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Evening Telegram

The Evening Telegram, Ltd., Proprietors.

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Thursday, January 24, 1924.

Trial By Jury.

"No free man shall be taken or imprisoned, or disseised, or outlawed, or exiled, or in any way destroyed; nor will we send upon him, nor will we send upon him, unless by the lawful judgement of his peers, or by the law of the land."

Here is laid down in the simple language of the Great Charter of English liberty the principle of our system of trial by jury, which has been described as "the most effectual security against oppression which the wisdom of man has hitherto been able to devise."

Henry II. established the system of Recognition by Sworn Inquest. By this method, the facts were found under oath of a body of impartial witnesses, who represented the testimony in a certain locality. Thus originated the system of trial by jury.

The full recognition of the system was very gradual both on the part of the rulers and their subjects, and for a time it was only applied in particular instances. It is first mentioned as being used for criminal presentment as well as for inquiry into civil affairs in the Constitution of Clarendon in the middle of the 12th century. By that time apparently it had become more popular, and was considered particularly efficacious in dealing with persons who were sufficiently powerful to intimidate a single accuser. The twelve men were then sworn in to tell the truth according to their conscience.

At first the jury gave answers both to law and fact. For instance, if they were asked who was so and so's heir, they answered the youngest or the eldest son according to the custom which obtained in that particular district. Later the judges simply asked, who was the eldest son, which limited their reply to a question of fact. In other words the jury were witnesses.

A step forward was made in the reign of Edward III., when witnesses were added to the jury to give their evidence, but were not permitted to have a voice in the verdict. Having heard these witnesses' testimony, the jury decided the issue, partly on the strength of their own knowledge of the case, and partly on the evidence submitted to them.

In Henry IV's reign it was decided that all evidence should be heard at the Bar of the Court, so that improper testimony might be excluded. By this change the importance of the advocate was greatly increased, as witnesses were examined and cross-examined in open court, and he was at liberty to exercise his power of persuasion to the full.

Juries however long continued to rely upon their own knowledge as well as the evidence submitted by witnesses, and it was not until the time of George I. that they ceased to function as recognitors.

The office of a jurymen no doubt had its advantage, as it probably added considerably to

the importance of a man in the locality, but it had its drawbacks as well. Occasionally a jury brought in what was considered to be a wrong verdict. If such happened, another jury of twenty four tried the case, and if their verdict differed from the first, the original jury were imprisoned and their property forfeited to the King.

Compared with the system of trial by jury in the past, it will readily be seen how great are the advantages which a prisoner has to day when he appears at the bar to answer to a charge. Every precaution is taken and every opportunity is afforded him to have the case tried on its merits and with absolute impartiality, and his counsel is given every facility to protect him from any influence of prejudice on the part of the twelve men who have to decide his fate.

Trial by Jury is our safeguard against oppression, but at the same time it places upon the individuals who form that body a grave responsibility in the matter of weighing the pros and cons and unless the responsibility were fully recognized and shouldered, the administration of Justice would soon become a farce and a mockery.

Murder Trial Concludes

ANTHONY HAWCO FOUND GUILTY OF MANSLAUGHTER—RECOMMENDATION OF MERCY FOR PRISONER.

The trial of Anthony Hawco, accused of the murder of Michael Fewer, at Chapel's Cove, on September 1st, concluded last night when the jury brought in a verdict of manslaughter with a recommendation for mercy. The trial began Tuesday morning and when adjournment was taken at 6 p.m., the accused had completed his evidence on his own behalf. Yesterday morning he was again placed on the stand and for about an hour and a half underwent cross-examination by the Crown prosecutor. Pressure on our space prevents us from giving in full the further evidence submitted.

At 3.10 Mr. Hunt began his address to the jury which lasted for more than an hour. Mr. Winter for the Crown followed, and at 5.25 the Chief Justice began his summing up. The jury retired at 6 p.m. for lunch, returning to the jury room about 7.30. Shortly before nine o'clock they filed into court and through foreman Williams announced a verdict of manslaughter, with a strong recommendation for mercy.

