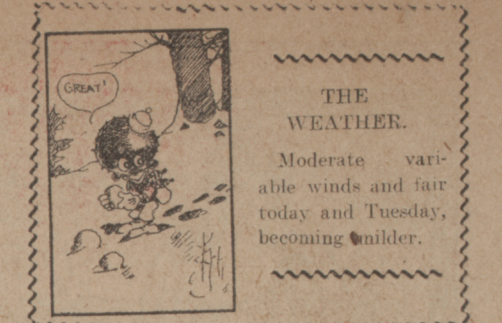




The Evening Times



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CONVICTIONS QUASHED IN GAME LAWS CASE

Judge Wilson Reverses Judgment Against Duncan and Braithwaite

COSTS EXCESSIVE

His Honor Says Case Looks to Him As If It Were Private Prosecution Carried On Regardless of Expense to the Defendant for Ulterior Motive.

Fredericton, N. B., Feb. 22.—(Special)—Judge Wilson delivered judgment in chambers this morning, quashing the convictions made by Police Magistrate Comors, of Chatham, in November last, against Henry Braithwaite and William J. Duncan, of this city, charged with violating the game law.

The information against the defendants was lodged by Game Warden Herbert Parry and charged with hunting and killing game between the fifteenth of June and the fifteenth of September. Evidence at the trial showed that the defendants were in the Miramichi woods early in September, with a party of four sportsmen from Philadelphia, and two of the latter had shot game out of season. Braithwaite was fined \$100, and \$95 costs; and Duncan \$80, and \$65 costs.

His Honor reviewed the evidence at some length and stated that while it was shown that there had been a technical violation of the law on the part of Braithwaite, he having removed to camp the carcass of a caribou shot by a sportsman during his absence, he was not a consenting party, and there had been no intent on his part to violate the law.

In the case of Duncan, His Honor found absolutely no evidence to support the conviction. The costs in the Braithwaite case, His Honor found to be excessive, and stated that he would not have allowed them even had he sustained the conviction, as they were taxed without proper affidavits to show that the witnesses were material.

His Honor considered it rather strange that information were laid by a special game warden employed by Mr. Robinson, an American millionaire, instead of by the regular warden appointed by the government to enforce the law.

He pointed out that a constable had travelled 122 miles to serve a process which could have been served nearer home, and seven witnesses, whose mileage totalled 392 miles, were called upon to give evidence, which had little bearing on the case. He thought that these facts went to show that it was a private prosecution, carried on regardless of trouble or expense to the defendant, and for some ulterior purpose for which no court ought to be used.

WILD INDIAN RUNS AMUCK

Cincinnati, O., Feb. 22.—With an ear-splitting war whoop, a Navajo Indian chief ran amuck in the Union station yesterday and fatally stabbed and cut Mrs. Anna Devor of Huntington, W. Va., and Max Meyers of Cincinnati, and seriously wounded Joseph W. Gordon of Cambridge, Ill. The Navajo, with four Sioux chiefs from Kansas, alighted from a crowded Chesapeake & Ohio train. As the passengers stepped from the train, the Indian with a yell, drew a long knife and started through the crowd, slashing right and left.

Mrs. Devor was walking along the station platform with a child in her arms. The Indian had buried the blade in her back and then slashed her across the body and arms. She fell insensible to the platform. The child was not hurt. After the Indian had attacked Meyers and Gordon, passengers rushed on the platform and hurled him prostrate to the platform. He was taken in charge by the police. The Indian, who had been to Washington, to see the secretary of the interior, was suddenly while on the train passengers say, but showed no signs of frenzy until the passengers were leaving the train.

AT CITY HALL

A sub-committee of the harbor facilities committee will meet tomorrow afternoon to go over the report of S. A. Corbett, who has been engaged with the controller, on valuating the harbor properties with the view of fixing the price to be placed upon them in the scheme of a government commission. The committee will be asked to decide whether a more extended search should be made regarding certain of the properties.

Hon. Mr. Pugsley has sent a communication to the mayor asking that matters be hurried as quickly as possible, so that attention can be given to the government.

This afternoon a meeting of the Chamberlain monument committee will be held to try and arrive at some decision regarding the completion of the work. There has been a deadlock between the sculptor, Hamilton McCarthy, and the committee for some time, and it is hoped that a satisfactory solution of the difficulty will be arrived at.

