AROUND THE CITY

THE GOVERNOR DINGLEY.

The Eastern line steamer Governor Dingley arrived yesterday from Boston with forty tons of freight and ninety passengers. She leaves this morning with a good freight and passenger list.

TO BROCKTON FAIR

Manager H. A. Porter of the Exhibition, and W. H. Golding, chairman of the Amusements Committee left last evening to attend the Brockton Fair and inspect the various features with a view to their introduction here next year.

PLACING OBSTRUCTIONS.

In the Juvenile Court yesterday before Magistrate Ritchie two boys were charged with placing obstructions on the N. B. Power Company tracks on Paradise Row. They pleaded guilty and were held pending the arrival of a third boy wanted for a similar offence.

ENROUTE HOME

Rev. G. M. Young and John J. Weddall, who have been in London, Eng., attending the ecumenical conference of the Methodist church, are to sail on Thursday for Montreal and are expected in Fredericton within the next two weeks.

AN ACKNOWLEDGEMENT.

The president and directors of the Old Ladies' Home received from Messrs. L. P. D. Tilley, K. C., and Harold Schofield, executors and trustees, the sum of three thousand dollars bequeathed to the Home by the late Ms. Elizabeth Wilson. This generous bequest is gratefully received and acknowledged.

REAL ESTATE TRANSFERS

Recent property transfers have been recorded as follows.

St. John County.

W. Baxter to Ida O'Leary, property in Simonds.

S. H. Ewing et al to H. B. Brown, property on Fairville Plateau.

East St. John Building Company to W. McCumber, property in Fairmount.

E. H. Fairweather to G. H. Johnston, property in Sewell street.

S. Linton to F. Lewis, property in Lancaster.

W. E. A. Lawton to J. Roderick, property in Orange street.

Kings County

J. B. Edgar to C. A. Robertson et al, property in Hampton.

F. H. Rouse to G. H. Fownes, property in Havelock.

S. J. Squibb to Catherine M. McCarthy, property in Rothesay.

Arrangements For Polling On Monday

Total of 124 Polls—79 in City 25 County, 18 Albert and Two Advance.

Sheriff Wilson, deputy returning officer for the constituency of St. John-Albert, has about completed arrangements for the polling on Monday next on the importation of liquor into the Province for beverage purposes and will start giving out the boxes today or tomorrow.

There is a total of one hundred and twenty-four polls in the constituency, seventy-nine in the city, twenty-five in the county, eighteen in Albert and two advance polls.

It was some job, the sheriff said last evening to get these boxes all ready as there were over fifty articles to be put in each one of them and this meant that every one had to be gone over that many times. This year he said the officials at Ottawa had saved the deputy officers some work as they had placed pencils, pens, penholders and sealing wax in an envelope and all that was necessary was to place this envelope in the box, where formerly they had to put each of these separate items in.

Heavy Fines For Drinking

Two Men Each Fined $208 for Being Drunk and Drinking in Public.

Yesterday in the police court James Coveney was remanded to jail and told he was liable to a fine of $500 for non-support.

Two men for being drunk and drinking in a public place each were fined $208.

A young woman who was arrested in company with a man and both charged with drunkenness was sent to the Monastery of the Good Shepherd for four months, the man was remanded to jail.

The time of the court was mostly taken up with Traffic Violation cases.

Frand Dykeman, Fred Sewell, Frank Cheney, Michael MacCauley and Fred Hyman pleaded not guilty to the charge of operating auto cars without the proper license. They were all fined $10 after the evidence of Officer Linton had been given. James Rogers pleaded guilty to the same charge and was fined $10. Dykeman said that he had gone to the city hall several times to get his number, but that there had been no one there.

Thomas Dickens pleaded guilty to the charge of exceeding the speed limit and was fined $10.

Frank McGarrigle pleaded guilty to driving on the wrong side of Main street and was fined $10.

A charge against Joseph Kelleher street car motorman for stopping his car between 70 and 80 feet from a white pole was dismissed.

Clifton House, all meals 60c.

JURY BROUGHT IN THE VERDICT THAT EDWARD P. O'BRIEN WAS NOT GUILTY OF NORRIS MURDER

Accused Testified in His Own Defence, Thoroughly Describing His Connection With Companion When Barnesville Farmer Received Death Blow—Heard Groan and Saw Norris Lying on Ground With Thomas J. Spellman Near—Was Asked Later by Spellman Not to Say Anything About the Matter—Addresses by W. M. Ryan for Defence, Dr. W. B. Wallace for Crown and Judge Barry.

