

## The Weekly Colonist.

Tuesday, August 9, 1864.

## THE ASSIZES.

[BEFORE CHIEF JUSTICE CAMERON.]

MONDAY, August 1.

## The Rape Case.

*Regina v. Herman Schultz and Jasper N. Trickey.*—Herman Schultz and J. N. Trickey, were arraigned for an indecent assault upon the person of a married woman named Esther Meiss. The prisoners were defended by Mr. Ring, with whom was Mr. McCright, instructed by Mr. Bishop. The indictment having been read and a plea of "not guilty" recorded, the following gentlemen were sworn in as a jury.

Patrick McTiernan, (foreman), Thos. Storey, John Eyre, Alfred Bawden, Thomas Wilson, Clark, Wm. Lyons, John Ribby, John Anthon, Thos. P. D. Wm. Deany, John Flett, John Wesley Dissell.

The Attorney-General rose and briefly addressed the jury. He said this was a case of credibility in the testimony he should submit to them. The proof of the charge rested upon the evidence of the female who made the charge, and he called upon the jury to make due allowance for any apparent discrepancies or contradictions which his learned friend might succeed in eliciting on cross-examination, as the witness he should call had been unaccustomed to be cross-questioned by counsel.

Esther Meiss sworn, examined by the Attorney-General. I remember the month of May last; I know Mr. Schultz and Mr. Trickey; Schultz invited me to his house on 6th May. I purchased goods from him at the store on that date. On Thursday, a week after that date, I went to pay the visit; it was about 3 p. m. I rapped at the door; Schultz opened it; I went in; I saw only Mr. Schultz then; he offered me some wine and poured out some into a tumbler. I drank half a glass; I left more than I drank; I felt giddy after I had drunk it. Afterwards I felt myself carried away by Mr. Schultz; he took me in the next room and placed me on the bed. I did not recover from the giddiness for some time. Mr. Schultz, I used to see him; I was there; I discovered afterwards that Mr. Trickey was also in the room; he also ill-used me in the same way (witness explained what she meant by "ill-used"). Shortly after I left the place and went home.

Cross-examined by Mr. Ring. I cannot say how long I remained in the room after this occurred; I fell asleep after Mr. Trickey had ill-used me; I got home about 7 p. m. There are some people living in some cottages at the back; I was not able to cry out when Mr. Trickey ill-used me. I was only able to whisper; I had no strength of voice to call out; I was under the bed cloth at the time; I was not able to get out of bed; I found when I got up that my top skirt and scarf were off; I did not take them off myself; there was a looking glass in the room and I adjusted my hair when I went out; I only mentioned the circumstance to my husband a fortnight after it took place; I did not go over to Mrs. Shipper, otherwise I would have told her about it; I had never been in Schultz's house before that time; I bought some goods before at the store which I did not pay for; Mr. Schultz knew me previously, that is why he gave me credit; I recollect getting a tea before this from Mr. Lash; I paid him \$1.50 for it on account; I never borrowed money from Mr. Trickey to pay the balance; I got money to pay it from my husband; I never was in the store before that time, and never went out of the private door before; I was in the back part of the store before with Lizzie and Dora Friedman, never by myself; I once said to them in my husband's presence that my husband left me without a bit; Mr. Friedman has a boot and shoe shop in Johnson street; I never showed my face to Lizzie and Dora; I was the key of the private door; I was not out anywhere between the 13th and 24th of May; at the last date I went with my husband to Beacon Hill; the baker brought the bread to the house and I went out to buy the meat; I saw Dora and Lizzie every day; I then the day after the 24th occurred; I do not know whether Mrs. Friedman forbade her daughters having intercourse with me; my husband forbade me associating with me; as he said they were not fit companions for me; my husband said this before the affair with Schultz and Trickey came off; I never said anything to Lizzie and Dora about having a key of the private door nor about going to Schultz's house to eat cakes. I know a man who works with a hand cart named Aaron; I don't recollect being at his house on the birth day of his son; I never said that my husband had left me without a bit in the house; I said once to Mrs. Hart that my husband had refused to give me a bit to buy some cheese. Mrs. Hart gave me a piece of cheese and while I was eating it my husband came in; I don't recollect saying that "I won't stand this any longer," my husband leaving me without anything in the house, or "you have driven it so far that I shall have to turn out bad to get a living for myself." I solemnly swear that I said nothing of the sort. I never recollect coming out the back way from Schultz's place and meeting Aaron. I was not in the upper room at Schultz & Trickey's place on the 14th or 15 or 16th May; Aaron cannot swear that he saw me there for it is not true; I swear that I never was in that private apartment before or after the day I was carried in there; I never had a key of the private door. Mr. Trickey never gave me one. The first time I knew Mr. Schultz was at the time of his marriage; I knew his wife; I came out from England in the steamer Tyne-mouth under the name of my stepfather Hodges; I was married here under my proper name Hurst; I went all my life by the name of Mary Hodges; I only knew my proper name on receiving a letter from my sister in England who told me my proper name. This letter was sent back to England by Mr. Lipsey, a friend of Mrs. Shipper. I became acquainted with Mr. Trickey first at the Sing Verein Hall at a dance there; I was not at Schultz & Trickey's place when Mr. Trickey was there; if he says so it is not true; I never told my husband that I got a \$5 gold

piece from Mrs. Copperman; I never got one from her.

