

Supreme Court Opened.

Address to Grand Jury by His Lordship the Chief Justice.

The winter term of the Supreme Court opened yesterday. His Lordship the Chief Justice, Sir William Horwood and Justices Johnson and Kent were on the bench. The Grand Jury as follows were in attendance—D. J. Johnstone, foreman; James Pidgeon, John Clouston, John Marshall, Charles W. Udle, Moses Wellman, M. J. Dyer, Sidney Bursell, Charles Johnstone, Michael Codner, Edward Neary, Archibald Wheeler, John Savage, Charles Butt, William Luther, Donald McIntosh, John T. Kelly, William F. Kenny, J. P. Kelly, Harold Rowe.

The cases for consideration were Rex vs. Julian Chaisson for bigamy, Rex vs. William H. Trask for manslaughter; Rex vs. William Snow for manslaughter. When the Grand Jury had assembled His Lordship the Chief Justice addressed them as follows:—Mr. Foreman and Gentlemen of the Grand Jury: You have been called together today to consider three Bills of indictment. The first bill charges William H. Trask, that on the 23rd day of September, 1918, at St. John's, Newfoundland, he did unlawfully kill Henry Nell. The offence charged here is what is known in law as manslaughter. Manslaughter, as you know, is a homicide clearly distinguishable from murder. It is of the essence of this crime that there is no intention whatever on the part of the person accused to take away life. It is true that there are cases of manslaughter that very nearly approach murder, but then there is another class of manslaughter known in law as involuntary manslaughter, which very nearly approaches accident. It is where a man is doing what is perfectly right and legal, but does it in a negligent way, and the result of his negligence is that the death of another ensues. That is this case, or that may be this case when it is eventually tried by the Jury called upon to consider the guilt or innocence of the accused. You are not called upon to do that. Your position as Grand Jurors is simply to consider whether the charge is or is not unfounded, and if you are convinced that it is not unfounded then it is your duty to pass it on to another Jury for trial. Now, gentlemen, I do not think when you have heard the evidence that you will consider that this charge is frivolous and baseless. The circumstances as they will be related to you by the witnesses are these: On the evening of the 23rd September, just after six o'clock, this motor car in which the accused was, and was driving, came up Water Street and went into Adelaide Street. The witnesses are quite clear that before leaving Water Street and going into Adelaide Street the whistle or horn was sounded. The car proceeded up Adelaide Street on the west side. Now Adelaide Street at that time, as you know, is a much frequented thoroughfare; it is the Junction of the street car system, and besides that, it is one of the main arteries of the city by which persons working on Water Street go to their homes, and the witnesses speak as to a number of persons being on this street at that time. There is nothing, of course, unlawful on the part of a motorist going into a street so frequented, but if he goes there the law casts upon him the duty of exercising the greatest care towards pedestrians. What would be a perfectly proper place for a car ordinarily would not be a proper place in circumstances such as I am referring to. Speed is a relative term. Now I wish to caution you, gentlemen, against anything you may have heard or read about the speed here. The newspapers here were, I think, all at one in declaring that this car was going at a very slow rate of speed. I have read the depositions most carefully and I see nothing in them whatever to warrant that statement. You will not misunderstand me, there was no charge made by anybody that the car was going at a furious pace but there is nobody who speaks of it going very slowly except one witness and that