Edward P. O'Brien was found not guilty of the charge of murdering Albert Norris by the jury before whom he was tried in the circuit court yesterday.

The foreman of the jury, A. Chipman (Ritchie, announced the verdict at 6.50 p.m., one hour and fifty-five minutes after the case had been left in the hands of the jury.

His Honor, Judge Barry then declared O'Brien a free man, and he was released from custody. W. M. Ryan, who had ably conducted his defense, was the first to reach his side and shake his hand.

After the jury were discharged by the judge, O'Brien shook hands with each one and thanked them for their verdict. Then a large number of those present came forward to shake his hand and congratulate him, following which he hastened home to his anxious family.

Norris Obtained Whiskey.

Owing to the illness of a juror the case could not be proceeded with till the afternoon. When court then opened a vendor, J. H. Driscoll, stated that Norris came to his store and that he there gave him a case bottle of whiskey on a prescription issued by Dr. J. A. McCourt. That Norris went away and again returned and in consequence of a phone message from the doctor, he exchanged the bottle for one of King George whiskey.

Detective Scott.

Barry L. Scott, Pinkerton detective, stated that he was present at detective headquarters on September 12 and took down in writing a statement made to Detective Biddescombe by the accused. The copy produced in court was identified by Mr. Scott as the one made by him.

At this juncture the clerk read the prisoner's confession, which has already appeared in this paper. O'Brien's mother and sister, who were present in court, were visibly effected and obliged to leave the room.

Detective Biddescombe.

Patrick Biddescombe, city detective, identified the confession produced, and corroborated Mr. Scott as to the warning given the accused. He said no inducements or threats had been made by him to secure the statement.

Dr. W. B. Wallace, the crown prosecutor, announced that this closed the case for the prosecution.

The Defense.

Mr. Ryan opened the case for the defense. He said he would place the young prisoner on the stand and have him repeat in his own words the statement just read. A statement which in no way incriminated the accused, but which he had made freely and voluntarily, and which he would make again, calling on God as well as man to witness to its truth.

O'Brien Testifies.

O'Brien, the accused, then took the stand in his own defense. He said he was twenty years of age, and had gone overseas at the age of 16 with the Bantam battalion in the latter part of 1916, and served seven months in France. He knew John Spellman who was connected with the case, and who had also served overseas, and he had heard he was shell shocked.

On the 8th of September he met Spellman in Haymarket square at two in the afternoon, and he (O'Brien) got three bottles of lemon extract which they drank together. Later they met a man and helped him drink two more. They parted at 5 o'clock, both going home to tea, and met in the square again at 6 o'clock.

O'Brien said he then gave Spellman the money to get three more bottles of lemon at Paddock's grocery store, which Louis Daley, who was with them, helped them drink. Later they met a man named Donnley, and he, O'Brien and Spellman drank a bottle of lemon which he had. After the man left O'Brien said he gave Spellman fifty cents and they got two more bottles which they drank. Both were pretty drunk by then.

According to O'Brien's statement he and Spellman drank eleven four ounce bottles of lemon between them between two in the afternoon and nine in the evening. A short while later they met Mr. Norris in front of Cogger's store. Norris opened the conversation and Spellman asked him if he had any liquor. Norris said no, but he wished he had. Spellman said he could get some for him, and the three walked over to the Ryan building. All were talking in a friendly way. When they entered the house Spellman went up to the third story and asked a woman if Freddie Keefe was in, and she said no. Spellman then came down stairs. After some talk all went outside. O'Brien said that he noticed Norris had a bottle of whiskey and asked Spellman if he would snatch it, but Spellman made no reply. Norris was about a foot away and could hear him. Norris said, 'Well, we'll have a drink, anyway." O'Brien said he started to go in the house but Spellman said that they had better go into the alley.

Heard a Groan.

The three went in the alley and nothing was again said about snatching the bottle. O'Brien said that he stepped out on the street to see if any inspectors or any one was coming. Then he noticed a groan as if a blow had been struck. He turned around and saw Norris lying on the ground and Spellman standing behind him. The bottle rolled to the sidewalk and witness picked it up and ran up the street to the corner of Hanover and Erin with Spellman following him. There they had a drink with Bernard L. Bowes in his house there, later they had another with Byard Vanwart in an alley nearby. After that he and Spellman went to Clarence street where Spellman gave him a shove that knocked the bottle out of his pocket on to the street where it broke. It was then, he thought, he left Spellman.