To-night's specialties for the "Court of Mary Doyle," Misses Gladys Redstone, Ida Howlett, Messrs. R. W. Sullivan and Jack Canning. Mount Cashel Band in attendance.—Jan24.11

St. Mary's Bible Class

St. Mary's Young Men's Bible Class met in their rooms last night for the second of a series of debates that have been arranged for the winter months. Last night's subject was: "Resolved that Hockey is a better game than Football." The leaders were J. Badcock for the Affirmative, and G. Stone for the Negative. Several others joined in the general discussion and both sides handled the subject admirably. The vote being taken, it showed a win for the Negative by a small majority. The singing of the National Anthem brought a pleasant evening to a close.

Blue Puttee open Sundays 9 a.m. to 11 p.m. Ice Cream, Ice Cream Bricks, Hot Chocolate, Bouillon, Coffee, Tea, Cake, Sandwiches, Toast, High grade Chocolates and Cigarettes. Jan24.21,th.s

Girl Guide's Dance

The 1st Caribou A. and B. Companies, Nfld. Girl Guides, held a very successful dance at their headquarters, Smallwood Building, last night. The C. C. Orchestra was in attendance and rendered a delightful selection of dance numbers for the occasion. An excellent spread had been prepared by the members of the troupe and was done full justice to by the large gathering present.

M. C. L. Fifty-Seventh Session. Held last night, Thursday, January 24th, at 2.45 sharp. Resolved: That in comparison with other countries, the results accruing to Newfoundland from her educational system are not commensurate with expenditure. Affirmative: Messrs. A. P. Whiteway, C. Bowden, T. Brown, Negative: Rev. Dr. Dargy Messrs. W. J. Milley and Herbert Best. Visitors welcomed.—Jan24.11

STAR R. E. & B. CARD PARTY.—The card party and dance, arranged under the auspices of the Star R. E. & B. Committee, takes place on Tuesday next, January 25th.

Yesterday's Proceedings at the Enquiry.

Cross-Examination of Mr. J. J. Miller Occupied Both Sessions.

Mr. Miller having been called to the stand, Mr. Lewis asked for production of notes or drafts which had reference to Mr. Miller and was given them by the Attorney General.

MR. LEWIS wished to refer back to the Brown Insurance matters which he thought were left in arrears, and wished to have Brown called. The Commissioner stated that his attitude had been that it was immaterial to the discussion and that he has made the same suggestion to Mr. Howley at the time.

MR. LEWIS—May I be permitted to suggest that Miss Miller in her evidence deposed that she paid Mr. Brown the sum of \$1,000 in cash, her statement has not been substantiated by anyone.

COMMISSIONER—It has been contradicted and proved by documentary evidence.

Mr. Lewis thought the documentary evidence might be subject to correction as Brown stated that he had not received one dollar. The Commissioner said I am not under the impression that he did. We had Mr. Curtis here and documentary evidence was produced showing how the payments in respect of Brown were paid. It was also suggested by Miss Miller that those payments were made after the cheque from the insurance company was received. I am satisfied that it was not a fact, the cheque from the insurance company was not received until July, was not in fact endorsed by Brown until August and payments were made to or on behalf of Brown before that date. I thought it only fair to Mr. Richard to announce and make public that I was satisfied at that time that payments were made in advance. Installments were paid of the insurance money either to him or other persons and the cheque had not been received. There was then a further question: It was suggested that the reason why the cheque had not been received was because premiums were in arrears, the other side not sent large sums due for premiums. That was the fact that was established, but again it was established that that was not the reason why the cheque was not received.

Mr. Lewis said Brown denied Miss Miller's testimony, that he had threatened litigation, but the Commissioner pointed out that was Mr. Curtis' and not Miss Miller's evidence, and added that this matter was outside her domain to decide and was immaterial. Mr. Lewis eventually was satisfied to let the matter rest.

Drafts were then submitted to witness. They covered the period from August 3 to Nov. 27 and the amounts were \$5,973.75, \$1,500.00, \$2,000.00, \$5,000.00, \$4,000.00. Witness said with reference to the first amount that came out of the suspense account of the D. I. & S. Co. Asked if any other official but himself would know of the transaction witness said he was not sure, and later said as far as he could remember, no. Asked if he had appropriated money of the Co. to the amount of \$3,937.75 and used the sum for purposes of his own without legal right witness said no, that he had two letters of Aug. 5. Mr. Lewis referred to his former testimony that he had not communicated with the officials at the time witness said that he had mentioned notifying them.

