

Successful advertisers have always advertised in

The Evening Telegram.

That is why you ought to be among the number --- successful men seek each other's company.

THE EVENING TELEGRAM is read by ALL the people ALL THE TIME

Hauling Nets on Sunday

THE CONVICTION QUASHED.

JUDGMENT OF CHIEF JUSTICE.

(In the Supreme Court.)
Between James Dower and Edward Lane, Appellants; and Noah Gillard, Respondent.

This is a case stated by the Stipendiary Magistrate at Englee for the opinion of this Court in relation to a charge brought by the respondent against the appellants for an alleged breach of the Sunday Observance Act, 1877 (29 Car. II, Cap. 7, Ss. 1 & 2). The statute provides, inter alia, that: "No tradesman, artificer, workman, labourer, or other person whatsoever, shall do or exercise any worldly labour, business or work of their ordinary callings, upon the Lord's Day, or any part thereof (works of necessity and charity only excepted)." Upon the hearing before the magistrate the appellants admitted having engaged in the work of hauling their fish traps on Sundays but objected that as they belonged to a religious sect called the Seventh Day Adventists, observing the seventh day as the Sabbath, the Act did not apply to them. After hearing the parties and the evidence adduced by them the magistrate convicted the appellants, imposing upon them the penalty of \$1.00 and costs, \$1.50, or 7 days' imprisonment.

At the argument Mr. Kent, K.C., for the appellants, contended that the Act 29 Car. II, Cap. 7, under which the prosecution was instituted, did not apply to this Colony at all; that the act of hauling a fish trap on a Sunday did not come within the Statute; and that even if the Statute was applicable the defendants' act would clearly come within the exceptions

contained in the Statute. The Attorney General, who appeared for the respondent, argued that the Act had always been in force in this Colony and further that our local Statute applying the Criminal Law of England here was conclusive as to its present application: "In all cases not provided for by local enactment, as to crime and offences, the law of England shall be the law of this country so far as the same can be applied." (Cons. Stats., Title 7). The Act 29 Car. II, Cap. 7, is specially mentioned in the table of offences in Harris's Criminal Law under the title of offences against religion, respecting which the following comment is made: "We do not propose, the writery says, to enquire fully into the grounds upon which the State has assumed to itself the right of punishing certain offences against religion. It is sufficient to say that it has been experienced that certain acts or courses of conduct which are forbidden by religion are also productive of disorder and mischief to the community. These acts have therefore been declared illegal, and offenders are punishable, not for a breach of the law of God, as such, but for offending against the law of the country."

The Cyclopaedia of Law and Procedure refers to Sunday—the first day of the week—as the day set apart for cessation from all secular employment by the Christian world, and says that "by common consent the Christians, at an early date, substituted the first day of the week for the seventh, and have since observed it as a day of rest and worship in commemoration of the resurrection."

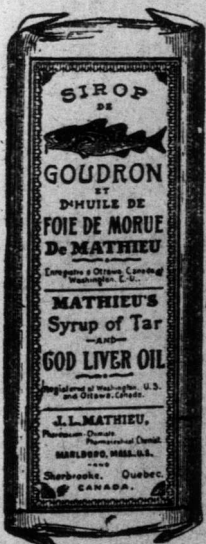
PERSISTENT COUGH.

Wherever soothing syrups fail to cure that persistent cough which exhaust you,

MATHIEU'S SYRUP

of Tar and Cod Liver Oil and other medicinal extracts will rapidly and definitely rid you from it.

The merits of Mathieu's Syrup are highly recognized and endorsed. Here are a few proofs—



THOMPSON, N.S., Mch. 29, '06.
Fillmore & Morris, Amherst, N.S.
Dear Sirs,—Yours of the 27th to hand re Mathieu's Cough Syrup, and would say it gives the best results of any cough syrup we have ever handled. The Medicine is all right.
Yours truly,
ARMOUR & MATTINSON.

