THE HURON SIGNAL

Is published every Friday Morning, by Mc GILLICUDDY Bros., at their Office, North S off the Square)

GODERICH, ONTARIO

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FRIDAY, OCT. 3RD, 1884.

THE BEAMISH TRIAL.

Trials for murder are fortunately rare, more rare perhaps than might be expected in this large and populous county. It is no wonder, therefore, that the recent trial of James Beamish and his two sons, Henry and Manasseh, for the murder of William Mains, last May, near the village of Blyth, should have greatly excited local attention. On Monday last, after a trial extending nearly four days, the jury rendered a verdict of manslaughter against all three, but recommended Manasseh to mercy, and the sentences imposed by his lordship, Chief Justice Wilson, were, twenty years in the penitentiary to the father and Henry, and five years to Manasseh.

Of course, it is highly desirable in the interest of society, that crime should be rigorously punished, and peace and good order maintained, but it is also desirable, if the lesson is to be effective, that public sentiment should approve of the conclusion reached and the punishment imposed. Unfortunately, in the present instance there is a general feeling, now that all the facts are known, that injustice has been done to the prisoners,—that, in fact, whatever may be the legal measure of their guilt, their sentences were, at all events, much more severe than the circumstances warranted.

The leading facts as detailed in evidence appear to be as follows: On Saturday evening, the 24th May last, a quarrel about some trifling matter arose between young Thomas Manasseh Beamish and George Mains, a son of the deceased, William Mains, but no blows were struck, although much loud, and, no doubt, silly talk was indulged in. George appears to have reported the circumstance to his father on the following Sunday morning. Mains who was a hasty, violent man, much given to quarreling, on the same day, in company with his son George, sought out young Beamish, who, with some companions, was spending his Sunday afternoon in the neighborhood of a cemetery a short distance from the Mains residence, and after a word or two about the previous evening's squabble, Mains caught Beamish, who at the time was lying upon the grass, by the throat, and a fight ensued, wholly of Mains' seeking. In the course of this fight, Mains procured a stout beech club, with which he tried to strike Beamish over the head. They were separated, and Mains before leaving for home, declared he would have revenge before the sun went down, or before Beamish went to his work on Monday morning. Shortly afterwards young Beamish with a companion started for home. Their way led them past the Mains residence, but on approaching it they saw Mains and his son George, coming toward them with sticks in their hands. Upon seeing this, Beamish and his friend left the public road, and reached home by passing through the fields. Having reached home, young Beamish informed his brother Henry of what had taken place. Henry is stated on all hands to have been a quiet and well behaved young man. Later in the afternoon, Henry and Thomas, with a young man called Tamon, walked down towards Blyth, some 60 rods from the Beamish residence, and in the direction of the Mains residence. When at the corner of the Clinton road at its junction with the gravel road leading to Blyth, they saw Mains and his son George come from his house to the Clinton road, where he called Henry to him and proposed to fight at once, but Henry objected. Mains then said "Meet us tomorrow at this corner at half-past six, and if my two boys can't lick you two (Henry and Manasseh) I'll drown them." Whether Henry accepted or declined the challenge, was not clearly proved, but it appears to have been assumed that he accepted. Next morning by about half-past six, the Beamish family saw from their house that the Mains family, the father and his two sons, John and George, all stalwart, able-bodied men, were at the appointed corner, apparently waiting. The elder Beamish, who had heard from his sons of the trouble with Mains, went down to see if he could make peace, while the boys went to their breakfast. After breakfast Thomas, who worked at his trade of framer in the village of Blyth, and who to get to his work had to pass the corner where the Mains were, walked down to the corner, his brother Henry accompanying him. What actually occurred at the beginning of the strife at the corner is unknown, as the mouths of all the three Beamishes were closed by their position in the prisoners' dock, and the only account of the affair in its commencement, is derived from the testimony of the two Mains boys, John and George, who, in addition to contradicting materially their evidence as given before the coroner, were evidently determined to remember nothing that could by any chance help the prisoners. They were compelled, to admit, however, that old Mr. Beamish's efforts were for peace. They stated that upon coming upon the ground, Henry Beamish, who had pulled off his coat while walking, at once made a violent attack upon Mains, their father, striking him, and then clinching, and throwing him violently upon the road, afterwards, while he was on the ground, beating and kicking him in the side. On