was a person in the car, and he says that he "guesses the car may be going about eight miles an hour." One of the other witnesses says that the car was going at a regular pace. Now I don't know that the question of speed determines or will determine the matter. It is one of the elements that will be considered of course as a determining factor, but it is not in itself decisive, because the law requires that a carriage or a car taken in such a place must be under such complete control that it must not run over any pedestrian. That is the only rule of safety. That is the duty which the law requires of all drivers. It is not sufficient for a man to say that my carriage or my car was going slowly but it has to be shown that it was under such complete control that it could be brought up before it ran over any person in front of it; that the driver exercised proper control over the management of the car and was not culpably negligent. It may be that a person indicted may be able to show that there was no culpable neglect on his part, that nothing that he could have done could have avoided the occurrence. But where human life is taken, those who take it are required to make such explanation. Now, gentlemen, as I have said before, it is no part of your duty to enter upon a trial of the case that is before you. You have only to satisfy yourselves that it is not a "frivolous" charge, a trumped up or needless charge, but that it has that element of seriousness which calls in the public interest for further investigation, an investigation not made in camera, not made in a Grand Jury room, but an investigation made in the eyes of the public where all the evidence is heard and where a jury, whose duty it is to determine the matter, can decide whether the person accused has any guilt or whether he is entirely innocent. The Crown has no interest in unduly pressing the prosecution. All it asks is that justice be done and no jury has any desire to do anything but perfect justice to a person who in the circumstances may find himself awkwardly placed and then if he answers this charge, explains his conduct he goes out of the investigation with more respect and more honor than he would have done if the charge had never been properly investigated or had been stifled in its early stages. I don't know, gentlemen, that I need further address you on this point. There is, I believe, a plan put in showing the place where the accident occurred. The deceased man, Nell, in company with others, was returning from Water Street. He was going, according to one witness, in a westerly direction crossing the street, and here let me say that the pedestrian has the same right on the street, exactly the same right to the street as any other person who may be there in a carriage or a motor. A pedestrian is not confined to the sidewalk. His rights on the street are exactly equal to those of any citizen in a vehicle. Here is an elderly man returning from his work and going to his tea; perfectly sober, sees the car, looks out for it, tries to get out of its way, moves to the sidewalk that he was going towards, because he was on the western side of the street at the time. He was west of the car line, he was with others. The man next to him got to the sidewalk. He was going to the sidewalk when the car struck him. Then another man on the other side of him moved to the right and so avoided the car, but of course a citizen should not be expected to scramble for his life to avoid a car. It is the duty of anybody coming behind you to look out for you. All that a pedestrian is required to do is to look either side and in front, but anybody, even the street car system with its right-of-way has to look out for what is in front of it. The motor owner, the carriage-owner has no right-of-way. In no respect are their rights greater than that of the pedestrian. Nobody has rights to take risks with human

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life. While you will be very careful to consider the rights of the accused, you must not disregard the public duty that is cast upon you, and its seriousness in this community need not be commented upon by me. It is too obvious. Well, gentlemen, the plans, I think, will show you that within fifty-five feet from Water Street this occurrence took place. The front wheel of the car went over the body of Nell; the second wheel came on the body and rested there. Then when the man was removed from under the wheel he was taken in by the owner of the car, Mr. Trask, and driven by him to a doctor, and then on to the hospital, but before they reached the hospital he was dead.

I have also to ask you to consider a Bill of indictment which the Crown prefers against William Snow charging him with having, on the tenth day of October, 1918, in St. John's, unlawfully killed John Jeans. Mr. Jeans was a prominent and much respected citizen who was proceeding to his home on that night. James Diamond will be called as a witness on behalf of the prosecution to prove that he was in the car of the accused, sitting in the front seat on the left of the accused, who was driving the car, and that as they drove along Gower Street, going east, the car struck Mr. Jeans. The witness deposes that he caught sight of an umbrella before the car struck Jeans. When it struck him he fell, but the witness is unable to say whether the car went over his body. This was near Feaver's Lane. The car stopped at Victoria Street. This witness got out of the car and ran back a little way and then returned to the car, telling the accused, who was also out of the car, that the man was killed. At the same time another witness James Aylward, came upon the scene. He had been at 160 Gower Street and his attention had been aroused by a peculiar noise that he heard on the street like the falling of a hood of a carriage or motor car. He looked out the window and saw an umbrella spread out rolling towards the drain. When he went out he discovered the body lying face downwards, head pointing west. The witness, with the assistance of Private Bradbury, whom he called to his aid, moved the body to the sidewalk and had the matter reported to the police. Doctor Anderson who examined the body found evidence of injuries to the base of the skull, hemorrhage from mouth and ears, and fractured jaw; also bruises over right cheek bone. He was of opinion that death was instantaneous. You need only consider the conduct of the accused in so far as it affects the cause of the death and in each of these cases the question for your consideration is identical, namely, Does the evidence disclose a man in a state of culpable carelessness on the part of the driver of the motor. The directions I have given you are applicable alike to each case, and I wish to inform you that my learned brothers completely agree with me in all that I have said to you. You will be careful to remember that these cases are not now being tried by you and that all you have to consider is whether the charges are baseless or whether they are such as should be passed on by you for trial to another Jury, whose duty will be to give a verdict according as they find the accused from the evidence submitted to them to be guilty or innocent. It is not necessary for you to be unanimous in your finding; it is sufficient if twelve of your number concur in a Bill.