Asked Not to Tell

Spellman came to his home the next morning at 9. His mother and sister were present and nothing was said about the night before, Spellman left and returned at eleven but again said nothing. After dinner O'Brien said he walked down to near the Exhibition grounds with Spellman, and it was there Spellman said not to tell of what had happened, and he promised he wouldn't. Spellman said something about what was in the papers and that he did not mean to hit the old man so hard. O'Brien concluded his statement by saying he had told the whole truth and had concealed nothing.

Joseph O'Brien

Joseph O'Brien, a brother of the accused, was the next called He said he had been oversees as well as his brother Eddie and that another brother had been in the army at Halifax. He himself went over to England in a horse boat in 1914 and was accompanied by Thomas Spellman. They both enlisted there with the Imperials. The first battle they were in was at the Somme where Spellman was missing for four days and when found was shell-shocked. He next saw him in Liverpool after the Armistice when coming home.

Mother and Sister

Mrs. Catherine O'Brien, mother of the young prisoner, and Gertrude O'Brien, his sister, were called by the defense and told of Spellman coming twice to their home on the morning of the 9th. This closed the case for the defense.

Mr. Ryan's Address

In opening his address to the jury Mr. Ryan said that the young prisoner at the bar was charged with one of the most serious crimes, in the whole category of crime—that of murder.

The word itself suggested something gruesome, as of a house broken into at night, a woman's honor violated or a child spirited away and left at the mercy of some brute in human clothing. He thanked God that with that his client had nothing to do. The judge would instruct them as to what constituted murder, but the jury alone could determine on the facts.

The sympathy of the community was with the unfortunate young men as well as with the family of the poor man laid to rest. No one craved the young men's blood. It was for the jury to weigh the evidence and to return a verdict.

He would not say one word to reflect on the character of the old man, Norris, but it was known that he had a weakness, he craved for liquor and wanted it, and the same weakness was possessed by the accused.

If the crime had been either one of murder or robbery, would the two young men have gone into the Ryan house to speak to Mrs Moore? This showed they had no thought of murder, for to prove murder premeditation must be shown.

The boys were insane with lemon extract. The jury must ask themselves if the accused acted as sane and sober men. If they wanted the bottle they could easily have snatched it away without any trouble but they did not knew what they were doing, especially Spellman.

If the jury believed O'Brien's story, he was no more guilty of crime than a new born babe. His confession was part of the case of the prosecution, and not the defence. O'Brien said he did not know when he went into the alley, that a blow was to be struck.

If he were found guilty, it was possible that Spellman would walk out of the court a free man. If the prosecution had the two tried together O'Brien's confession could never have been used against Spellman, so that no one could say that O'Brien framed the story.

Dr. Wallace

Dr Wallace addressed the jury briefly He said his learned friend had appealed strongly to their sympathy, but in a matter of this kind it was the duty of the Crown, and the duty of the jury to investigate the case and see if the law had been violated, as it had been.

O'Brien had confessed that he had nothing to do with Spellman's act, but the law said if two men go out together, and one does something by which a third is killed, both are responsible. If a man committed a crime under the influence of liquor, and was in such a state as not to know what he was doing, then he could not be found responsible.

As to their state of drunkenness, both were able to run, and O'Brien had a bright conception of what took place. It could not be said they were so drunk that they did not know what they were doing. They went to get the bottle from Norris and if they could have got it without striking a blow they would have done so. However unfortunate, the fact remained that they had knocked him down and both were responsible.

Judge Barry.

Judge Barry in charging the jury said that the indictment charged that Edward O'Brien did, acting jointly with Thomas Spellman, both acting together, murdered Albert Norris. The charge was a very serious one, and one which was to be found occuring too often in the land. There seemed to be a wave of serious crime sweeping over the country, and the people were looking to the jurors to see that those guilty were punished.

Under the criminal code a man could be charged with any other crime along with murder, but if the charge of murder is not sustained, it is open to the jury to charge the accused with manslaughter.

Both murder and manslaughter come under homicide, homicide being the killing of a human being by any means whatever. It may be culpable or not culpable. Culpable manslaughter is either murder or manslaughter. If a man for an unlawful object does an act which he ought to have known would be likely to cause death, he is guilty of murder.