the other hand, young Willie Beamish who was watching affairs from his father's gate, and who was at least as credible, one would think, as the Mains boys, and who gave his testimony in a much more straightforward manner, says that after Henry and Thomas reached the corner they halted, then old Mr. Mains passed over to his son John, to whom he apparently spoke, while Henry Beamish took off his coat and placed it on the fence and returned towards the road, where he stood still, until Mains made a rush at him, and the struggle began. One would imagine on this evidence, and keeping in mind Henry's peaceableness and Mains' character for passion and violence, that the fair inference is that Mains was here, as he had been on the Sunday before, the aggressor. It is probably of little consequence legally which of them struck first, but it certainly has an important bearing upon the moral aspect of the case. Henry proved too much for poor Mains, and beyond question punished him most severely, perhaps to the extent of causing his death, although the medical evidence was by no means conclusive on this point. Had Henry simply given Mains a sound thrashing the popular verdict would undoubtedly have been that a bully had simply got his deserts. There can not be the slightest doubt that that was all Henry intended. Excited to violent passion by Mains' conduct, he went further than we, calmly criticising his conduct, think was necessary, and in kicking him was unquestionably guilty of gross violence, if not of brutality. But even for this violence there was some excuse. There were upon the ground three able-bodied members of the Mains family. George was already engaged in a fight with Thomas Beamish, while John armed with a club was running between the fighting couples. Old Mr. Beamish apparently stood guard over his son Henry and Mains, and prevented John's interference with his stick. Old Mr. Beamish is an invalid, far gone in consumption, and was physically unable to protect himself, much less to assist his son in case Mains got the better of him, as appeared not improbable. Henry knew of Mains' habitual violence, that he would likely stick at nothing to conquer, and in this idea, no doubt was more violent than he would have been had the circumstances been otherwise. Had Mains got the better of Henry Beamish, it is quite possible their positions would have been reversed. It would probably then have been Henry's funeral and Mains' trial. That Henry really intended to do no more than he considered necessary to conquer Mains, is shown by his offer to let him up when he said he would behave himself, and the request to the Mains boys to take their father away after he had let him up, when Mains insisted on resuming the fight. After letting him up Henry was again twice attacked by Mains, the second time with a stick, with which Mains struck at him. Each time Mains was repulsed with more or less violence, and finally he walked off and threw himself or fell upon the ground, from which he was raised and carried home, and died the same night, from, as the doctors found on a *post mortem* examination, compression on the brain, caused by a clot of blood. His skull was not fractured. Some of his ribs were broken, but none of his several wounds were, as the medical evidence showed, necessarily fatal, although the medical gentlemen, Drs. Sloan and Young, called by the crown, gave it as their opinion that an artery had been ruptured, (causing the clot), by the external violence to the head. Dr. Holmes, on the contrary, called for the prisoners, was inclined to the opinion, from the absence of fracture of the skull and the position of the clot, (which was found between the dura mater, or internal lining of the skull, and the brain), that it was the result of bleeding from internal causes, induced by great physical exertion and mental excitement—in other words that the case was one of apoplexy.

A circumstance greatly against the prisoners was the fact, as disclosed by the evidence, that the elder Beamish, while the fight was in progress, had told his son to "Sock it to him. Kick his ribs in," and that he had armed himself with a stick and stood near them, and prevented interference by John Mains, who would probably have rescued his father. There was no direct evidence that the elder Beamish did more than this, although it was suggested that he actually struck the blows with his stick upon the head which the crown doctors thought fatal. Against Thomas Beamish there was not a particle of evidence that he in any way assisted in the punishment of Mains. On the contrary, he was engaged throughout in defending himself, not too successfully, against the attacks of George Mains, who was much more than his match in size and weight.

The evidence for the crown was given by witnesses all of whom, who were able to speak of the actual occurrence, were more or less hostile to the Beamishes. Before the trial began, the prisoners' counsel asked to have them tried separately, they having been jointly indicted, and thus prevented from giving evidence the one for the other. This was refused and the court, therefore, had no account of the affair from the Beamish standpoint, except the evidence of Willie Beamish, who was not present at the beginning, although he saw the parties at a distance.