Q—Are you prepared to say, after having so testified, that you had advised your superior officers, prior to the payment that you would pay it at the time it became due?

A—At the time that Sir Richard sent for me in July he asked for accommodation for \$5,000, and before I went back to Wabana, I was called on by Mr. Glennie to sign a note for \$20,000 to fix up accommodation for him and I told him I would do so because it would not mean a cash outlay, only accommodation.

MR. LEWIS—That was a personal matter, was it not, that has no relation to the situation?

A—Well, that amount is included. Mr. Lewis reiterated the facts and added, in other words, Mr. Miller, you appropriated the moneys of the Company in the sum of \$5973.75. You permitted the use of that, and signed for that purpose without having the legal right to do so, did you not?

COMMISSIONER—I don't think that the facts warrant the use of that word. I mean that you are suggesting to him that he, himself had the moneys of the company in his possession, and that he handed it over. The permission, of course, is obvious.

Asked if the amount was paid out of the account over which he had control witness said, no, that it was charged against it in September. Asked how the bank could charge it against Company's account unless they paid it, witness said it was paid to Sir R. Squires. Questioned as to his not referring the matter to the Co. officials, witness said he only had a couple of days when Mr. Glennie asked him about making certain payments, and he thought it was in the

Company's interest to do so. Witness again submitted a couple of letters, which, he said, had reference to the transaction and the Commissioner said he would see them. In connection with the audit of accounts in March 1921, witness said he wrote to Sir W. Reid before it took place, but that he had discussed the transactions with Mr. Glennie in the fall of 1920. Mr. A. Macdonald was also present. Witness told him that accommodation had been arranged for Sir R. Squires, but was not certain of the exact time nor could he remember if he had received notice of payments of the drafts. Reminded that the acceptance of a draft dated August 3 would be presented three or four days after, witness agreed. Asked if he had put the stamp "accepted" witness said no and that he had notified the Company regarding the total accommodation for Sir R. A. Squires. The Commissioner pointed out that witness said the letters he held were ratification of his actions and suggested having them put in, but Counsel preferred to deal with all the drafts first.

COMMISSIONER—You may follow your own course. It does not strike me as the most convenient, but you are the best judge of your own case. The \$4000 note of August 20 was then considered. Asked if he had directed anyone at the Bank in Wabana to pay the amount out of the D.I.S. Co. accounts, witness said the draft was returned from St. John's for collection and was left in suspense account until Sir Richard had returned. The bank records would show a \$4,000 shortage. He advised the Bank Manager at Wabana to leave it in the Suspense Account. Witness said the draft was returned with the other cheques to the Company.

Q—What became of it?

MR. LEWIS—That is just what I was going to ask. Do you know if this draft did get back to the Company?

A—Yes.

Q—They came into your possession?

A—Yes.

Q—With the bank statements of the month?

A—Yes.

Q—You preserved it?

A—Yes.

Q—You never forwarded it to the head office of the company?

A—No.

Q—Did you forward the notes?

A—Not until the auditors came.

Q—Did you leave it with the other cheques of the company or put it with your own?

A—It was put in the safe.

Q—You held it in the safe with the other cheques of the Company or your own?

A—Belonging to the Company.

COMMISSIONER—It was put in the safe with the company's other cheques?

A—Yes.

MR. LEWIS—With the statement?

A—Yes.

The various other drafts were produced and similar questions and answers were gone through.

Questioned as to the circumstances of the note for \$20,000 on August 16, witness said it was signed by him and A. Macdonald about two weeks after the date. A note had been given signed only by him on that date. In Mr. Glennie's office in St. John's. It was a personal note and was afterwards substituted for the other. The personal note was given as Sir Richard was leaving and witness was unable to get in touch with his people. Asked if Sir Richard Squires had ever financed him, witness said he thought he had lent him \$20 in 1923. Counsel considered it remarkable that witness was willing to accommodate a person who was almost a stranger to him to the extent of \$20,000. Witness said, Sir Richard had an overdraft at the Bank and that he gave his personal note for 60 days.

