

The Daily Herald.

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FREDERICTON, N. B., WEDNESDAY, JUNE 26, 1907

NO. 147

E. A. O'BRIEN & CO.

JUNE 24TH 1907

Latest New York Style Belts

Ladies' Peter Pan Purses

Ladies' Wrist Bags

"ARTGUM" Something new that will
cleanse your Kid Gloves, Belts, Corsets.

15 cents a box. Ask to see it.

E. A. O'Brien & Co

Wall Paper

Our new stock of Wall Paper is now all in. Newest
Patterns Border same price per roll. See ours be-
fore you buy, we can save you money.

BOSTON 5 and 10

Opposite Soldiers' Barracks.

R. G. LEE & Co.

KLENZO

The Best Hand Soap known. Removes from the Hands
all kinds of Dirt, Machine Grease, Paint, Printers Ink
Contains nothing harmful.

One lb Tins 15c each

GEO. Y. DIBBLEE,

PEOPLES' DRUGGIST opp. City Hall.
SOLE AGENT FOR BURPEE'S SEEDS.

Chestnut
says

"You are entitled to two comfortable feet. Why not
resolve to have them? Scarcely any other minor
trouble causes the discomfort and suffering that smart-
ing, aching and burning feet do. These and a variety
of other foot ailments are almost instantly relieved by
Foot Elm. Price 25c. Mailed to any address on receipt
of price."

"THE QUALITY STORE." 572 Queen Street.



The Wedding Month
Is Here.

We are ready with a fine assort-
ment of Wedding and set Rings, and
up-to-date jewelry, also a beautiful
line of Silverware, Cut Glass, Clocks,
etc., suitable for wedding gifts.

F. E. BLACKMER

937 Normal School

Fredericton, N.B.

PILFERING SOLDIERS.

Members of 71st Regiment Charged With
Disorderly Conduct and Looting a
Rothsay Store.

St. John, June 26.—(Special)—Rothsay residents are indignant over the depredations committed by a party of soldiers who passed through Rothsay at noon yesterday enroute to Sussex.
The soldiers were members of the 71st regiment from Fredericton. The train stopped to permit a company of the 74th regiment to enter, and some of the men of the 71st taking advantage of the delay, left the train and went on an impromptu foraging expedition through the village.
The general store and post office, kept by Postmaster J. R. Robertson, about 100 yards from the railway station, was the first to attract the attention of the raiders.
Whooping like wild Indians they made a descent upon the store. Sol-

diers to the number of a dozen entered and proceeded to annex such articles of the stock as suited their fancy. These included bottles of pickles, boxes of candy, biscuits and cigars.
When a clerk intimated that it was the practice of his employer to exact payment for goods supplied to customers, the soldiers laughed at him and left the store taking the pilfered supplies with them.
They then returned to the train after indulging in boisterous conduct in the vicinity of the station and went on to Sussex.
Robertson's clerk was powerless to enforce payment for the goods, but the people of Rothsay who learned of the affair are highly indignant. Complaint will be made to the authorities at camp Sussex, and Robertson and his friends will spare no effort to secure redress.

SENSATIONAL EVIDENCE.

Mrs. Coleman at Crystal Stream Enquiry
Swore Capt. Perry had made Threats.

Cole's Island, N. B., June 26.—(Special)—One party had been heard to declare he would have vengeance if it took ten years. That person she said, was Captain Perry of the Steamer Aberdeen.
Perry was seen running up the wharf shortly before the fire started.

BEATEN TO DEATH.

Judge Hands Out Timely Suggestion [to Po-
lice Officers.

Montreal, June 26.—(Special)—The inquest into the death of Richard Beach, who died in a police cell last week, ended this morning with the verdict that Beach came to his death as the result of being beaten by thugs, but declared that there was

excusable negligence on the part of the police, who took him to the police station, inasmuch as they followed the usual practice.
The judge suggested that in every case where a prisoner who in a semi-conscious condition a doctor should be called.

IMMIGRATION INCREASE

Quality as well as Quantity of Canada's New
Settlers Improving.

Ottawa, June 26.—(Special)—Canada's immigration is not only increasing in volume, but the quality is superior to former years.
There is a large increase in immigration from the British Isles. The total immigration for the month of

April was 41,951, as compared with 35,313 for April of last year, an increase of twenty-five per cent for the ten months, July to April 30.
The immigration was 168,718 compared with 124,081 for the corresponding months of the fiscal year, an increase of 44,637 or 36 per cent.

TIMBER LANDS SALE.

At the Crown Land Office this morning the following areas were sold:
34 square miles at New River, Charlotte County, at \$101 per mile to A. & L. B. Knight.
74 square miles at New River, to W. F. Barnhill, the applicant at the upset price.
2 square miles south of Tobique to the Peel Lumber Co. at the upset price.
2 square miles on Little Salmon River, Victoria County, to the Peel Lumber Co. at upset price.

Premier Robinson left last night for his home at Moncton.

OFFICERS ELECTED.

Fredericton Lodge No. 6 K. of P. elected the following officers last evening:
Robert Vandine, C. C.
George L. Haviland, V. C.
Frank A. Everett, P. P.
H. A. Burtt, M. of W.
George Burden, M. at A.
Sydney Smith, I. G.
Thos. H. Fowler, O. G.

The public schools of the city will close on Friday for the summer holidays. The examinations will be held in the morning from ten to twelve. The closing exercises of the kindergarten taught by Miss Good at the church hall, will be held tomorrow afternoon beginning at 2.30. Visitors will be welcome.