In the learned judge's charge to the jury, to which we, in company with many others, listened with close attention, we failed to find any reference to the circumstances of extenuation which, we think, were proved. He practically assumed the guilt of the prisoners as established beyond reasonable question. With his definitions of the law applicable to the case, chiefly among which was his statement, that all parties to a challenge fight are equally guilty (which should have included the Mains' boys as well as the Beamishes') in case death should unexpectedly result, we have no intention of finding fault in this article. Undoubtedly the law was correctly defined, but we must most respectfully submit that it was a question for the jury, and not by any means clearly proved, whether there had been an accepted challenge. Again, if there was a challenge in fact, who were the parties to it? Was the challenge that Mains and Henry Beamish should fight, or that the two Mains boys should fight the two Beamishes. If the latter, then the challenge fight was not fought at all. At all events, it was apparent that the elder Beamish had no part in the challenge. He had gone upon the ground to make peace, and then suddenly found himself involved in a fight, at least as much through the fault of Mains as of his own son. Then, we think it might have been expected that some reference would have been made to the provocation by Mains, and the responsibility for the origin of the affair placed upon the proper shoulders. To say nothing of the doubt created by the medical evidence as to the cause of death, it would surely have been no excess of favoritism to the prisoners to have directed the attention of the jury to the second and third renewals of the fight by Mains, and to have asked whether in doing what he did, Henry did more than was necessary to defend himself. In fine, without going through the charge which was throughout a powerful presentation of the case in the strongest light against the prisoners, it is sufficient to say that it practically left no alternative to the jury, if they were to regard it at all, but to bring in a verdict of murder against all three prisoners. The jury mercifully decided to call it manslaughter, and the sentences before referred to were imposed, instead of hanging, as must have been the case had the verdict been for murder.

Thus, through the quarrelsomeness of Mains, for he morally was the cause of the whole affair, two families have been bereft. To the elder Beamish a few years more or less in his sentence can be of little consequence. His dread disease will release him long before the term expires, if he even lives to get to Kingston. When Henry now aged 23 emerges to resume his life, a free man once more, he will have reached middle age, while Thomas just entering manhood, and who certainly struck no blow contributing to the death of poor Mains, will carry with him—with a feeling of its injustice—the felon's yoke through life. Before the event the Beamish family was highly respectable, as much so as any in the township. Henry particularly, was sober, industrious, and exemplary in every respect.

While every one must feel pity for the unfortunate end of the man who lost his life, and particularly for his poor widow and fatherless children, it is not much to be wondered at that public sympathy, in view of all the facts, is at present strongly with the Beamishes, and that while wishing by all means to uphold the strong arm of the law, there are many who think that lighter,—much lighter, sentences—would have better vindicated justice and satisfied the public conscience.

VOTING on the Scott Act will take place in Simcoe, Ont., and Stanstead, Que., on Thursday next. Within the next month ten contests will take place on the question. The temperance men expect to win at least eight out of the ten. It is hardly possible for them to escape an occasional defeat. 43 contests have already come off, of which the supporters of the Scott Act got 36 and their opponents only 7. The four votes on the question of repeal all resulted in favor of the Scott Act.

THE CASE OF THOMAS MANASSEH BEAMISH.

If ever a young man was placed in an unfortunate position by circumstances to a great extent beyond his own control, Thomas Manasseh Beamish, one of the convicted prisoners in the Mains manslaughter case, has been so placed. From the time he was struck the first blow by William Mains on Sunday afternoon until Mains succumbed in his fight with Henry James Beamish on Monday morning, Thomas Manasseh Beamish was the victim of unfortunate circumstances—he was the under dog all through.

The evidence shows that Thomas Manasseh Beamish and some companions were sitting by the roadside on Sunday afternoon when William Mains and his son George came up. Thomas Manasseh and George, the two young men, had had words the evening before on some trivial matter. William Mains, the father, who was of a quarrelsome nature, did not seek to heal the difference between the young men, but made himself a party to the quarrel. He attacked Thomas Manasseh, and succeeded in driving him home, stating that he would give him "a d—d good hiding before he went to work on Monday morning."