COMMISSIONER—That perhaps explains your answer. We had a different idea of it in the last session of the Enquiry.

MR. LEWIS—That is what we understand: that this note of \$20,000 was to be used to cover an overdraft of Sir Richard at the Bank at that time.

A—Yes.

Asked if he was surprised when he learnt Mr. Glennie wished to see him in connection with Sir Richard's account witness said no because of the verbal arrangements he had made with Sir Richard.

Adjournment was taken until the afternoon.

WEDNESDAY AFTERNOON SESSION.

Yesterday afternoon the time of the session was wholly occupied with the cross-examination of Mr. J. J. Miller by Mr. Lewis in the matter of his financial transactions with Sir Richard Squires. The Chamber was packed

with people long before the proceedings commenced, but nothing of any great interest came up, nor to the layman's mind at least were there any sensational revelations.

Mr. J. J. Miller having taken the stand, Mr. Lewis returned to the matter of the \$20,000 note, and witness presented two letters dated August 5 addressed respectively to H. Molnais and Mr. McDonald. They were similarly worded and referred to a request, previously communicated by wire. The request was to the effect that the party (explained by witness to be Sir R. Squires) asked if a loan could be arranged for a couple of months, that he preferred "us" to help him out and in the event of the loan being forthcoming the matter would be requested. The Commissioner requested witness to procure the telegram referred to. Asked if these letters were sent prior to the conference said to have taken place between the Company officials and Sir R. Squires, witness said no, that that had taken place in the previous month. Witness said he had mentioned to Mr. McDonald and Mr. Molnais that Sir R. Squires was up against it and they replied they would do what they could. Asked if that was the only conversation he had with Sir R. Squires' financial affairs, and whether that was sufficient to assure him that the transaction would be ratified, witness replied, "I sure did." He further stated that Mr. Glennie referred to the matter verbally in the autumn, witness said he spoke about the full amount paid out to Mr. Glennie at Wabana.

Counsel plied witness with questions in order to ascertain when and why "accountant" and manager were added after his and McDonald's signature respectively on the notes. Witness said in the first instance Mr. Glennie objected to his signature only and afterwards notes were signed just by McDonald and then by him at Wabana, and that they had been sent back by Mr. Glennie for the description of those who signed.

"Considerable time was occupied in eliciting the manner in which Company cheques were signed and eventually the Commissioner remarked that if Mr. Glennie were called he might be able to give some assistance. The Attorney General intimated that he was at present in Toronto and if possible would appear. The witness appeared to be somewhat in doubt as to the difference between a draft and a promissory note and his indefinite answers were commented upon by the Commissioner, who referred to the frequency with which questions had been answered by "I don't remember," and added that although it was not exactly peculiar to Nfld. it appeared to be plant of fairly strong growth here.

With reference to the accommodation of \$45,000 which Sir R. Squires is said to have requested, witness said he told Mr. Glennie that they would be given as security a mortgage on the Daily Star, he did not have the papers then, but could get them if Mr. McDonald wished it. Witness said the Company books would not reflect the transactions, but that the bank account each month would show the shortage. Vouchers, said witness, of every item withdrawn were sent to head office, except the \$5,973.75 item which was shown "short." It was suggested that the amount was not shown as a shortage, but was covered in the payroll or in some other way. This witness denied. He said I did not cover it. If they saw the bank accounts they would see the shortage. I did not hide it and I did not report it. The method of obtaining money to meet the payroll was fully explained by witness and when it was again suggested that witness had covered the amount, he replied, "There was nothing to hide; they knew where it went." Some nine cheques making a grand total of \$45,163 were identified by witness. They were dated from Aug. 1920 to March 1921. Witness repeated his former testimony that he had surrendered to Squires the cheques for the various transactions and said the transfer of all of them took place at the same time. Witness was closely questioned about one cheque for \$2,000 which he said he had borrowed from a friend but could not recollect who it was, nor whether it had been paid back. Another amount for \$280 witness said represented expenses in connection with the Bay de Verde bye-election and for which he had been given a receipt by Mr. Cramm. Witness said it had been included in the amounts checked by Sir Richard Squires who said it was alright. He had no knowledge of the use made of the various sums.