U. N. B. VALEDICTORIAN

Fredericton, Feb. 22.—(Special)—At a meeting of the senior class of the U. N. B., this morning F. L. Orchard was selected to deliver the valedictory address at the next convocation.

I. OST—BETWEEN A POYAS' MILL ST. and Codner Bros., gold ring, finder will be rewarded by leaving at CODNER BROS.

I. OST—ON SATURDAY A BLACK PER- sian Lamb Collar for overcoat. The finder will receive a reward on leaving same at this office.

EXAMINATION IN THE SIMMS ROBBERY CASE COMMENCED IN THE POLICE COURT TODAY

G. F. A. Anderson Was the Only Witness Examined at This Morning's Session

W. H. Downie, the Young Man Arrested on Suspicion, Refused to Plead—Mr. Anderson Tells of the Robbery as the Prisoner Told It to Him—Downie, Apparently in Good Spirits, Laughs at Spectators.

After the quartette which constituted this morning's docket before Judge Ritchie had been led to jail, W. Herbert Downie was brought into court. He was assigned to a seat adjoining that of his counsel, J. Milton Price.

After the allegation of stealing \$1,144.80 from the T. S. Simms Company, Limited, on February 19, preferred by Louis H. Simms, was read by Police Clerk Henderson, his honor advised Downie that it was not necessary for him to plead.

To the charge, Downie, thereupon replied in a barely audible tone, "I've nothing to say." A. P. Barnhill represented the firm in the proceedings. G. F. A. Anderson, vice-president of the Simms company, was the first witness. He testified that he left the office of the brush factory on Union street, at 12.35 on Friday, leaving Downie alone. He informed the latter that he was going to a barber shop to get shaved and would return.

Downie queried, "what barber are you going to?" The witness returned to the office at three minutes to one o'clock and discovered several workmen standing in the inside office. Downie was lying on the floor. When the witness gazed at him he opened his eyes and exclaimed, "the money is gone." Witness asked him if he would summon a physician, to which the accused replied, "no, I'm all right."

Witness immediately went to the vault and found that the money had disappeared, except a few envelopes which were on the floor of the enclosure. Witness gathered these up and put them on a shelf in the vault and afterward telephoned to police headquarters. The officers reached the scene shortly. In the evening he visited Chief Clark and suggested that a thorough search of the office and factory be instituted, and as a result, Campbell was detailed to accompany the witness to the building.

On entering the building, witness entered the lavatory adjacent to the office but, prior to entering, Campbell asked him where Downie's desk was located, and he indicated it with his finger. Before coming into witness heard this sergeant exclaim, "I've got the money," or "I've got it." Campbell handed the small stack of bills to the witness.

At this point his honor asked to see the stack, and overlooking Chief Clark, he said, "I've got it." Campbell, to bring to court. The police clerk descended to the lower floor and took the value containing the amount specified out of his safe.

Continuing, the witness stated that it is used to carry money from the bank to the office on pay-days, and is kept under a shelf in the office. Witness understood that it is Foster, the book-keeper's duty to bring the money from the bank on Fridays, and he complied with this duty on Friday morning at about 11 o'clock.

Witness said he opened the safe and found a few envelopes in which were letters and silver in the bottom and the envelopes containing the respective values for the employees, on the top of the heap. Witness said it was the duty of Leonard Brown to fill the envelopes with the respective sums.

To his honor the witness said he gave a memorandum of the amount, excluding that in the envelopes to the chief of police, it being \$100 or \$200. The envelopes dropped on the floor were five or six in number. He did not think that Downie would have anything to do with getting the bank or appropriating the pay in the envelopes.

The vault is in the wall, only three or four steps from Downie's desk. A large window with three plates of glass, illuminates the office. To get access to Downie one could enter by the right door of the cage only a few feet from which Downie was sitting, his being the last desk on the right side looking from the street. The desk in the office is a continuous one and Downie's is somewhat lower, owing to the presence of the typewriter on it. There was a crevice between the safe and his desk. There are two doors to the interior of the cage on the right and left. Litter time would be consumed in getting to Union street from Downie's desk.

At the police station almost \$1200 was found.

