



The Evening Times



VOL. V. No. 296

ST. JOHN, N. B., TUESDAY, SEPTEMBER 21, 1909

EIGHT PAGES—ONE CENT

JUDGEMENT IN CLARK CASE

Important Will Matter Settled By Chief Justice Today MUCH INVOLVED

Decides Ownership of Bulk of Rich Securities in Box Left By Late Clergyman - Several Cases Before Court.

The September sitting of the Supreme Court in Equity opened this morning at 11 o'clock in the equity court room, Pagley building, His Honor Chief Justice Barker presiding.

In the case of Robert Stackhouse, at the last session of the court, Hamilton vs. Hamilton, moved to have the referee's report confirmed, the committee discharged and commission paid to the committee. An order was made accordingly, the committee to be paid 5 per cent. on a sum over \$4,000 costs, as between attorney and client and taxed costs. The committee was discharged.

In the case of Waples Lumber Co. vs. Wentworth, tried in Frederickton, His Honor said he would not deliver judgment as the case had been settled.

In the case of Clark vs. Clark, involving the construction of the will of the late Rev. John A. Clark, a lengthy judgment was read.

This was a case which arose out of the interpretation of the will of Rev. John A. Clark, who died in April 1907. Besides the widow he left three children, viz: Hannah Gertrude, Jean Spurr and Percy Sutherland.

Eleven months before his death Rev. Mr. Clark made a will, in which he said after making certain bequests, "All the rest and residue of my estate, real and personal, only such personal property as may be found in my private cash box or in any box in the vaults in the Bank of New Brunswick, St. John, and any and all stocks, bonds, mortgages, etc., I already give to my daughter, Hannah Gertrude to use the same for her support and maintenance of my children and their step-mother as long as she remains my widow."

After the death of Mr. Clark, on opening the boxes referred to, it was found that the value of the personal property was over \$20,000, and Hannah Gertrude claimed it as her own. She, however, died before a will in writing was given to her sister, Jean Spurr.

The executor of the will of Rev. John A. Clark, the late Rev. John A. Clark and the late Hannah Gertrude Clark, contended that their client was entitled to all of the personal estate.

GOV. JOHNSON DIES; WAS "A BRAVE FIGHT"

Last Words Good Bye to His Wife—Was Likely Presidential Candidate for the 1912 Election

Rochester, Minn., Sept. 21—Governor Johnson, three times elected governor of Minnesota, a candidate for the Democratic nomination for president in 1908 and looked upon by many throughout the country as the probable Democratic national standard bearer in 1912, died in St. Mary's Hospital at 3:25 o'clock this morning, following an operation last Wednesday.

Governor Johnson's life hung continually in the balance until the end. So frequently did his condition change, alternately for better and worse, that his physicians, ever hopeful but never too optimistic, were able to say at no time since the operation was performed that the governor had more than an even chance for his life.

At his bedside, when the end came, were Mrs. Johnson, Miss Margaret Sullivan, her friend, Dr. W. J. and Charles H. Day, the governor's private secretary, Fred B. Lynch, Democratic national committee man, and the Misses Jennie and Schiller, the governor's nurses.

Dr. W. J. Mayo said that there were no traces of blood poisoning and that the immediate cause of death was exhaustion and heart failure.

Dr. Charles H. Mayo, coming from the governor's room at 1:30 o'clock yesterday afternoon, said that the patient's wonderful resistance indicated an almost total absence from disintegration in any form.

"His vitality is almost that of a child," said the doctor, "and this has been the greatest factor in prolonging his existence."

When the governor had breathed his last, Mrs. Johnson, who had been in almost hourly attendance at her husband's bedside and who had become so heavily laden with the cares of the world, totally collapsed and was taken to the Sullivan home.

Gov. Johnson was in a strategic position during the greater part of the night but occasionally was aroused, especially after coughing and would then murmur a few words to Mrs. Johnson. At times he seemed to wish that the end might come, for on one occasion he said: "My, time goes slowly, I am so uncomfortable."

The governor lapsed into unconsciousness at 1 o'clock. Toward the end he revived and raised himself several times to talk to his wife on the cheek. His last words were: "Well Nora, I guess I'm going; we have made a brave fight."

BOTH EXPLORERS LAND; EACH GETS ROUSING WELCOME

Cook Centre Figure in Triumphant New York Steamer Trip, But Modest and Unassuming - No Statement Till Records are Complete—Peary's Wife and Children Greet Him From Yacht—Sydney Gives up Business for Time



New York, Sept. 21—"I shall wait until I shall deliver any before my work is done. I should not, however, like to come myself on this point, although my present intention is not to do so.