The enquiry adjourned until 11 this morning.

THIS MORNING'S PROCEEDINGS. CROSS-EXAMINATION OF MR. MILLER. (Continued.)

The enquiry opened this morning at 11 o'clock with Mr. Jos. Miller on the stand. Mr. Lewis, Attorney for Sir Richard, intimated that he proposed getting from the witness a detailed account of every dollar he alleged to have turned into the account of Sir Richard. Concerning the \$2900 cheque of March 18th, 1920, Mr. Lewis elicited the fact that it represented the amount he borrowed from Messrs. Ross, of Bowring Bros., and Marth of Bell Island. He turned the money over to his sister to pay Daily Star

wage account. There was also an amount of \$380 (represented by another cheque) this amount was passed over to Mr. Cramm in connection with the Bay de Verde election. A balance of the \$2,500 is still outstanding. Witness said that he never made a claim for the balance, \$900, which is outstanding since March 1921.

COMMISSIONER—You said you never made a claim to-day?

A—No.

COMMISSIONER—How very fortunate some people are.

Questioned about the auditing of the D.I.S. account at Bell Island and Sydney, the witness said the March 1921 audit was made at Sydney where he had forwarded the pay roles and bank balances but that Price Waterhouse auditors never drew his attention to the \$43,900 discrepancy as appeared from comparison of the company's books and the bank account. He said the pay rolls were not included to make up the discrepancy. Mr. Glennie knew of the transaction and had transferred \$20,000 of the amount to the Sydney Bank. Mr. Lewis proposed to go into Miller's sources of income during the past four years, but the witness opposed having the information made public.

The Commissioner thought that the information should be given. Whereupon Mr. Miller asked him to consult his solicitor. The Commissioner intimated that the cross-examination should not be in the nature of an oppression.

The Attorney General suggested that the enquiry would be shortened considerably if the cross-examination and re-examination of Miller were postponed for the purpose of recalling the Bank officials, whose further evidence was necessary.

Mr. Lewis said he would consult his client.

Miller was then asked if he were better off financially now than he was in 1920, and he replied that he was not.

Asked how much his home had cost witness replied that the cost had been altogether eight thousand dollars.

MR. LEWIS—Did you keep any book record of the cost?

COMMISSIONER—I think I know the answer as well as you do.

WITNESS (to Mr. Lewis)—I kept no records.

The Commissioner remarked that he was getting rather cashed out by the absence of records. (Loud laughter.)

Mr. Lewis asked witness what price he would resell the property for?

COMMISSIONER—Is that a bid? (Laughter.)

In further examination, it was discovered that witness did not own the house at all, as it was in his wife's name. Further argument took place in connection with Mr. Lewis' request that witness should submit a statement of his investments. The Commissioner did not think it necessary as such a statement would not influence his judgment in any way.

Mr. Lewis continued his cross-examination, taking up the matter of the Star cheque. Witness said he had deposited the cheque to cover the overdraft, expecting that it would be paid. Concerning the cancellation of the endorsement on the back of the cheque, witness remembered nothing.

After further technical argument, the enquiry adjourned until 3 o'clock this afternoon.

Obituary.

To those who remember Robert Miller, it will be of interest to know of his recent passing over to the Border Land. Born 22 years ago, at Topsail, he came to St. John's in early March, where he married and lived for over 30 years, during all of which time he was in charge of the Pattern Making Dept. of the Consolidated Iron Foundry Co., and a loyal member of the George Street Methodist Church. In 1903 he moved with his family to the U.S.A., locating in Malden, Mass., but for the last 15 years resided with his son Walter at Buhl, Idaho, becoming a highly esteemed member of the Methodist Church at that city. Whilst appreciating life in the warmer climate of the western states, and by his kindly and courteous nature making many friends, he never lost interest in his native land, and the weekly "Free Press" was always awaited. Although in his 83rd year, he retained the vigor and intellect of his younger years, and his beautiful descriptive letters will be missed by the relatives and friends privileged to receive them. The breaking up and the calling home came almost suddenly on Jan. 15th, while on a visit to his son Chesley, at Melrose Highlands, Mass.