Next morning punctually at 6:30 o'clock Wm. Mains and his sons took up position on the road that Thomas Manasseh Beamish had to pass on the way to his work. William Mains had already promised him "a d——d good hiding before he went to his work," and was there with his two boys, apparently ready to keep his word. The facts of what followed are given in the evidence. Thomas Manasseh starts on his way to his work, and, fearing trouble, his brother accompanies him. When they meet the Mains, who are on the ground with hostile intent, a double fight ensues, Henry James Beamish and Wm. Mains oppose one another, and George Mains and Thomas Manasseh Beamish grapple and fight. In the struggle with George Mains, Thomas Manasseh receives the heavier punishment, and is worsted a second time by the person who attacked him. During the fight between Henry James Beamish and William Mains, Thomas Manasseh has had no chance to take part in the struggle—his whole attention is directed to taking care of himself. No evidence is produced to show that he has been the aggressor in any instance. Everything goes to prove that he has been the aggrieved party. He is quietly sitting by the roadside with some companions on Sunday when he is attacked by William Mains, and driven away. He is going to his work at 7 o'clock on Monday, and is again attacked by a party that has been waiting on the road from 6:30 to give him "a d——d good hiding" before he goes to work. In the second instance he gets the worst of the fight—another fight that was not of his own seeking. He takes no act or part in the fight between his brother and Wm. Mains, and yet an intelligent jury find a verdict for manslaughter against Thomas Manasseh Beamish, and a merciful judge sentences him to the penitentiary for five years, without the slightest compunction.

The jury were constrained to bring in a verdict of manslaughter against Thomas Manasseh Beamish, evidently, owing to the fact that the Chief Justice, in his charge, had said that when there was a challenged fight, and one of the principals was killed, the seconders on either side—yes, and even the spectators of the fight—were alike guilty with the person who had committed the act. This direction to the jury may be very good law, but it certainly is not good sense. If the crown were to have taken action from the opinion of his lordship, John and George Mains should have been in the prisoner's box for the killing of their father, and Mrs. Mains should have been indicted for the death of her husband, for these persons were present at the unfortunate occurrence, and were cognizant of the object of the meeting. Yet is there a sane juror in the world that would bring in a verdict against these people for the killing of William Mains? We don't believe there is.

And yet, in accordance with instructions from the court, a verdict was returned against Thomas Manasseh Beamish, who was as guiltless of the blood of Wm. Mains as was any one of the Mains family who was present at the affray.

The above is the story of Thomas Manasseh Beamish's connection with the killing of William Mains. He had a perfect right to proceed to his work on Monday morning, and to pass along the road where the Mains were waiting to obstruct him. He did not go out of his way to meet the Mains family, but they put themselves in the way to waylay him. He had no act or part in the struggle with William Mains on Monday morning, and is as innocent of blood-guiltiness in this case, as was any one in the court-room who listened to the trial.

Under these conditions he is a fit subject for executive clemency—nay, not executive clemency, but executive justice. His case is a hard one, and he has already suffered more than should have been his portion. We hope to see every effort put forth to secure the freedom of this young man, and to show that when an error has been committed in the effort to discharge justice, reparation to the injured one will not be withheld.

We have no sympathetic feeling in this case, but we have listened to the evidence, and our sense of right and justice compels us to speak out. We never saw Thomas Manasseh Beamish until we beheld him in the prisoner's dock, but we have heard the case, and we are not afraid to state that justice has not been dealt out to him. On points of law we will bow to the opinion of Chief Justice Wilson, but on the facts of the case as presented, we unhesitatingly take issue with that learned gentleman.

THE SCOTT ACT.

The Vote in Huron Fixed for Thursday, Oct. 30th.

Bruce and Huron Vote on the Same Day.

A despatch from Ottawa states that Thursday, October 30th, 1884, has been officially fixed as the date for polling on the Scott Act in this county. Huron and Bruce will vote on the same day.

THE Scott Act campaign will be in full blast by next week. The fervid eloquence of the orators will be heard in town and township, and the excitement will run higher than ever.

WHAT is the rooster at the top of the Mowat demonstration column in last week's HURON SIGNAL crowing for?—[Exeter Times.

Ask Jim Miller.