HIS LAST SERMON

Fredericton, Feb. 22.—(Special)—Rev. Canon Montgomery, rector of Kingsley, who has resigned to accept a call to Port Hope, Ontario, preached his farewell sermon Sunday morning in the presence of a large congregation. He spoke feelingly of his long service in the parish and returned his thanks to the people of all denominations for the many kindnesses to him. He announced that the church warden, C. H. Giles, had assumed the balance of the church debt amounting to \$187. On Friday evening the retiring rector was waited on by his parishioners and presented with a gold headed cane and Mrs. Montgomery was made the recipient of a valuable umbrella. The rector and family leave for Port Hope on March 2nd.

LADIES TO PLAY MEN

Four rinks of St. Andrews lady curlers will meet the same number of rinks of the gentlemen of the club in a friendly match this afternoon. The skins chosen are as follows:

Ladies—Mrs. H. Russell Sturges, Mrs. F. S. White, Mrs. C. H. Ferguson, Miss Barnaby.

Gentlemen—Lt. Col. Ogilvie, R. Keith Jones, C. A. Grey, A. F. Bowman.

counted. He said the firm pays at 5 p. m. on Friday's pay was unable to state at what time pay was made last Friday. After discovering the money Campbell telephoned to the chief and took the money to his office, accompanied by the witness.

Campbell was sent by the chief to arrest Downie and he returned with the accused from Leinster Hall.

His Honor—Did you know positively where Campbell found the stolen money, whether it was underneath Downie's desk?

Witness—"I saw Campbell making a dive for the box under the desk used by Downie to put his feet on and heard a noise as if a box was moving."

Witness said Downie's desk contained 3 or 4 drawers on each side in the front, each about a foot long and half a foot wide.

After supper on Friday Downie returned to the office. In an hour after the robbery Downie returned to work and continued until 6 p. m. Further information Reid, the secretary, for permission to complete work that he had not finished and Mr. Reid gave his sanction, but also sent Leonard Brown to the office to demand that Downie deliver up his key. Both Downie and Brown worked together for a short time and finally abandoned it as the offices were in a state of chaos. As both were leaving Downie gave his key to his fellow employee. The witness said he did not decide to have Downie arrested. He did not think Downie, while on a coffee break, exposed to the witness what had happened, but in his presence he told a story of working at his desk, when somebody approached from the left door and choked him into insensibility.

The men present were Jerry MacEachern, Thomas Rogers, B. L. Sheppard and several others with whose names he is not familiar and all were bending over him. Witness had known that the money was in the envelopes. He never remembered of Downie ever asking before, to what barber he was bound.

Witness offered to get a doctor, but was not instrumental in notifying Dr. G. A. B. Addy, who subsequently arrived. Downie recovered consciousness prior to the appearance of the physician. The witness said he was absent from the store precisely 23 minutes. He did not examine Downie's neck for marks of a struggle, but at a casual glance saw no evidence of violence on the accused.

At this point Chief Clark approached his honor's desk and requested him to view the denominations of the various bills and envelopes which he had tabulated on a sheet and previously placed direct before the judge, who ignored its presence.

"To the chief he said: 'I don't want it' and turning to Mr. Henderson he requested him to read the deposition of the witness."

Witness resumed stated that Downie remained on the floor until the chief of police instructed him to arise. The secretary wrote a check for \$1150 to pay the men as usual.

Cross-examined by Price, witness asserted that when he goes to a barber he usually tells Downie, On Friday he desired to return at one o'clock to meet the book-keeper, and take some notes to the bank. It is not his purpose to tell the clerk of his destination when he leaves the office, so that inquirers can locate him. On his way to the barber shop he met Peter Carrel and Spragg, two workmen in the factory at Brown's pharmacy.

His Honor—Did you allow the entire afternoon to elapse without making a search of the premises?

Witness—I did not have charge of it. I gave it into the hands of the police. He believed the prisoners were out of the premises, and on consideration suggested that a search be instituted. His recognition for the higher court was entered into and adjournment was granted until 10.30 a. m. on Wednesday.

Downie, before being escorted into jail, sat down near the prisoners' bench and laughed at the spectators.

His father arrived on the 6 o'clock train this morning from Harvey, Albert county, and conferred with him for half an hour in jail.

Mr. and Mrs. Thomas Calder, (nee Roy) of Portland, Me., are visiting Mr. and Mrs. Fred Jones, Mecklenburg street.