Port Hawkesbury, C.B., Apr. 3, '06.
Fillmore & Morris, Amherst, N.S.
Dear Sirs,—I rec'd yours of the 27th ult. asking about Mathieu's Syrup. It is an excellent Medicine for cough, cold and consumption. Please send me another lot of 2 doz. bottles with samples. Enclosed find \$3.00 the amount of my bill.
Yours truly,
A. F. DICKSON.

SPRINGHILL, N.S., April 4
Fillmore & Morris, Amherst, N.S.
Dear Sirs,—In reference to your inquiry as to the selling qualities of Mathieu's Syrup, we might say that it is of no use whatever for us to keep any other Cough Medicine in stock. When you first began to sell it here, the Druggists did not handle it, and now every Druggist in town has it, and we are sure they find it ready sale for it. Mathieu's Syrup is sold by at least 75 dealers in Springhill.
FERRIS & PEELE.

AGAINST HEADACHE there is no remedy so active as Mathieu's Nerve Powders which contain no opium, morphine or chloral. 25 cents per box of 18 powders.

J. L. MATHIEU Co., Sherbrooke, Can. 7108. McMillan & Co., Wholesale Chemists and Druggists, St. John's, Nfld.

Sunday has long been recognized by the statute law applicable to this Colony. The Imperial Statute 1 & 2, Wm. III, Cap. 25, entitled "An Act to encourage the Trade to Newfoundland," contains legislation similar in character to that of 29 Car. II, Cap. 7. It enacted "that all and every the inhabitants of Newfoundland, or the said islands or places adjacent near thereto, shall strictly and decently observe every Lord's Day, commonly called Sunday; and that none of the said inhabitants (who keep any tavern, alehouse, or other public house for entertainment) shall entertain or sell, vend, utter, or dispose to any fisherman, seaman, or other person whatsoever, upon any Lord's Day or Sunday, any wine, beer, ale, cider, strong waters or tobacco, or any other liquor or liquors whatsoever." It is unnecessary to make reference to the provisions with respect to the observance of Sunday to be found in Acts of the Legislature. It is instructive, however, that there are reported decisions of Courts in Canada recognizing that Car. II, Cap. 7, applies in Ontario and other Canadian Provinces. After giving careful consideration to the terms of our statute respecting the Criminal Law, and having due regard to all the circumstances which can properly affect its interpretation, we cannot find any warrant for holding that 29 Car. II, Cap. 7, is, from its purpose or nature, incapable of application here.

On the contrary we must hold that a prosecution for a breach of the subsection recited is maintainable if properly brought. This being a criminal prosecution taken under a statute, it is necessary, in the first place, to enquire whether it has been taken in accordance with the statutable requirements. The statute declares "that no person or persons shall be impeached, prosecuted, or molested for any offence mentioned in this Act unless he or they be prosecuted within 10 days after the offence committed." The complaint before us fails to specify a particular offence committed upon a given date. There is nothing here to show when the alleged offence was committed or within what time after the commission of the offence proceedings were instituted. The Act 34 & 35 Vic., Cap. 87, amends the Act 29 Car. II, Cap. 7, by imposing a limitation upon prosecutions for offences thereunder, and provides "that no prosecution shall be instituted except by or with the consent in writing of the Chief Officer of the Police of the police district in which the offence is committed, or with the consent in writing of two justices of the peace or a stipendiary magistrate having jurisdiction in the place where such offence is committed. No such prosecution shall be heard before the justices of the peace or the stipendiary magistrate by whom or with whose consent the same has been instituted." The term "police district" is defined—"all the police under one chief constable shall be deemed to constitute one force for the purpose of this Act. It is essential that the prosecution should be taken in compliance with the requirements of the statute as amended. The consent of the Inspector General, Constabulary or a magistrate other than the trial magistrate or two justices must be shown. Not only has this not been shown, but the Attorney General admits that such was not obtained.

Because of the failure of the complaint to specify the occasion upon which a breach of the Act is alleged to have been committed, the absence of proof that the prosecution was begun within ten days as prescribed by the statute, and was authorized as required by the amending statute 34 & 35 Vic., Cap. 87, this prosecution is not maintainable.

