

MAGISTRATE FINED BROWN CONVICTED OF HAVING GAME IN POSSESSION

Evidence Taken To-day—S. Perry Mills, K. C., Raises Interesting Point.

(From Wednesday's Daily.) Before Magistrate Jay in the office of the superintendent of provincial police this morning, the adjourned case against Charles Brown, of Shawanigan Lake, charged with an infringement of the game laws at Shawanigan Lake on Wednesday last was continued.

At the previous hearing evidence was given that Brown had been arrested by Game Warden Heald with game and a gun in his possession. Brown, in his defense, said the gun had been left at his cabin by Mrs. Jacobson for repairs, and that having repaired it he was taking it back to their place, when at the crossing, where parcels were left, picked up a bag which he thought was for Jacobson.

The first witness heard this morning was Mr. J. McGear, foreman of the Shawanigan Lake Lumber Company. He said on Wednesday last he did not see the man, but another man came to him on that day asking for work. He described the man. I have seen him who generally wears a canvas cap and is differently dressed now.

Mrs. Gundar Jacobson called, said she had known Charles Brown for eight years. When she came from town and had a lot of parcels she left them at Welch's crossing and went back for them and last Wednesday she came up from Fitzgeralds and went to Brown's cabin. She carried a gun with her, taking it up to get it fixed. She wrote a note and put it up in the gun and she did not see him left the gun on the shelf by the door. She said in the note, "Is the gun and leave it at Fitzgeralds." She saw Brown as she got on the train and said, "Fix the gun." She had not seen the gun since. She did not see the young man who ate at the mill.

In answer to Magistrate Jay, Game Warden Heald said that the birds had not been killed on the same day as he arrested Brown with the gun and the game in his possession.

S. Perry Mills, K. C., counsel for the accused, went over the evidence before the magistrate and submitted the following points for the defence: There is an absence of that mens rea, which is an essential element in every criminal offence, and the accused should be acquitted on the merits. If the Game Act is to be considered as an absolute prohibition any bona fide mistake or an act done in good faith is no defence, then it is repugnant to the criminal law of Canada.

The provincial legislature cannot act for its own reasons dispense in any given case with the necessity of a mens rea and constitute certain acts crimes in themselves. The possession of game contrary to the provisions of a statute in England and elsewhere, was and is treated as a public wrong or misdemeanor, i. e. criminal law and punishable as such, and therefore the like provisions in the Game Act are ultra vires of the provincial legislature.

Whist conceding that the proprietary right in the game birds on crown lands are in the province, and that the owner of land on which game birds are found has a special right of property therein, the regulation of the possession, shooting, etc., of them and other such like provisions in the Game Act are ultra vires of the provincial legislature.

The cases decided on the Game Act in the several provincial courts of the Dominion, before the decision of the privy council in "Attorney-General for Ontario vs. The Hamilton Street Railway Company and others", A. C. 1905, must be considered as overruled.

lest sentence that can be imposed if he was guilty. Magistrate Jay thought that any one in picking up a sack and having a mile to go would look into the bag and ascertain if it were worth while to carry it. It appears that accused did not. The evidence shows there was another man there.

So far as the gun, was concerned he believed the statement of Mrs. Jacobson, that she left it there for Brown to repair and the evidence of the game warden showed that the birds must have been killed at a very early hour. "I think I must find the accused guilty," he said, and fined him \$25 or ten days.

Judgment was suspended for fourteen days to give Brown's counsel time to give the proper notice of appeal.

Belgian Visitor PUT TO INCONVENIENCE He Was Prevented From Leaving for the United States This Morning.

(From Wednesday's Daily.) Owing to carelessness on the part of the management of the Empress hotel, a foreigner reputed to be a wealthy traveler, was subjected to the annoyance of being turned away from the gang plank of the Princess Beatrice at 3:30 this morning as he was about to board the boat for Seattle.

The traveler, J. Blonchaux, of Dinant, Belgium, arrived at the Empress hotel from Vancouver last night, and this morning notified his intention of leaving at once for Seattle. Through the hotel management failing to follow out the usual instructions and precautions necessary for the embarkation of foreign passengers who are unable to converse readily in the English language, as required by the U. S. emigration authorities the Empress' guest was this morning compelled to miss the boat and in an excited and distressed condition proceeded uptown in search of the Belgian consul with whose aid it is hoped he will straighten matters out.