Personal.

We are pleased to learn that Miss B. B. English who arrived from Bell Island with a badly sprained foot, some three weeks ago, is able to be around again.

Miss Dorothy Frost, daughter of Mr. and Mrs. A. J. Frost, is sailing on the return S.S. Digby for England on a pleasure trip to her relations.

The vanderlife artists Kavill, and Kelly who were expected to come by the S.S. Roswell did not come to-day. They will probably arrive by S. S. Sabie 1.

MINARD'S LAMBERT FOR CORNS.

KNOWLING'S
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SPECIAL OFFERINGS

"FOOTWARMERS"
SMALL 79c. MEDIUM 1.05 LARGE 1.25

BEAN CROCKS.
Good, Strong and Serviceable quality.
All Sizes—One Quart to 3 Gallons.
50c. to 2.50.
and at our usual low price

FIREPROOF OVEN GLASS.
Cook and serve in same Dish. Large selection on hand, see for yourself.

G. Knowling, Ltd.

Jan24,th.s.tu

St. Andrew's S.S. Concert To-Night

TO-NIGHT in the Presbyterian Hall, the Presbyterian Sunday School are holding a concert, when some of the city's leading local talent will take part in both instrumental and vocal selections besides a motion picture display by J. W. Morris. An enjoyable evening is assured all who attend.

Beaver Case Concluded

DEFENDANT FINED \$250.00
The case of Aaron Stone for a breach of the Beaver Act, which occupied the attention of the lower court for several days, concluded yesterday. The accused in the first place was charged with having beaver skins in his possession, to which he pleaded "Not Guilty." As the case progressed the evidence showed by letters put in that he had promised rewards to persons for the procuring of beaver skins. Supt. O'Neill, for the prosecution, made an amendment to the charge under Chapter 149, Section 3, Consolidated Statutes, to which the accused pleaded "Guilty." A fine of \$250.00 was imposed.

Death Due From Natural Causes

A few days ago an infant baby about two months old, belonging to a family on Scott Street, died suddenly, the cause being attributed to convulsions. As there was no doctor in attendance, the matter of procuring a burial certificate stood in abeyance. The police then took a hand in the matter and had the little body removed to the morgue for most modern examination. Dr. Anderson performed the autopsy yesterday and announced that the child had died from natural causes. Undertaker Myrick was then given permission to prepare the body for burial.

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BORN.

On Sunday, Jan. 20th, a daughter, to Mr. and Mrs. T. J. Ivey.

On Jan. 24th, a daughter, to Mr. and Mrs. E. F. McLeod.

DIED.

On Jan. 23rd, Douglas Allen, darling child of Mr. and Mrs. C. A. Bourne.

This morning, after a short illness, Margaret, the infant child of John and Bride Dunn, aged 4 months.

This morning, James Simms, aged 72 years, formerly of Mr. Grace. Funeral takes place to-morrow Friday at 2.30 p.m., from No. 2 Flemming Street.

Passed peacefully away on Tuesday last, after a long illness, Alice, the wife of James Taylor, and daughter of the late John Barry, formerly of Loo Cove, B.B. She leaves to mourn besides her husband, three children, also two brothers and a sister. The funeral will take place Friday at 2.30 p.m. from her late residence, Aldershot Street.

IN LOVING MEMORY

of our dear grandma, Mrs. Isabel King, who died on January 24th, 1923, aged 102.

The flowers we place upon her grave may wither in a day,
But fresh and green within our hearts,
Her memory ever stays.

How we think of you dear grandma,
And our hearts are set with pain;
All the earth would be a heaven
Could we hear your voice again.

Peaceful be your rest dear one,
Thy sweet to breathe your name,
In life we loved your dearly
In death we do the same.

Inscribed by her grand-children,
Isabel and Mary Steel.

CHIMNEYS.

A large assortment just in, all at our low prices.
Rubber Cement,
Sleigh Bells, Body and Saddle.

Butchers' Baskets,
Laundry Baskets,
Lanterns and Globes,
Slides, Sleighs, Skates,
Rubber Mats.

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