AMERICAN BATTLESHIPS HOME FROM WORLD TOUR

SEVEN KILLED BY DYNAMITE ON G. T. P. LINE

Premature Discharge of Dynamite Takes Lives of Seven Workmen on G. T. P. Work in Northern Ontario.

Port Arthur, Ont., Feb. 22.—(Special)—Meagre details have reached here of a dynamite accident resulting in the death of seven Swedish railway laborers on the Grand Trunk Pacific construction, 120 miles north of Nipigon. Coroner Brown and Crown Attorney Leangworth, went down yesterday to conduct an inquest at Nipigon. The accident was the old story of a premature discharge while tamping in a rock cut. The killed were all Swedes, the foreman, Nelson Hanson, being the only name available.

SHE RAN AWAY WITH HER FOUR CHILDREN

Windsor, Ont., Feb. 22.—(Special)—Charged with having abducted her own four children and having run away from her husband and her home, Mrs. William Symons, a comely woman, of Brantford, was arrested in Detroit last night. After a diligent search the police located Mrs. Symons living with a man named McDonald, at a house on Concord Avenue as man and wife. The woman was taken to headquarters but McDonald has not been apprehended as yet. The children, who are all under thirteen years of age, were overjoyed at seeing their father again. They will be taken back to Brantford today.

MINISTERS MEETINGS

The Methodist ministers met this morning in Centenary Church parlors. Rev. S. Howard presided and those present were Revs. Dr. Flanders, N. McLaughlin, C. W. Squires, J. Crisp, T. J. Deinstadt, C. Comber, J. N. Parker, Webster, and J. Heaney. Rev. N. McLaughlin reported holding special services in Portland St. Church, at which 30 expressed conversion. Rev. C. W. Squires reported holding special services in Germantown street Church, at which 74 expressed conversion. Rev. T. N. Parker reported four conversions. The Rev. J. N. Parker was interesting account of his work at Welsford. He had labored there 34 Sundays, and had not missed a service, a truly wonderful record for a man of his years. He had received 39 in church membership, and had baptized 49. His position took place on the proposition of a Methodist Social Union, and steps were taken to wards organization.

The Baptist ministers met this morning in the Mission rooms. There was a full attendance. Rev. Dr. Joseph McLeod of Fredericton was present. The committee, composed of Rev. D. Hutchinson and Rev. W. Camp, was appointed to draft a resolution on Sunday funerals, and report at the next meeting.

The following exchange list for the second Sunday in March, was drawn up: Germain Street, Rev. G. W. Squires, Brussels Street, Rev. J. W. Kierstead, Waterloo Street, Rev. W. R. Robinson, Tabernacle, Rev. D. Hutchinson, Main Street (north end), Rev. F. E. Bishop, Fairview, Rev. W. E. Fletcher, Ludlow Street (west end), Rev. W. W. McMaster, Charlotte Street (west end), Rev. A. B. Coloe.

TOMORROW'S GAME SHOULD BE FAST

Tomorrow night's hockey game with the Amherst Ramblers, one of the crack teams of the Nova Scotia Hockey League, is expected to be the fastest and best of the season. The Ramblers will present their strongest line-up, while St. John will be represented by the team which has so far this season lost but one game. On January 21, they defeated Charlottetown 9-2, and in the return match on January 26, the island boys turned the tables, winning by a few feet 12 to 1. On February 5 Marysville was defeated 7 to 3; Windsor Street won on February 8 and 9, by scores of 9-4 and 7-1, and the U. N. B. were shut out on the 19th, 5-0. In the six games played, St. John scored 32 goals to their opponents 12.

Judging from the way they are starting out, this year's team should be better than John some of the glory and renown of years gone by when the winter port hockeyists were the champions of the maritime provinces.

The line-up for tomorrow's night game will be as follows:

	Goal	
Barton	White	
Tully	Point	
Philips	Cover Point	Tweddie
Clawson	Rover	Curtin
Kennedy	Centre	Murray
McAvity	Right Wing	Chisholm
Paterson	Left Wing	Simpson

PROBATE COURT

Estate of James Murphy, victualier. In consequence of the continued illness of Mrs. John Murphy, a witness on behalf of her own claim, further hearing in this matter was again postponed. Adjournment was made till 29th March next.

