS.

(Special to Daily Herald.)

Sherbrooke, Que., July 21.—Upon the arrival of the Grand Trunk freight train at Island Pond last evening, a customs officer opened the door of a box car and was surprised to discover six Chinamen within. They were arrested and sent to Newport to stand trial for endeavoring to evade the immigration laws of the United States.

CONCESSIONS TO MEN.

(Special to the Daily Herald.)

Montreal, July 21.—The difficulty between the C. P. R. carmen employed on the Lake Superior, Eastern and Atlantic divisions and the management, has been settled, the men getting advances of 1 to 1 1/2 cents per hour for ten hours work a day and time and half for Sundays and Dominion holidays.

Redistribution.

Ottawa, July 21.—There was another meeting of the redistribution committee last night, when it was decided to divide Cape Breton and Victoria into two constituencies. It was previously arranged to have them all in one, electing two members.

There will be North Sydney and South Sydney; South Sydney will comprise Sydney, Glace Bay, the Collieries and Louisburg, and North Sydney will comprise North Sydney, Sydney Mines and Baddeck. South Sydney will have a population of about 35,000 and North Sydney 35,000.

HEARTY WELCOME

Extended to King and Queen in Ireland.

HIS MAJESTY'S KINDLY REFERENCE TO THE POPE'S DEATH.

(Special to Daily Herald.)

Kings'ton, Ireland, July 21.—On their arrival here this morning, King Edward and Queen Alexandra, accompanied by Princess Victoria, were given an enthusiastic reception.

Immediately after the royal yacht Victoria and Albert took its position in the harbor, the thirteen vessels of the home fleet fired a royal salute.

In replying to an address His Majesty said his visit came when a new era is opening for Ireland.

Referring to the death of Pope Leo, His Majesty said he shared in the sadness with his multitude of subjects over the news of the Pope's death.

Drive All In.

The main corporation drive reached the boom limits last evening, and Contractor Morrison is all through for the season, unless more logs come over Grand Falls as a result of the recent rain.

CASTORIA

For Infants and Children.

The Kind You Have Always Bought

Bears the

Signature of *Wm. H. Irvine*

WM. H. IRVINE, M. D.,

PHYSICIAN and SURGEON.

Special attention given to Eye, Ear, Nose and Throat.

Office and residence 155 King St.

(Adjacent Methodist Parsonage, Fredericton.)

Telephone, (long or short distance), No. 350

W. J. IRVINE, D.D.S.

(And Special Practitioner's Certificate from Chicago College of Dental Surgery.)

Artificial Teeth,

Inserted in Gold, Aluminum and ordinary Rubber Plates.

Crown and Bridge Work

Executed in Gold and Porcelain after latest and best methods.

Anesthetics,

Local and General applied and administered for Painless Dentistry.

Office: CHESTNUT'S BUILDING.

Queen st., opp. City Hall. Tel. 78.

DR. F. W. BARBOUR,

SURGEON DENTIST,

President and Prizeman Boston Dental College Class 1901. Registered by Mass. State Board of Legislation. Facilities and experience in all branches of Dentistry. Special attention given to saving aching or abscessed teeth.

Young lady in attendance.

New Goods

Lowney's Chocolate,
Lowney's Always Ready Chocolate Powder,
Lowney's Cocoa,
Mott's Chocolate,
Mott's Cocoa.
The above in all sizes.

WHOLESALE ONLY.

A. F. RANDOLPH
& SONS

The Mail Order Drug Store....

You can stay right where you are and buy all of your drugs, medicines, toilet articles, and other drug store goods by mail of us. We prepay the postage on all light weight articles, and prepay the transportation charges on all orders amounting to \$3.00 or over.

Return this advertisement with your first order and we will allow you 25c. for it. One allowance only to each customer.

C. FRED. CHESTNUT,

Apothecary, 508 Queen St., F'ton, N. B.

WATCHES

Some of the most attractive **WATCHES** features of our well selected WATCH STOCK are

the prices, the quality and the **WATCHES** value guaranteed in every one of them.

See Fine Display in Window.

F. E. BLACKMER.

Agent for Waterman's Ideal Fountain Pens.

Low Shoes

For Summer Wear.

Beautiful, stylish, comfortable, durable. We have them for

Ladies, Misses and Children
Gentlemen, Boys and Youths.

OUR STOCK OF

Ladies' Fine Low Shoes

Is especially large and varied, comprising Patent Leather Kid, Enamel Calf, Douglas Kid and India Kid. We have Goodyear Welt Shoes, Hand Turned Shoes, and McKay Sewed Shoes, and our prices range all the way from

75 cts. to \$2.75 a pair.

For good goods at low prices, come to

LOTTIMER'S

CASH SHOE STORE,

210 Queen St., Telephone No. 84. Fredericton

BERKY SPRING SEAT POST

On Your Bicycle

Will make any road smooth. Costs one-tenth the price of a Cushion Frame Bicycle and accomplishes the same purpose, viz: Absorbs all the vibration when riding. Fitted to any bicycle, Men's or Women's, at

Barrett's Cycle Shop

Separate Waiting Room for Ladies.

Royal Bank of Canada

INCORPORATED 1869

(Head Office, - - - - - HALIFAX, N.S.
Chief Executive Office, - - - - - MONTREAL,

THOMAS E. KENNY, - - - - - President,
EDSON L. PEASE, - - - - - General Manager,

CAPITAL PAID UP - - - - - \$2,795,630
RESERVE AND UNDIVIDED PROFITS - - - - - 2,924,084
TOTAL ASSETS - - - - - 23,400,000

The Royal Bank of Canada undertakes all kinds of Banking business and having 44 Branches in Canada, and Correspondents throughout the world, is in a position to offer every facility for the collection and negotiation of domestic and foreign bills.

SAVINGS BANK DEPARTMENT

Interest allowed from date of deposit on sums of One Dollar and upwards at the current rate, and paid or credited semi-annually, on the 30th June and 31st December.

FREDERICTON BRANCH:

R. P. FOSTER, - - - - - Manager.