LIBEL CASE STANDS.

Celebrated Case of King vs. Crocket Goes
Over Until January Circuit.

The Accused Held in His Own Recognizance on the
Sum of \$300—Judge Landry's Judgment.

The case of King vs. James H. Crocket charged with defamatory libel has been disposed of for the time being, and cannot be tried before the next term of the York Circuit Court which meets in January. Judge Landry Tuesday evening delivered a lengthy written judgment on the crown's application for postponement of the case, refusing to grant the same. Mr. Hazen moved for discharge of the accused but the judge stated that it would not be dealing fairly with the crown to grant the application. He refused to interfere with the indictment and held Mr. Crocket on his own recognizance in the sum of three hundred dollars to appear at the next term of the court for trial. Mr. Crocket seemed to be very much worried on His Honor's decision as he confidently expected that he would be discharged.

THE JUDGMENT.

The full text of his honor's judgment was as follows:

To decide this application I feel the necessity of reciting some of the facts that my reasons may be better understood.

The defendant is charged with having published a defamatory libel. The words published, that are said to be defamatory, are recited in the indictment. In themselves the words are clearly libellous and defamatory. The defendant pleads the general issue and puts on record another plea by which he seeks to have the publication on two grounds, viz:

1st.—That the defamatory matter was true.
2nd.—That it was for the public benefit that the matters charged be published.

The criminal code makes such a plea legal and a good defence, if put on the record with the technical wording necessary to come within the meaning of the sections of the code. The parts of the sections authorizing such a plea and directing the manner of putting it on record are as follows:

Section 910. Every one accused of publishing a defamatory libel may plead that the defamatory matter published by him was true and that it was for the public benefit that the matters should be published in this manner and at the time when they were published.

Sub-section 3 of 910. Every such plea must be in writing and must set forth the particular fact or facts by reason of which it was for the public good that such matters should be so published.
The Crown answered those two pleas by joining issue on the first and categorically denying the second. The Crown made further answer to the second plea by demurring to it. This demurrer technically admits that the matters published are true, but affirms that even if true are not sufficient answer and then sets forth the legal reasons why such facts are not a sufficient answer. The demurrer is then left to me to decide. It is admitted that the question as to whether the matters published are true is for the jury, but the question whether the publication was for the public good, is for the court.

The court was asked to decide whether it was for the public good

that the publication took place and I decided that it was.

With such a decision the pleas as put in remain on the record and permit evidence being given by the defence of the truth of the publication. It also permits the prosecution to answer by evidence the proof adduced by the defendant. The Crown maintains by argument that under such conditions it would not avail the prosecution to convince a jury that the charges were false, if it failed in convincing it at the same time, that the defendant had no reasonable ground for believing that they were true.

The Crown says that it cannot hope to so convince the jury as to the belief and the reasonable grounds for believing that the charges were false, therefore, and that under section 324 the defendant would thereby get clear. If that section is available to the defence under the present state of pleadings then the statute protects the defendant to the extent of permitting him to publish the defamatory matter, provided he can show that the circumstances justified him reasonably in the belief of their truth of the matters and that in fact he did believe in their truth. My decision therefore on the demurrer does not go beyond declaring that the second plea is within Section 910 and that the declarations in that plea, if capable of proof, show it to have been in the public interest to have published such matters at the time and place.

The record before the court now, therefore stands thus:

The Crown charges the defendant with having published a defamatory libel.

The defendant answers by a second denial and says in effect: "What I published was true, and it was in the public interest that I published it."

The Crown denies both branches of the answer. Thus left the defendant to succeed must be legally entitled to have it declared by the court that the publication was in the public interest, and by the jury, that the matters published were true, or convinced the jury by evidence that he had reasonable grounds for believing and did believe that they were true.

Now, with such a record before me, and the defendant ready and urging to go to trial, I am asked by the crown, whose laws I am sworn to administer, to postpone the case to another circuit. My first duty is to examine the reasons for such postponement. I cannot, in the facts as known to me, find one good reason to do so. The only reason urged is that, having reserved for the crown a case to be decided by the full court, to say whether I was in error or not in deciding the demurrer in favor of the defendant, I should postpone the trial until that is decided. In my opinion, that is not sufficient ground. The practice has been just the reverse. A reserved case has been and is a stated case by the presiding judge to the court on the questions of law arising during the trial on which the court decides if a new trial should be had. Here there has in reality been no trial yet.

(Continued on fifth page.)

THE STOCK MARKET.

Trading Braced up Considerably Today--
Rally in C. P. R. a Feature.

Montreal, June 26.—(Special)—This morning's stock market saw a marked increase in the volume of dealings and prices generally enjoyed striking rallies.

The rapidity with which prices rallied would bear out the idea that the bullish element has commenced to assert itself and that the bears have been forced to change their tactics.

A good deal of recent weakness had been due to short selling in an exceptionally weak market and the shorts are thought to have taken hint to cover.

The local situation was aided by a sharp rally in C. P. R. which jump-

ed to 171 in early trading. In late trading yesterday a rally of three points in Dominion Iron to 21 helped to improve the outlook and this was followed by a further rise from 21 1/2 to 22 today, but the price subsequently eased off fractionally on profit-taking sales by room traders.

Montreal Street Railway, which broke to 200 in late tradings yesterday, opened firm today at 201, and very soon after was bid in at 203, showing unusual urgency to buy.

Nova Scotia Steel rallied a point to 66 1/2 and oil features of trading were: Detroit 64; Montreal Power 66 1/2; Mexican 45 to 46; Rio 46 to 52.