It is expected that No. 6 berth will be ready for occupancy by Thursday next. The small boiler which has been referred to, is being removed this afternoon and the harbor master will commence tomorrow to take complete soundings over the entire length of the berth and for a distance of 80 feet from the face of the wharf.

AMERICAN BATTLESHIPS HOME FROM WORLD TOUR

The Famous Fleet Cast Anchor in Home Waters Today

VIEWED BY PRESIDENT

White Squadron Absent Fourteen Months on 45,000 Mile Tour of World Was Given a Great Welcome—Home Coming Appropriate to Washington's Birthday.

Old Point Comfort, Va., Feb. 22.—With homeward bound pennants streaming far behind them, 28 bands playing the Star Spangled Banner, and saluting cannon roaring tribute to the president of the United States, the battleship fleet of the American navy ended its world's cruise here today. After steaming in review of the president, whose eagle-crowned flag of blue was at the main of the cruiser yacht Mayflower, the sixteen white battleships finally cast anchor in the safe fair way of the Hampton Roads whence they started fourteen months ago on the notable journey of 45,000 miles.

The joy of home coming was written upon the faces of every lookout and every officer on board the sixteen ships. The long cruise, the visits to many of the most famous ports of the world, the homage that has been paid to the fleet by every nation on the calling list, have been of intense interest to every one aboard the famous vessels, but at Old Point there was no scene in all the world to compare in beauty with the familiar land marks picked up by the battle fleet as it steamed a triumphant, self-reliant and efficient force, through the Virginia Capes today, and entered the hospitable waters of Chesapeake Bay.

As she led the beautiful column of battleships out of Hampton Roads fourteen months ago, and as she piloted the fleet through all the seas into the ports of the long cruise, the flagship Connecticut steamed again today at the head of the retreating squadron. In the scale of the white ships of the home-coming squadron followed a welcoming host in gray, four battleships and five powerful cruisers being in this escorting column sent a thousand miles out to sea to convey a preliminary word of welcome to the famous ships.

The day of the home coming dawned with prospects of weather as fair as the cloudless day in December, 1907, on which the fleet set sail, an overhanging shadow of gray clouds showing clearing streaks of red and blue to the eastward sunset. Just before 7 a. m., however, a fog bank suddenly shut down and the whistles and bells of the many craft in the roadstead screeching and tolling their notes of warning. The fog lifted again within an hour, but left a promise of a gray day. There was anything but attractive to the thousands upon thousands of people gathered here from all parts of the country and who were either aloft or lining the shores of the waterfront today to help in the joyous acclaim to the home coming ships and men.

Foreign naval attaches, immense parties of government officials and high officers of the army and navy were aboard the fleet of welcome which steamed out today to greet the incoming vessels and witness the review by the president at the tail of the horseshoe. The Mayflower, which came down from Washington last night with a distinguished party on board, cast her anchors in the same waters today where she took up her position at the sailing of the fleet.

THE FUNERAL OF ERNEST RUPERT

Hampton, N. B., Feb. 22.—(Special)—The funeral of Ernest Rupert, the young man who came to such a mysterious and untimely end in the Smith Creek woods last week was held yesterday afternoon from the residence of his father, Moses Rupert, on Passacogue Road, the procession starting shortly after two o'clock. The feeling in this community was shown in the large attendance of friends and neighbors, some thirty carriages following the remains to the parish church of St. Paul's, Lakeside, where the funeral service was conducted by the rector of the parish, Rev. H. F. Walley, and internment made in the adjoining graveyard, the body being laid beside that of his mother, who died many years ago. The deceased was a young man of excellent qualities and was held in the greatest respect by all who knew him. He was not addicted to drinking, free of any of his acquaintances knowing of his ever taking a glass of liquor, and his death, whether by his own hand, or by that of some unknown enemy, has caused the deepest regret and cast a gloom over every home. The result of the enquiry now going on at Sussex is anxiously awaited. It is said that George W. Fowler has been instructed to watch the proceedings on behalf of the crown.

SIX MEN KILLED IN A RAILWAY WRECK

Delmar, Feb. 22.—Six men were killed and several injured by a collision of train No. 49 N. Y. and Norfolk express on the Delaware railroad with a yard engine in the railroad yards here about 2.30 this morning.

Engineer Mordell's expenses for his recent trip to upper Canada and United States cities are not likely to cause any adverse comment among the shippers, as the total amount is said to be less than \$200.