Mr. Ring here asked his lordship to look at the depositions and see how many contradictions there were.

Witness. I did say that I had stolen at different times from my husband pieces of silver money, and that I had changed it into gold. I changed the silver into gold at a Frenchman's place; I had no particular reason for changing it into gold. I have changed 24 bits for a three dollar piece before.

Mr. Ring asked how many bits were among the silver I changed at the Frenchman's place, and I changed the gold again for silver to pay him five bits I owed him. Mrs. Hart never expostulated with me about my conduct; she is a woman who never speaks the truth. Mrs. Hart told me that I was not to knock at their door any more. I came past their house at eight p. m., and knocked, to waken M. and Mrs. Hart. Mrs. Hart never spoke to me about coming out of Mr. Jacob's bedroom, nor did she say that it was me.

Mr. Ring asked if I should kiss Mr. Jacob. Jacob kissed me when we went away to Cariboo. I slept away from our house the second night after my marriage, at Mr. Meyer's house, to nurse Mrs. Meyer; I went away from our house that night in consequence of quarrel with my husband. I never said anything about the occurrence with Schultz and Trickey to any female, as I had no lady friends; I was not friends with Mrs. Shipper at that time. I did not tell my husband about the matter directly after it took place, because I felt very unhappy. I know Herman Morris; I have got his photograph; I knew him a long time before I was married. I got the photograph from him after I was married. I never was in Mr. Trickey's cottage the latter end of April.

The Court here adjourned for one hour.

## Afternoon Sitting.

Esther Meiss—Cross-examination by Mr. Ring continued. I became inebriated about two or three minutes after I drank the wine that Schultz gave me. This wine tasted like cherry. I did not perceive any difference in the taste. Before I drank it, I asked Mr. Schultz how his wife was; I drank less than half a glass, and Mr. Schultz drank the rest. I tried to scream when the assault was committed, but I could not. I never walked away there with Mr. Trickey, or talked to him before I met him at the dancing room.

Re-examined by the Attorney-General. When I began to recover my consciousness, Mr. Trickey was standing by my side. There was no one present when Mr. Schultz carried me away into the private apartment; I am under the impression that it was Mr. Schultz who first had intercourse with me.

The Attorney-General here put a question to witness as to what she had noticed Schultz doing when he partially recovered his consciousness, which Mr. Ring objected to as a leading question. The Attorney-General, in replying, accidentally let fall that there was, up to that time, no evidence against Schultz. The two learned counsel for the defence immediately pressed upon His Honor that under the circumstances Schultz should be discharged, and placed in the witness box. The Judge would not, at this stage, however, receive their application.

Witness—There were evident signs when I became conscious that I had been abused. I was ill all the next day from the effects of the wine I drank. In reference to Mr. Schultz I do not recollect any more than that he carried me into the room and placed me on the bed; up to the time that I received the letter from my sister I imagined that my name was Mary Hodges; I was called by that name when I was a child. I was married on the 28th March last. When I went to buy anything for our house I used to keep back two or three bits or so by which means I recollect the \$5 spoken of. The second morning after I was married I knocked at Mrs. Hart's door to waken her; I never knocked at Mr. Jacob's door, nor did I ever enter his room.

By the jury—When you entered the house did you enquire for Mrs. Schultz?

Witness—Yes, I did.

Mr. Ring then again pressed His Lordship to discharge Mr. Schultz, which request His Lordship said he could not possibly grant, that the matter must pass in the usual manner for the decision of the jury.

Mr. Ring then addressed the jury, stating that he had a host of witness all who contradicted all which the witness Mrs. Meiss had stated; he could prove that she had boasted of having a key of the private door, of the accused, and that she had been frequently seen coming out of and going in at that private door; that Mrs. Friedman had forbidden her daughters associating with her, (that witness) on account of her improper conduct; that all morbid feelings of decency or delicacy should be set aside in a case where so very serious an offence was charged.

He examined whether there is anything against the name or good name of this woman as it must come out in the end. He asked her a whole fortnight. He would maintain that if she was really able to resist the alleged overtures of Trickey, she would be more able to call for assistance. It is all very fine to say that she whispered resistance; as in the language of the poet:

"A little still she strove, and then consent, consented."