The U. S. emigration officials require that any traveler from a foreign country who is unable to speak English, and whose reports and objects in entering the United States are without question, shall only need to be attended at the point of embarkation by a person who can speak English and who can intimate to the emigration officials the name and nationality and destination of the traveler.

The officials of the U. S. immigration office here say that the management of the Empress hotel has already been notified that these simple precautions are all that is necessary, and that, had they sent a porter or a clerk along with Mr. Blonchaux in time to have the necessary questions answered before the sailing of the boat, there would have been no objection to his being allowed to proceed on the journey. As it was the Belgian appeared at the gang plank unable to understand or to make the officials understand as he possesses at the present time a very meagre English vocabulary which consists of one word, "Merci."

Understanding that he was allowed to reach Vancouver Island, but not allowed to leave it, through the intervention of a man in uniform the distressed foreigner decided to seek out the consul, and after pointing excitedly to the Empress hotel across the road for the benefit of the immigration officials, the stranger turned his steps towards Government street in search of the consul of his native land.

IS FINED FOR ASSAULT. Edward Johnson Pleads Guilty to Beating Old Time Friend.

(From Wednesday's Daily.) Edward Johnson, a colored gentleman, who looks as though he might be a near relative of Johnson, the pugilist, appeared in the police court this morning on a charge of having assaulted Roy Baldwin, an erstwhile friend and after pleading guilty was fined \$30 or in default one month in jail. This was Johnson's second appearance in court on a charge of assault. At the time of the first offence he was sentenced for three months for breaking the jaw of a fellow stableman at the fair grounds. The assault took place in Johnson's cabin on Penrose street. Johnson is about three times the size of the youth whom he beat up.

THINKS BY-LAWS ARE ALL RIGHT CITY SOLICITOR GIVES VIEWS ON THE MATTER

Says Action to Quash Measures Will Fail in Court.

The attempt to quash the by-laws passed by the people last Thursday which it was announced by the Times last evening is to be made, came up for some discussion at last night's meeting of the city council, when City Solicitor Mann assured the council they need have no fear of the action succeeding in the courts. In the meantime the announcement may have the effect of placing the council in an awkward position as regards proceeding with the works for which the money was voted. It is felt that operations will be tied up until the courts pass upon the matter, after which if the by-laws are quashed they will have to be submitted, causing further delay.

The matter was brought up by Ald. Fullerton, who said he had seen by the press that an attempt was to be made to quash the salt water by-law, and with it the others, an action that any one could take within thirty days of the passage of the measures. The only result of any such action would be to tie up the council in getting down to work provided for by the by-laws. It was too bad that some people could not accept the verdict of the ratepayers in such matters instead of rushing to the courts on technicalities. He would like to know from the city solicitor whether the council would be justified in going on calling for tenders in connection with the proposed works. City Solicitor Mann could not say.

The talk of action might have no foundation in fact. In other years the practice of placing more than one ballot on the same sheet of paper had never been questioned in the courts. The object in taking the vote as had been done was to save money and it had worked well. The law is that separate votes be taken on each by-law. This, however, he believed, was provided in the manner in which the vote had been taken. He did not believe there was anything to be done by the council could afford to disregard it.

The matter came up again later in the meeting when Ald. Fullerton once more asked for the information as to whether the council should go on. He had hoped that the preliminary steps in connection with carrying out the proposed works would be undertaken at once, but that these simple precautions are all that is necessary, and that, had they sent a porter or a clerk along with Mr. Blonchaux in time to have the necessary questions answered before the sailing of the boat, there would have been no objection to his being allowed to proceed on the journey. As it was the Belgian appeared at the gang plank unable to understand or to make the officials understand as he possesses at the present time a very meagre English vocabulary which consists of one word, "Merci."

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After Johnson had pleaded guilty the complainant was called to the stand to tell the circumstances. He said that yesterday he had gone down to the cabin occupied by Johnson, and the owner had asked him for two bits and then for 50 cents with which to buy something to drink. He had refused to give it, but had offered to buy a drink up town. Johnson then asked him for \$1 and then for \$1.50. He was sitting on the bed and when he refused the last demand Johnson jumped on him and tried to take the money out of his pocket, and then pounded him. He said he would get a knife and would kill him with it. Johnson was stopped on his way to the kitchen to get the knife. He owed Johnson some money on a gambling debt.