The Crown also proposes to lay before you a Bill of indictment charging one Julian Chaisson with the crime of bigamy. Witnesses will be called before you to show that the accused was married on the 12th day of November, 1913, at Cape St. George to one Julia Young—his wife still lives; and on the 7th of September, 1918, he misrepresented that he was a widower, purported to marry one Marion Kingdon, of Indian Island, by having the Marriage Service again performed by a clergyman. I have to ask you to hear the witnesses the Crown will call in support of these Bills of indictment and to give consideration to the cases in the order in which the Crown Officer may present them.

The Grand Jury then retired and after a brief interval returned to Court with a "true bill" against Chaisson. The prisoner was later arraigned and pleaded guilty. He will come up for sentence at an early date.

The consideration of the Snow and Trask cases occupied the attention of the Grand Jury all the afternoon. At 5.30 a deputation from the Jury came into Court asking for directions. Justice Johnson, in the absence of the Chief Justice furnished the information required, and the jurymen returned to their room. A few minutes before six the Jury announced to the Court that they had found true bills against Trask and Snow. The date of the trials will be fixed later. In the meantime the accused are admitted to bail.

Shipping Notes.

The Gaspe, Capt. Wakeham, sailed for Pernambuco this morning with a cargo of fish from Jas. Baird, Ltd. The Belta Scotia, recently built for the A.N.D. Co., is loading pulp and paper at the dock premises for South America.

The Amy B. Silver sailed from St. John's yesterday with a cargo of fish for Oporto.

The s.s. Thetis goes on dock shortly to humanize the sea. The Neptune sailed from Sydney to-day with a load of coal for this port.

The Jean McKay sailed from Change Islands yesterday with 7,000 qts. of fish from Elliott & Co., for Gibraltar.

The Andreas Roca is now loading fish from Lazo & Co. for Seville.

The Francis Swires, which left here yesterday for St. John's, was forced to put back to port by reason of the contrary winds.

Change of Business

On and after the 1st day of January, STAFFORD'S PHARMACY, Duckworth Street, will be closed for all RETAIL BUSINESS, and in future be used as a WHOLESALE MANUFACTURING DEPARTMENT for all kinds of DRUGS, CHEMICALS, PATENT MEDICINES, SUNDRIES, etc. All Prescriptions for STAFFORD'S PHARMACY, Duckworth Street, may be repeated if necessary at Theatre Hill. jan2,tf

False Alarm.

Last night a fire alarm was sent in from Box 27, head of Garrison Hill, and both the Central and Eastern companies responded. Upon arrival at the scene they found that the caretaker of the B.I.S. Hall had been creaking out the rooms and furnaces and the burning of the refuse was productive of the smoke and flame seen coming out of the chimney, and hence the false alarm.

Personal.

Mr. J. H. Butler, of Topsail, left by Tuesday's express for Boston, to visit his son Harry, who is very ill of Spanish Influenza.

Mr. Job Roberts, who had been ill for some time, is now convalescing.

Mr. R. Daley, of Heart's Content, is in the city on a brief visit.

From Cape Race.

Special to Evening Telegram. CAPE RACE, To-day. Wind west, light, weather dull and hazy. A barque whose signals could not be distinguished, and a small schooner passed in yesterday afternoon. Nothing sighted to-day. Bar. 29.50; Ther. 57.