(laughter). Further, if she became immediately inebriated how could she know that Schultz had carried her into another room and placed her on the bed? The witness declared that Schultz drank the greater part of the tumbler of wine from which she drank, it was strange it should operate as a stimulant and have an invigorating and vivifying effect upon him and cause her to lose her senses immediately—Schultz must if this be true have without doubt the strength and constitution of a horse. The counsel cited the law in such cases, as laid down by Russell, Archbold, and others, and went on to say that it is thought "women and men are always without date," that she (the witness) was not a chicken, and surely had common sense enough to know that she should have set about discovering the truth of the alleged outrage immediately after it took place, instead of leaving it for a fortnight—(a host of circumstances of the case served to throw entire discredit on the statement of Mrs. Meiss, the witness. He also called attention to the case with which an accusation of this sort could be trumped up, and how difficult it was to disprove it.

Lizzie Friedman sworn, examined by Mr. McCright for the defence. I am daughter of Mr. Friedman, boot-maker of Johnson street; I used sometimes to walk about with Mrs. Meiss; she came to our house one day in May and complained of her husband's treatment, that she had only bread and fish to eat. She then said she had a key and said she could go at any time into Mr. Trickey's room and get all that she wanted to eat.

The Attorney-General—You are sure that the name you heard was Trickey?

Witness—Yes I am.

The Attorney-General—That is all I wanted to know.

Mr. Ring here appealed to the jury to know

whether their minds were made up in the matter and upon receiving a reply in the affirmative the Clerk of the Court formally required the verdict, and an acquittal having been given the accused and left the Court amid the congratulations of all their friends. The prosecutor also hurried away indulging in lady like epithets, while expressing her indignation against all concerned.

Court adjourned until 10 a. m. to-day.

TUESDAY, Aug. 2d.

*Regina v. William Jackson and Wm. Carter.*—Mr. Ring defended the prisoners. These two men were indicted for assaulting one Shilhuack an Indian cripple. After going through the evidence against William Jackson, the jury returned a verdict of not guilty.

In the case against Wm. Carter it was proved that he had struck the Indian with a stick of rather large proportions in a manner that was likely to cause death, and the jury gave in a verdict of guilty, but on account of abundant proof given by various witnesses of previous good conduct, strongly recommended him to mercy.

His Lordship said that taking into consideration that he, the prisoner, had already been some time in prison, he would only inflict a fine of \$25, to be paid to the crown, or in default 1 month's imprisonment.

*Regina v. David Williams.*—This prisoner was indicted for the assault of one Solikirk as Nanaimo, pleaded guilty, expressing great contrition for the act. The prisoner having already suffered 4 months imprisonment.

His Lordship fined him \$25 to be paid to the crown, or in default, 1 month's further confinement.

*Regina v. Chas. Fisher.*—In this case Charles Fisher was charged with purchasing and receiving goods knowing them to have been stolen.

After listening to the evidence the jury returned a verdict of not guilty.

His Lordship adjourned the assizes to Thursday, 10 a. m., and gave notice that he would hold an Admiralty and Bankruptcy Court this morning at 10.30.

## ADMIRALTY COURT.

[BEFORE CHIEF JUSTICE CAMERON.]

Wednesday, Aug. 3d.

*Re ship Armin.*—Messrs. McDonald & Co. Bankers of Yates street, sued Capt. Mossenthal and owners of the Hanoverian bark Armin, for \$1850, alleged to be due upon a bill drawn by the captain on the Armin Dock Co. against the freight, and for other advances.

Mr. Cary instructed by Mr. Drake, appeared for the plaintiffs, and Mr. McCright, instructed by Mr. Copland, for the defendant.

Mr. Cary opened his case. It appeared that the captain had drawn another bill on Kopmanschap & Co. of San Francisco, for the same sum, both being in Mexican currency. The sum actually advanced was only \$1500. The drafts on Armin had been forwarded by Tullant & Co. to Messrs. Oliphant & Co. of that place, for recovery, and the defence was that as those drafts had been forwarded to Armin, the freight and the defendant would be liable for the payment thereof, and if the Court made him pay here he might be compelled to pay twice over.

Messrs. Waddell and Drake were called and examined and cross-examined, after which the Court adjourned.

## STATES ITEMS.

Lincoln's Formal Acceptance of his Nomination.

The committee appointed by the National Union Convention to inform Abraham Lincoln of his nomination for the next Presidential election, met at the Lincoln Hotel on the 14th of June.

Mr. Lincoln, the reply was as follows:—

EXECUTIVE MANSION, Washington, June 27th, 1864.

William Dennison and others, a committee of the National Union Convention, Gentlemen:—Your letter of the 14th inst., formally notifying me that I have been nominated by the Convention you represent, for the Presidency of the United States for four years, from the 4th of March next, has been received.