Dr. Cook requested the A. P. to correct several errors which inadvertently crept into the first report of the discovery.

Dr. Cook is to stay at the Waldorf-Astoria Hotel. He has decided that owing to the overwhelming demand for autographs and photographic photographs, he will set aside all the proceeds to be divided equally between explorers and the Arctic Club to be utilized for future expeditions.

The Ocar II lay at anchor off Fire Island until a little after midnight when she raised anchor and proceeded to quarantine. There the steamer stopped to await the inspection of the health officer at 6 o'clock. Meantime several tons loaded with passengers hung about the liner.

Dr. Cook was standing amid a group of passengers on the saloon deck, when the health officer boarded the ship. When the explorer's wife and children, who were coming down in a tug, and to meet a reception committee of city officials and friends of Dr. Cook, who were waiting for the liner on the steamer Grand Republic.

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DR. GREY NOW ON THE STAND

Defence in Slander Case Reached This Morning SEVERAL WITNESSES

The case of James Lowell, M. P. P., vs. Dr. J. H. Grey, of Fairville, was resumed this morning at 10 o'clock in the circuit court. The examination of Mr. Lowell was continued. The agreement which had been referred to before, he said, was made between the highway board and the street railway. It was ratified by an act of the legislature in 1898.

Mr. Hazen—"As chairman of the highway board, you made this agreement?"

"You got the approval of your colleagues?"

Dr. Cursey—"I object. As a member of the legislature every lawyer knows that it is a question of statute what the rights of a member of the assembly are."

Dr. Cursey—"I object. My learned friend has just asked a somewhat similar question. There was no plea to justification, and they should."

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WARRANT ISSUED FOR COLBERT BURKE—BROTHER IN LAW OF JURGE BARRY DEAD

Friederick, N. E., Sept. 21—(Special)—Col. March this morning issued a warrant for arrest of Colbert Burke on a charge of assaulting Driver Gallagher of Wood County at the trotting park yesterday. The arrest will likely be made this afternoon.

ARREST TO FOLLOW RACES AT CAPITAL

Private Celestine, of the R. C. R. here, who recently deserted, has been captured in Halifax and will be brought here. Floating in the International Railway arbitration case has been postponed by Judge Barry until October 5.

PEARY AT SYDNEY Wife and Children Go to Meet Him on the Sheela—Town in Holiday Mood

Sydney, Sept. 21—Commander Robert E. Peary, after a successful quest for the North Pole, returned to Sydney today on the steamer Roosevelt. The explorer's wife was the first one to greet him when the Roosevelt steamed into Sydney harbor under a brilliant sun and cloudless sky. The explorer and his ship were given a hearty welcome from the ship's company.

R. MORTON SMITH LIKELY CHOICE

The board of management of the Seaman's Mission will meet tonight to elect a president in succession to the late H. C. Tilley. There are four vice-presidents from which to choose, R. M. Smith being first, F. W. Daniels second, Alex. Watson third, and George A. Herd fourth. It is believed that Mr. Smith will be the choice, as during the long illness of Mr. Tilley, he was acting president, and has always been prominent in the councils of the society.

COOK MODEST AND UNSUMING

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TRUMPET FOR COOK

New York, Sept. 21—On board the Grand Republic Dr. Cook was greeted by the official reception committee and a wreath of roses was placed about the explorer's neck. Standing the upper deck of the steamer, Dr. Cook said: "To a returning explorer there can be no greater pleasure than the appreciation of one's own people. Numbers and cheers make a demonstration that makes me very happy and shield fire the pride of all the world. I wish to have preferred to return first to Arctic shores but this pleasure was denied me. Instead I came to Denmark and the result has come to you by wire."

PROMINENT MEN RETURN

New York, Sept. 21—Among the passengers today on the steamer Kaiser Wilhelm were Glenn H. Curtis, the visitor, E. H. Gary, chairman of the board of directors of the U. S. Steel company, and John T. Brush, president of the New York baseball club.

WHEAT CROP COMES OUT WELL

Winnipeg, Sept. 21—(Special)—Except in some districts where scarcity of harvest labor has proved detrimental, wonderful harvesting progress has been made. Practically all the grain is now being threshed or is in stock. Wheat suffered from shrinkage during a hot spell, and the grain consequently will suffer a little, but so far as can be seen, there's no ground for complaint.