The jury, said the judge, were the absolute judges of the facts of the cases presented to them, and it was for them to say whether the accused was guilty of any crime or if guilty of murder or manslaughter.

If a man were so drunk as not to know what he was doing he could not have malice, if he did not mean to cause death, it would be manslaughter. All homicide was presumed to be murder however, unless the contrary was shown by the prisoner.

The question was whether the prisoner was guilty of murder, or manslaughter, or whether the circumstances were such as to entitle him to acquittal.

As to murder, was death caused maliciously. The evidence was short and simple and offered no contradiction. Did they believe O'Brien when he said he did not know the blow was going to be struck. To convict him of murder or manslaughter it was not necessary to show that he had hit the blow, but if it was shown that he was present, and acted and abbeted, he was guilty.

If they believed that the blow was able to believe that O'Brien or Spellin furtherance of a common object, it was clearly culpable homicide, and it was for the jury to decide whether it was murder or manslaughter.

There was another view, O'Brien said he did not know the blow was to be struck. It was almost impossible to belive that O'Brien or Spellman thought it was necessary to kill a man to get a drink especially when they could have snatched it from Norris with little trouble. This was a matter deserving serious consideration.

If O'Brien was present, but took no part in it, although he did not attempt to prevent it, he was guilty of a serious crime, but neither of murder or manslaughter, but if the jury were satisfied tha he was privy to the blow, and ready to assist in it, then he was just as guilty as his conspirator.

Assuming O'Brien and Spellman went out to commit an unlawful act, and that Spellman struck the blow, but that there was no common intent, then O'Brien could not be held guilty of the murder, but if there was a common intent, then both were guilty.

The evidence showed that O'Brien had first suggested seizing the bottle, and that he did first seize the bottle after Spellman hit the blow.

As to the plea of the defense that and defendant was a returned soldier, the judge said that because a man was a returned soldier that was no reason why he should be acquitted of crime.

"While deferring to none in my admiration to those who fought at their empire's call, I have never thought, and do not now think, that in judging of their innocence or guilt when charged with the commission of crimes at home, their past military achievements sholoud be taken into account.

To do that would be in effect to have one law for the returned soldier and another for the civilian, whereas both should be tried and judged by exactly the same law whether the accused is a returned soldier or not. It is not in the interests of the administration of justice, of public morality or order, and speaking generally, in the interests of the returned soldiers themselves—for after all only a small percentage of them would think of putting forward such a claim—that you should adopt any other course, and so I now instruct you."

In conclusion His Honor defined in what consisted a reasonable doubt, and asked the jury to carefully and fairly consider the case, having due regard to the rights of the crown, the community, and the unfortunate young men involved. If they had any doubt of O'Brien's intention, they must give him the benefit of the doubt. He would be very sorry to think a jury of intelligent men were unable to arrive at a verdict with the evidence that had been presented before them.

The jurors were: A. Chip Ritchie, foreman, G. Whitefield Hatheway, Herbert Nice, John A. Driscoll, DeWitt Cairn, Charles J. Hoty, Walter A. Adams, Wilfred M. Barton, Joseph S. Grey, John W. Armour and Richard H. Irwin.

Distribution of Hydro Current

Committee of City Commissioners and County Councillors Will Interview Gov't.

A contest in the Parish of Lancaster was foreshadowed at the meeting of the Municipal Council yesterday and that hydro power and incorporation of the parish would be two of the issues discussed in the campaign for councillors.

Councillor Campbell introduced a resolution that a committee composed of the City Commissioners, the Councillors for the Parish of Lancaster, two of the Simonds Councillors and one from Musquash be appointed to interview the Provincial Government in regard to the distribution of the hydro current in the city and county and the committee have power to spend any money necessary to obtain any expert information they might require. This was seconded by Councillor Golding.

This did not meet with the approval of Councillor O'Brien at all. He contended that in this matter as Lancaster lay nearer the point of production than the city or Simonds it should be given first chance and if necessary to incorporate to get that chance legislation along that line should be sought and he moved in amendment that the Parish of Lancaster be empowered to go to the Legislature with a bill setting forth their claims, on account of geographical position, to the distribution of the hydro power from Musquash and that parish be kept a separate corporation from the rest of the municipality. This was seconded by Councillor Donovan.