The prosecution pointed out that Johnson had been in court last fall on a charge of assault, and had been given three months on that occasion. Magistrate Jay, addressing Johnson, reminded him that this was a serious charge. He had tried to take money from the complainant and had threatened him with a knife. Johnson asked for permission to make a statement, and when it was given said that Baldwin owed him money, and when he had refused to pay him he had ordered him out. When he refused to go he had "slapped" him.

Magistrate Jay: "I fine you \$20, or in default one month in jail." Johnson said that he would pay it given time, as he was working. He would pay \$10 each Saturday for the next two weeks. The court, however, couldn't see matters in that light, and Johnson was led to the cells.

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CHARGES WERE BLOWN TO WINDS

HISTORY OF INQUIRY INTO TIMBER DEALS Tory Members' Futile Attempt to Discredit Government Department.

The investigation into the sale of timber limits is now closed, and the evidence will be reported to the House of Commons at an early date. The preliminary skirmishes, which led up to this inquiry, began immediately after the opening of parliament.

Early in December Messrs. Ames, Lake, Boyce and White gave notice of motion for the production of the original applications and tenders for some twenty-one timber berths in the western provinces. These motions were objected to by the minister of the interior on the ground that in the interests of the rights of the owners whose only title to their property was the papers on the files of the department, the original applications and tenders should not be produced to become a part of the records of parliament and to be lost to those of the department, as they would if produced in accordance with the motions mentioned.

After some discussion the several motions were amended to require the production of the original papers to the House if they were brought down in accordance with the amended motion. During the discussion on the production of the original papers to the House it was the policy of the government to produce original documents before committees of the House on the order of the committee in the custody of an officer of the department, in order to avoid the necessity of producing them to the House, as was not possible under the procedure of the House. Subsequently several hundred original files were brought before the committee and were opened in a "secluded and darkened room," but in his office which adjoined that of Miss Munroe, who was always present when the tenders were opened. The duty of opening tenders was handed over to him by the late deputy minister (J. A. Smart), who on going away in the summer of 1902, remarked that it was within his (Mr. Turfitt's) scope of administration, and he therefore gave him charge of it for the future.

Mr. Burrows, who was not an M. P. when he tendered, attended the meetings of the committee, prepared to give evidence, but the opposition declined to call him.

IN MEMORIAM. New Westminster, April 22.—The funeral of the late Duncan Robertson, of Vancouver, whose death occurred in this city on Saturday, was held this afternoon at the Mountain View cemetery, Vancouver. E. Holt, a painter, died in St. Mary's hospital on Sunday from diphtheria. The deceased was a young man, and was a well known resident of Central Park, where several sisters reside.

ROYALTY ABROAD. Copenhagen, April 22.—King Edward and Queen Alexandra arrived here yesterday from London on a visit to the Danish Royal family. They were welcomed by King Frederic and Queen Louise, the diplomatic corps and the naval and military dignitaries. The streets, through which their Majesties drove to the palace, were gaily decorated and crowded with people.

POLICE CHIEF DISMISSED. Nelson, B. C., April 22.—Chief of Police Carroll has been dismissed from the force for reasons which are not disclosed, but which he himself confesses to have been "highly reprehensible conduct."

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CHARGES AGAINST PROFESSIONAL MEN Local Doctor is Alleged to Have Been Responsible for Criminal Operation.

OTTAWA HOSPITAL BLAZE. Ottawa, April 22.—Only perfect fire-alarm prevented a panic when fire broke out in the Protestant general hospital yesterday afternoon. The roof of the west wing was in a blaze when discovered, but prompt action by the attendants quelled the patients' fears until the fire was extinguished.

COAST LAND DISTRICT. Take notice that E. N. Brynildsen, of Delta, B. C., occupier of the land, intends to apply for permission to purchase the following described lands: Commencing at a post planted at northwest corner of Lot 251, thence west 1/2 chains 41 links to shore line, thence in an easterly direction to the west line of Lot 251, thence north 3 chains to point of commencement. February 29th, 1908. DOMINION HOTEL, Victoria, B. C. Maintained on the highest standard; rates \$1.50 to \$2.50 per day. Free bath.

LONGSHOREMEN'S WAGES. Montreal, April 22.—Steamship lines trading to Montreal yesterday issued a notice to longshoremen that the wages to be paid this year will be at the rate of \$2.60 per hour for day work, and \$2.50 per hour for night work. In addition to this, longshoremen will be paid a bonus of 24c. per hour, providing they work throughout the whole shipping season.

\$1.00

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