In order to avoid further litigation it seems to us expedient to proceed to the consideration of the question, which has been argued before us, whether the use of fishing traps on Sunday is a breach of the Act. While it cannot be said that there has been an authoritative pronouncement by this Court either upon the applicability or the interpretation of the Act of 1877, we find that the subject was considered in the case of Richards vs. Job Brothers (Nfld. Law Repts., 1884-96)—an action taken by a sealing crew to participate in the proceeds of seals taken on Sunday in the capture of which they refused to join. Mr. Justice Pihnsent there says that the Act of 29 Car. II, has frequently been the subject of judicial interpretation and was held not to apply to the lifting of stage-coaches nor to justify stopping canal traffic on Sunday, nor to apply to a farmer attending to his own harvest and so forth. In other words, the Act was strictly construed and was confined in its operation to its special and express application. The learned Judge holds that it was impossible that the Act of Car. II, ever contemplated or, in its terms, could be held to include the sealfishery. This is consonant with the rule laid down in Sandiman against Beach, 7 B. & C. 96, where it is said that general words which follow particular words are to be read as applicable only to persons ejusdem generis the expression "other person or persons" being governed by the preceding terms "tradesman, artificer,

workman, labourer" as they have been defined in decisions referring to the Act. In interpreting the statute we must necessarily be guided by this rule. In the case of the Queen vs. Silvester, 33 L.J., M.C. 79, it was held that farmers could not be said to be ejusdem generis either with tradesmen or labourers. Similarly here we must hold, in conformity with the canon of construction adopted by the authorities cited, that the appellants, who were fishermen attending to their own property, are not included in the Act and consequently that the work they did incidentally hauling their fish trap is not within the statute's prohibition.

For the reasons above stated the conviction must be quashed. The costs of the appellants, when taxed, will be payable by the respondent. Mr. Kent, K.C., for appellants. The Hon. the Attorney General for respondent.

JUDGMENT OF EMERSON, J.
For the reasons given by the Chief Justice I fully concur in the conclusions reached by him and Johnson, J., and am of opinion that an order should go quashing the conviction with costs to the appellants. The 21st day of February, 1912. (Sgd.) GEO. H. EMERSON, Judge.

Folks Past Fifty Must Use Cascarets.

What glasses are to weak eyes, Cascarets are to weak bowels—a 10-cent box will truly amaze you.

Most old people must give to the bowels some regular help, else they suffer from constipation. The condition is perfectly natural. It is just as natural as it is for old people to walk slowly. For age is never so active as youth. The muscles are less elastic. And the bowels are muscles. So all old people need Cascarets. One might as well refuse to aid weak eyes with glasses as to neglect this gentle aid to weak bowels. The bowels must be kept active. This is important at all ages, but never so much as at fifty.

Age is not a time for harsh physics. Youth may occasionally whip the bowels into activity. But a lash can't be used every day. What the bowels of the old need is a gentle and natural tonic. One that can be constantly used without harm. The only such tonic is Cascarets and they cost only 10 cents per box at any drug store. They work while you sleep.

Ate Poisonous Salmon.

Yesterday after partaking of tinned salmon for dinner both Mrs. Phillip McCourt, of Duckworth St., and her daughter, Miss Josie McCourt, became very ill, and as they at once concluded they were the victims of ptomaine poisoning, medical aid was at once requisitioned. Drs. Stafford and Rendell were soon in attendance and prescribed antidotes, and after assuring themselves that the lives of both ladies were safe they departed. Rev. Mons. Roche and Rev. Dr. Greene were also in attendance, and last night both were considered to be out of danger.

Puts an End to Stomach Misery

Indigestion, Gas, Heartburn or Dyspepsia vanish in five minutes.

Every family here ought to keep some Diapepsin in the house, as any one of you may have an attack of Indigestion or Stomach trouble at any time, day or night.

This harmless preparation will digest anything you eat and overcome a distressed, out-of-order stomach five minutes afterwards.