Every Saturday evening after 7 o'clock, Choice Ends of Beef, Mutton, Lamb, Pork will be sold at cost. ELLIS & CO., LTD., 203 Water Street.—nov29.

NEW YEAR SALE 20 p.c. Reduction.

For a limited time only, commencing on January 2nd, we are offering a 20 per cent. reduction on our entire stock of Ladies' Winter Coats, Tailored Suits, One-Piece Dresses and Blouses, as follows:—

WINTER COATS,

In Plush, Chinchilla and Tweed, in Black, Brown, Navy, Grey and Wine.

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LEWELLYN CLUB.—At to-night's meeting of the Lewellyn Club, Rev. Dr. Jones will lecture on "The Ill-mated brother and some false brothers I know," dealing with Joseph.

Stafford's Essence of Ginger Wine at Stafford's Drug Stores for 20c. bottle. Postage 5c. extra.—nov25,tf

FLU SUFFERERS.—One of the crew of the schr. Colonia was found to be suffering from influenza yesterday. He was admitted to the hospital this morning.

Essence of Ginger Wine can be obtained at Stafford's Drug Stores for 20c. bottle. Postage 5c. extra.—nov25,tf

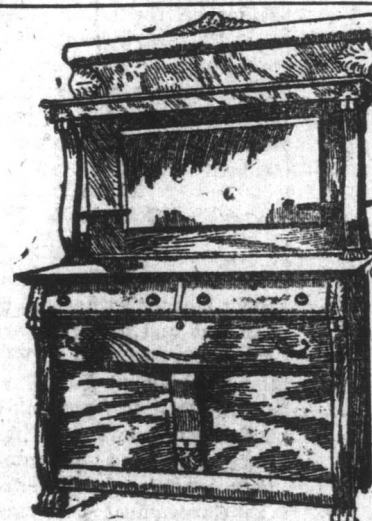
MARINERS RETURNING.—The Rafuse and crew of the schr. Success, which was lost on Oporto, are returning home by direct vessels.

Colds Cause Grip and Influenza. LAXATIVE BROMO QUININE Tablets remove the cause. There is only one "Bromo Quinine." E. W. GROVES, nature of the box. 30c.

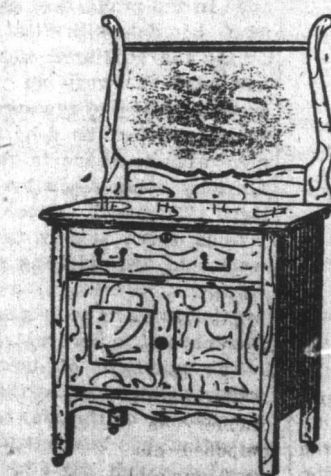
We have Just Received a Shipment of New FURNITURE.

Some very suitable for Xmas Presents, all moderately priced.

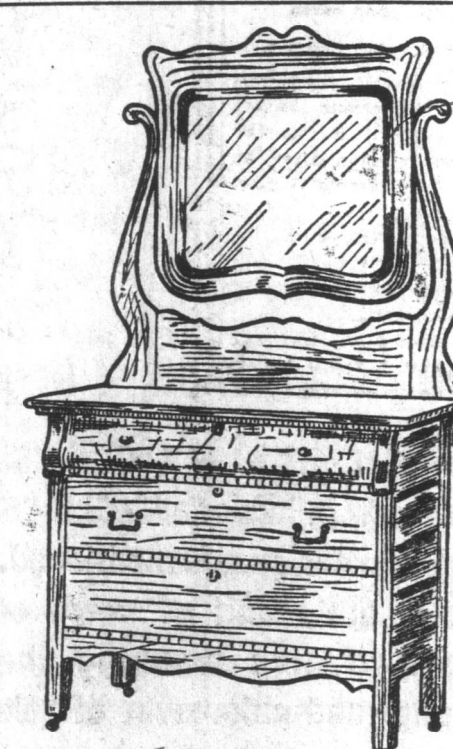
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