WALKERTON, the county town of Bruce, has a rate of taxation as high as 19 mills on the dollar. Goderich pays 18¾ mills, while Milton, the county town of Halton, has only 16 mills. These figures are interesting in the light of the question. "How are you going to meet the increased taxation under the Scott Act?" The Scott Act county is ahead so far.

Goderich Township.

Mrs. G. F. Graham, of Port Albert, has been visiting her daughter, Mrs. Jno. Whitely, of the Huron Road.

W. Herbison has as usual been successful in exhibiting butter. He was awarded a first special prize at the Western fair for the best tinnet of butter, and second prize for best three tinnets. In the fruit line he took two prizes for apples and one for pears. At Toronto he took a $20 prize for butter.

On show day in Goderich, Samuel Burke, who was holding a colt belonging to his brother James, was struck by the head of the animal and fell backward full length on the sidewalk, his head coming violently in contact with the plank. He was taken up apparently lifeless, but only stunned. Dr. Whitely attended to the case and at last accounts Mr. Burke was progressing favorably, though it will be some time before his system will be completely free from the effects of the severe shock it sustained.

Holmesville, Sept. 29th, 1884.

Council met today pursuant to adjournment. All the Members present. Minutes of last meeting read and passed. The collector was present with his sureties; his bond was duly executed, when he received his roll. As the statute provides for paymens of all taxes on or before the 14th December of present year, no extension of time beyond that date will be granted. The treasurer's bond was examined when it was moved by John Beacom, seconded by E. Acheson, that the treasurer's bond having been examined by us we consider it satisfactory—Carried. Letter from Mr. Joseph Holmes read, relating to gravel pit on his land as the gravel is not needed at present, the letter was fyled. The following accounts were paid, viz:—Clothes and boots for Jos. Miller, indigent, $3.93; to Jos. Miller for one quarter's board of same, $18.75; to Mr. Bray, indigent, $10; to Wm. Collins, indigent, per Mrs. Collins for one quarter's board, $18.75; to Geo. McMillan for taking a vagrant to goal, $2; to reeve for four days attending attending court on Naftel case and two days more in connection with same, $9.50 to clerk four days attending court on same case, $5.75. Council adjourned to meet again on the 1st Monday in November.

JAMES PATTON, clerk.

Leeburn.

Mrs. Jefferson visited the London fair and during her stay in the Forest City was the guest of her sister, Mrs. Land.

W. Aborn spent a portion of his vacation here last month. He left last week to renew his medical studies at McGill College, Montreal.

CROPS.—The early fall wheat that was sown this fall is a very uneven crop, but the late that has been sown within the last ten days is considerably better.

The world and his wife of our hamlet took in the fall show at Goderich on the 24th inst. Those who didn't get prizes grumbled at the rain, and said the old motto was true whenever the fair sex gather it brought rain.

Mr. Drumm, who has had charge of the Presbyterian church for three months past, preached for the last time on Sunday. His sermons during his stay show study and thought, and made deep impressions on his hearers. He goes back to Knox College carrying the good wishes of Leeburn for success in his future studies.

At the meeting of the lodge of I.O.G.T. on Friday evening W. H. Clutton, J. Hoggarth and J. Linklater reported a good gathering at the District meeting at Seaforth on the 22nd ult. The work of organization in view of the forthcoming vote on the Scott Act was eloquently and forcibly urged by speakers. The delegates speak highly of the hospitality of the Seaforth people.

AUTUMN ASSIZES.

The Cases That Came up for Trial—Decisions in the Cases.

Before the Hon. Chief Justice Wilson.

FOURTH DAY.

The Queen v Martin.—Cameron counsel for prisoner, moved, on affidavit and certificate, to have trial extended to next assizes. Granted

The Queen v W. Hunter.—Prisoner arraigned on an indictment for rape, and pleaded "not guilty." On application of crown the case was traversed to the next assizes.

The Queen v Charles Herbert—Rape. Traversed to next assizes.

The Queen v Fred Soles—Rape. Traversed to next assizes.

The Queen v Henry James Beamish, James Beamish and Thomas Manasseh Beamish—The prisoners were indicted for "murder," and each and all pleaded "not guilty."

The Queen v Charles Tait Scott—The grand jury came into court with two bills' for fraud against deft.