If your meals don't tempt you, or what little you do eat seems to fill you, or lays like a lump of lead in your stomach, or if you have heartburn, that is a sign of Indigestion.

Ask your Pharmacist for a 50-cent case of Pape's Diapepsin, and take a little just as soon as you can. There will be no sour risings, no belching of undigested food mixed with acid, no stomach gas or heartburn, fullness or heavy feeling in the stomach, Nausea, Debilitating Headaches, Dizziness or intestinal griping. This will all go, and, besides, there will be no sour food left over in the stomach to poison your breath with nauseous odors.

Pape's Diapepsin is a certain cure for out-of-order stomachs, because it prevents fermentation and takes hold of your food and digests it just the same as if your stomach wasn't there. Relief in five minutes from all stomach misery at any drug store, waiting for you.

These large 50-cent cases contain more than sufficient to cure almost any chronic case of Dyspepsia, Indigestion or any other Stomach trouble, world.

The Carbonare tram out since last Saturday reached Avondale last evening and is expected to arrive at St. John's this afternoon.

A. & S. RODGER.

Rubbers!

LATE SHIPMENT

RUBBERS

Just arrivd.

Men's, Women's and Children's.

SPECIAL QUALITY.

Rubbers!

A. & S. RODGER.

SPECIAL SALE

Of Lawn and Muslin

Embroideries!

We are late with this announcement, owing to the numerous sales of Embroideries. But we offer this lot knowing that with our customers there's always room for

Something New,
Something Classy,
Something Different

from what they've seen before.

This Lot is a SPECIAL PURCHASE made by our Buyer on his arrival in England, and are this seasons' goods.

See Them To-Day.

S. MILLEY

Uncle Walt THE POET PHILOSOPHER.

Tom Moore and many other bards have sung the sparkling wine; when one is loaded to the guards that drink seems passing fine; and so they stood in halls of light and sprung their toast and jest, until, to speed the songful night, the sun rose in the west. And then they wrapped wet muslin beds, nor touched the tuneful lyre; HYDRANT the singers sought their heads, and wished they might expire. Hard water doesn't sparkle much, but that's what I consume and twang my lyre to beat the Dutch, and have no hours of gloom. I rise at dawn refreshed, and feel no tremors and no shakes, and I can spring a gladsome spout or whip my weight in snakes. No bard can carol to the dawn or sing a helpful lay with a wicker demijohn he whiles the night away. Anacreon and all that bunch may sing the sparkling wine; the hydrant juice (without free lunch) is all I want in mine. Copyright, 1911, by George Matthews Adams. *Over Mason*

Handsome Cup and Medals.

During the progress of the series of Hockey Matches between the local and Windsor teams the boys attending the three city Colleges will run a relay skating race for gold

medals. Then there will be a relay race between the members of the Boys' Brigades for which a handsome cup has been provided. The Press race should also be an exciting contest for which gold and silver medals will be offered also. The trophies are now on exhibition in the store window of Mr. Mark Chaplin, Water Street.

Bible Society Meeting.

This evening the annual meeting of the Bible Society will be held in the Methodist College Hall. His Excellency the Governor will preside and the convention will begin with the National Anthem. The scriptures will be read after a hymn is sung, and prayer will be offered by Rev. J. S. Sutherland, M. A., of St. Andrew's Presbyterian Church. His Excellency will then address the gathering, and after another hymn Rev. Joseph Thackeray, of the Congregational Church will read the report. His Lordship the Rt. Rev. Llewellyn Jones, D.D., Bishop of Newfoundland, will then deliver an address, followed by Rev. Dr. Rogers, Pastor of Gover Street Methodist Church, after another hymn is sung. When the usual votes of thanks are passed His Lordship the Bishop will pronounce the Benediction. It is likely that a great number of people will be present.

STILL AT TRINITY. — The S. S. Stella Maris is still at Trinity waiting for the ice to move off.

VINARD'S LINIMENT CURES DISTEMPER