Councillor Schofield pointed out that under the Act the power must first be offered to the municipality and after some discussion the amendment was defeated and the motion carried.

Lengthy Terms In Dorchester

Three prisoners appeared before His Honor Judge Armstrong yesterday afternoon under the speedy trials act and the trio were given lengthy terms in Dorchester Penitentiary.

Edgar Bareham pleaded guilty to theft from W. H. Thorne and Co Ltd., and for breaking jail. He was sentenced to six years for the first and two years on the second, both sentences to run concurrently.

Fred Glynn pleaded guilty with breaking and entering a Union street garage and was given a term of four years in Dorchester.

Stanley Simmons pleaded not guilty to a charge of using worthless checks His trial was proceeded with, and he was adjudged guilty. He was sentenced to a term of six years in Dorchester.

WORLD'S SERIES BASE BALL RESULTS FROM THORNE'S BIG BULLETIN BOARD

Beginning this afternoon about three o'clock, the results of the World's Series Baseball Games will be announced by half innings, from the big bulletin board, just erected on the Market Square building of Messrs. W. H. Thorne & Co., Ltd., who have made special arrangements for a telegraphic service for this purpose. This is the second season that local baseball fans have enjoyed this privilege through the courtesy of the management of W. H. Thorne & Co., Ltd.

OPERA HOUSE

Matinee 2.30 Evening 7.20 and 9

Refined Vaudeville

Tuesday to Thursday

ANTHONY AND ARNOLD

In an Italian Comedy singing and talking skit entitled

"WHEN GREEK MEETS GREEK"

SANDIFER and BENSON

(Colored) Comedy Entertainers in

"Going to New Orleans"

3 Other Big Acts

SERIAL AND COMEDY

Beaver Board

The Ideal Wall Board for Beauty and Economy

For attractive, sanitary walls in your new home or office, for remodelling or freshening up the present one, Beaver Board admits of the most pleasing panneling effects and almost limitless decorative possibilities. It is easily applied, doing away with muss and dirt.

Try Beaver Board over old, badly cracked plaster walls. You'll b dleighted!

We can furnish Beaver Board in the following sizes:—32x96"; 32x108"; 48x72"; 48x84"; 48x96"; 48x108" and 48x120".

W. H. THORNE & CO., LTD.

Hardware Merchants

Store Hours:—8 a. m., to 6 p. m.; Open Saturday Evenings till 10 p. m.

PYREX Transparent Oven-Ware

In Pyrex food bakes quickly, retains its flavor and you can watch it baking through the dish—the bottom as well as the top.

Pyrex is sanitary, washes easily, keeps clean, never ages and is guaranteed not to break in oven use.

There Are Pyrex Dishes for Every Baking Need

A complete set may be had at a moderate cost—start yours today—get it at

Emerson & Fisher Ltd.

25 GERMAIN STREET

DRESS GOODS 65c Per Yard

You very seldom hear of such a low price on any kind of Dress Goods, but during this special sale you can buy a very good quality for that price, and you also have quite a variety to select from.

These are broken lines which we must clear to make room for the new fall and winter goods, so we have marked them all at a price that will clear them in a couple of days' selling.

GET YOUR'S NOW.

THEY COMPRISE 400 YARDS OF

Serges, Checks, Stripes, Plaids, Granite Cloths

65 to 75 King St. Macaulay Bros & Co LIMITED Exclusively a Woman's Store

CHARGED WITH ASSAULT

Louis Daley was arrested on a warrant last evening charging him with assaulting a young girl by striking her and beating her. One drunk was also arrested.

Mrs. R. G. Fulton will receive at her residence 202 Princess street, Thursday, October 6th, from four until six o'clock.

THE COLWELL FUEL CO. LTD.

Have in stock all sizes Hard Coal. 'Phone West 17 and 90.

COLLEGE INN FOR SALE.

Great opportunity for live investor. For particulars, see today's Times-Star.

FREE NIGHT SCHOOLS

for

BOYS AND MEN

are now open EVERY EVENING in the

KING EDWARD SCHOOL

corner of Wentworth and St. James streets, and in the

ALBERT SCHOOL

West St. John.

Splendid Opportunity!

Subjects taught:

READING, WRITING, SPELLING and ARITHMETIC.

The School Board will return the two dollar ($2.00) registration fee on the basis of attendance.