The following is the

PRESENTMENT OF THE GRAND JURY:

We, the grand jurors of our Sovereign Lady the Queen, beg leave to report that we have examined the jail; we have found it clean and well kept. We found therein 12 prisoners, 6 males and 6 females. We regret very much to state that 3 females and 1 male prisoner are insane. We would recommend that another ward for females be provided so that sane and insane can be kept separate. We also recommend that the insane prisoners be removed as soon as possible to some institution which is provided for the same. We regret to find so many criminal cases on the list for this court. We tender our thanks to Mr. Lewis and also to Mr. Lount for their valuable information and assistance in our duties. All of which is respectfully submitted.

JOHN PARSONS, foreman.

The Queen v. McDonald—Lount, Q. C., on behalf of crown, moved to have this indictment traversed to the next sittings of the quarter sessions for this county, which his lordship ordered to be done.

Mr. Osler moved for an order allowing the Beamishes to sever in their defences. His lordship refused to interfere with the existing state.

After the selecting of the jury, the court adjourned at 6:30 p.m. until eight o'clock on Friday.

FIFTH DAY.

Court opened at 8 a.m., pursuant to adjournment.

The case against the Beamishes for murder was continued.

The court adjourned at 6:30 p.m. until 8:30 on Saturday morning.

SIXTH DAY.

McCrae v Baeker—His lordship gave judgment as follows: I find the plff is entitled to recover from the deft as hereinafter stated. I find the plff is liable to pay the deft. half the costs of the ejectment action of Baeker and the now plff against McNaughton, and that the deft is entitled to an allowance from the plaintiff, for not getting possession of the premises in May, 1882, and not until May, 1883, equivalent to the interest on the $700, the then unpaid balance of the purchase money; and also because the plaintiff could not make a good title to the defendant. Lispendens in McNaughton v. the now plaintiff remained in the registry office. I allow as follows:—Interest on the balance of purchase money ($700) from 20th of October to 20th November, 1883, one month, $3.50; the now unpaid portion of the $700, $300; interest on the $300 from 20th Oct., 1883, to 27th Sept., 1884, say 11 months, $16.50. Total $320. And from that I allow the defendant half the costs of the action of ejectment, $54.35, but not interest on the same; and I find the balance in favor of plaintiff for $265.65, and give the plaintiff the costs of the action; and I stay all proceedings on the judgment I now give for plaintiff for the period of one month from 27th Sept., 1884.

The Queen v. Robt. McCullough—Prisoner arraigned, and pleaded not guilty to indictment for felonious wounding. On behalf of the crown, Mr. Lount moved to traverse the indictment to the next assizes for this county, to which his lordship assented. Prisoner entered into his own recognizance to appear in the sum of $1000, and Jonathan Miller and David Curry became sureties in the amount of $500 each.

The Queen v. Charles Herbert—Cameron, counsel for prisoner, who is indicted for rape, moved on behalf of prisoner to admit him to bail. His lordship granted bail, prisoner in $1,000, and two sureties in $500 each. William Winters, Seaforth, and Joseph Herbert, St. Marys, became sureties.

The case against the three Beamishes was resumed.

The Queen v. Charles Tait Scott—Deft. was called to plead to an indictment for fraud, but did not appear. Mr. Garrow, as counsel for deft., the indictment being for a misdemeanor, offered to plead to it, but his lordship said that he would not consent to counsel pleading, the deft. not being present in court. Lount, Q.C., for the crown, moved for a bench warrant which his lordship ordered to issue.

Charles Tait Scott, of Wingham, was then called to come forth and save his bail, or he would forfeit his recognizance but he failed to appear, and his lordship ordered his bail to be estreated. Wm. Deacon, of the town of Wingham was called to bring forth the body of Charles Tait Scott, whom he had undertaken would appear here this day or forfeit his recognizance, but he did not appear, and his lordship ordered his bail to be estreated.

Court adjourned at 6.30 to 8 o'clock on Monday morning.

SEVENTH DAY.

Court opened at 8 a.m.

The trial of the Beamishes was resumed and concluded. A connected account of this trial will be found elsewhere in this issue.

Consolidated Bank v. Boland—Action on promissory note. Meyer and Dickinson for plff; Garrow & Proudfoot for def. Order made transferring case to next sitting of county court.

The court then adjourned.