The nomination is gratefully accepted, and the relation to the Convention called the platform are heartily approved.

While the resolution in regard to the supplanting of republican government upon the Western Continent, is fully concurred in, there might be misunderstanding were I not to say that the "platform" for the government in relation to the action of France in Mexico, as assumed through the State Department, and endorsed by the Convention, among the measures and acts of the Executive, will be faithfully maintained so long as the state of facts shall leave that position pertinent and applicable.

I am specially gratified that the soldier and the seaman were not forgotten by the Convention, as they forever must and will be remembered by the grateful country for their salvation they devote their lives.

Thanking you for the kind and complimentary terms in which you have communicated the nomination, and other proceedings of the Convention, I subscribe myself your obedient servant.

ABRAHAM LINCOLN.

## NEVADA TERRITORY.

HABITAT. The Virginia Union has come to the conclusion that the times in that locality are very hard. All branches of business are depressed, and even the largest mercantile houses, it says feel the pressure.

It is entertained that many small dealers will be obliged to yield to the severity of the times. Many mechanics and laborers have been thrown out of employment, mills and mines have reduced the number of their hands, and few mines, except those of the first class, are being vigorously worked.

It is said that some of the things have been brought about by wild speculation.

Low Water.—The streams in the mining regions are all unusually low this summer.

The South Yuba river is lower than ever known before since the settlement of Nevada county. There is not ten inches of water running in the channel at this time, says the Nevada Transcript.

Work upon the mines which have hitherto paid well has been entirely suspended in consequence of the low stage of water.

Police Force.—Only one solitary policeman was left yesterday to do town duty.

Officer McBride has been appointed sergeant to the force in the room of Sergt. Hill.

## LATER FROM SOOKE.

Thos. Oatnill, W. H. Webster, and C. Wall, returned on Tuesday—went 15 miles up the river, but did not ascend Leech river, having heard nothing about it until Sunday evening. On returning they met a number of men going up. Fully 150 miners are supposed to be on their way to the diggings.

They came back overland, and met some men about to blaze a trail a little beyond Peatt's through to Sooke River.

Two of the party returned for fresh supplies, having sent the third on to Leech river with the remainder of their provisions.

They report having prospected from one to three cents to the pan at various points on the Sooke river, and feel satisfied of the existence of paying diggings.

## Still Later.

From Mr. Wm. Lee, an experienced miner in Australia, California and Cariboo, who arrived Tuesday night by the Cariboo, we have the following: Mr. Lee, with Mr. King and two others, left Victoria on Friday last, and reached Sooke River on Sunday morning. They prospected a distance of 14 miles. At two miles up they only found the color. Tried the various holes with the Explorers. The best prospect he obtained was 30 cents, which he took from a crevice on the bed rock about two miles below the color. One piece was picked up on the bed rock worth a "bit." Washed a pan at the same place and found only three colors. Mr. Lee washed about 40 pans altogether, and brought back with him nearly a dollar's worth of gold, nearly all of which was washed from three pans, he prospected 7 miles up Leech River, beyond the canon, but did not ascend the North Fork.

On returning, he heard that \$12 to the pan had been discovered by a party prospecting on Sooke Lake, which is at the head of a stream running into Sooke River, but had no means of ascertaining its truth. Having mined in the richest gold fields in the world, Mr. Lee looks upon the Sooke diggings as nothing more than Chinaman's diggings.

## Another Account.

A gentleman who arrived Tuesday night from Sooke, having left Leech River Monday forenoon, informs us, that he and his party prospected Sooke River all the way up, but did not find more than two cents to the pan. One of the benches on Sooke River, about 20 feet high, was prospected up to the top and yielded about 1 cent to the pan. About 4 or 5 miles up Leech River they saw a man pan out 50 cents. Several others took out from one to two "bits" to the pan, although they varied as low as one or two cents, according to position, the dirt being very superficial. One place took out three "bits" from a crevice, but found nothing else. There were but few men on Leech River when our informant left, but numbers were on their way there, and by this time he computes there must be between 150 and 200 men gone up. The general opinion entertained by the miners was that the gold existed in larger quantities up the North Fork, where no prospecting was known to have yet taken place. Some are returning dissatisfied, others are not. It is apparent that the captain had drawn another bill on Kopmanschap & Co. of San Francisco, for the same sum, both being in Mexican currency. The sum actually advanced was only \$1500. The drafts on Armin had been forwarded by Tullant & Co. to Messrs. Oliphant & Co. of that place, for recovery, and the defence was that as those drafts had been forwarded to Armin, the freight and the defendant would be liable for the payment thereof, and if the Court made him pay here he might be compelled to pay twice over.

Messrs. Waddell and Drake were called and examined and cross-examined, after which the Court adjourned.

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