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JUDGE LANDRY'S DECISION SENDS CASE TO NEXT TERM

His Decision Practically Amounts to an Acquiescence With the Wishes of the Crown Counsel--Defendant is Released on Bail.

Fredrickton, June 25.—Judge Landry this evening rendered his decision in the Crockett-Emmerson suit upon the motions pending, declaring to grant the crown's application for a postponement until the January circuit, but denying Mr. Hazen's application to dismiss the indictment and compelling the defendant to enter into recognizance in the sum of \$300 for his appearance for trial at a future term of the court.

Mr. Hazen moved for the discharge of the accused, but the judge stated that it would not be dealing fairly with the crown to grant the application. He refused to interfere with the indictment and held Mr. Crockett in his own recognizance. The failure of the court to dismiss the indictment seemed to be very disappointing to Mr. Crockett and his counsel. The full text of his honor's judgment was as follows:

"To decide this application I feel the necessity of reciting some of the facts that my reasons may be better understood. The defendant is charged with having published a defamatory libel. The words published are as follows: 'Every such plea must be in writing and must set forth the particular facts or facts by reason of which it was published.'"

"The crown answered those two pleas by joining issues on the first and categorically denying the second. The crown further answered to the second plea by demurring to it. This demurrer technically admits that the matters alleged are true, but affirms that if true are not sufficient answers, and then sets forth the legal reasons why such facts are not a sufficient answer. The demurrer is then left to me to decide. It is admitted that the question as to whether the matters published are true is for the jury, but the question whether the publication was for the public good is for the court.

"The court was asked to decide whether it was for the public good that the publication took place and I decided that it was. With such a decision the plea as put in remains on the record and permit evidence being given by the defence on the truth of the publication. It also permits the prosecution to answer and establish the proof adduced by the defendant. The crown maintains by argument that under such conditions it is impossible to convict a jury that the charges were false, if it failed in convincing it at the same time that the demurrer had no reasonable ground for believing that they were true.

"The crown says that it cannot hope to convince the jury to believe that the reasonable grounds therefore; and that under section 334 the defendant would thereby get clear. If the defendant would object to the defence under the present state of pleadings then the statutes protect the defendant to the extent of permitting him to publish defamatory matter provided he can show that the circumstances justified him reasonably in the belief of the public interest and that he did believe in their truth. My decision therefore on the demurrer does not go beyond declaring that the plea is within section 310 and that the declarations in that plea, if capable of proof, show it to have been in the public interest to have published such matter at the time and place.

"The record before the court now therefore stands thus: The crown charges the defendant with having published defamatory libel. The defendant answers by a second denial and says in effect, 'What I published was true and it was in the public interest that I published it.' The crown denies both branches of the answer. Thus left, the defendant, to succeed, must be legally entitled to have it declared by the court that the publication was in the public interest and by the jury that the matters published were true or convince the jury by evidence that he had reasonable grounds for believing and did believe that they were true.

"Now with such a record before me, and the defendant ready and urging to go to trial I am asked by the crown, whose laws I am sworn to administer to postpone the case to another circuit. My first duty is to examine the reasons for such postponement. I cannot in the facts as known to me find one good reason to do so. The only reason urged is that I, having reserved for the crown a case to be decided by the full court to say whether I was in error or not in deciding the demurrer in favor of the defendant, I should postpone the trial till that is decided. In my opinion that is not sufficient ground. The practice has been just the reverse. A reserved case has been decided and is stated case by the presiding judge to the court on the questions on law arising during the trial on which the court decides if a new trial should be had. Here there has in reality been no trial yet. During the progress of a trial both the of law, there decided by the presiding judge, and ask that such questions be reserved for the opinion of the court, in case the result at nisi prius would be unfavorable to the party applying for the reserved

is quashed, though the full court may not agree with such a conclusion. To give such a decision may work a hardship on the crown and though no reason had been presented why the case should stand, yet at the same time he could not close his eyes to what had occurred in the case and looking at the matter in this light and the point raised by the demurrer which raised an important point and upon which the full court would be asked to pass upon the rest of the case should stand, yet in view of this he would express no other opinion than that he would give no decision on the indictment whatever and that it would have to stand on its own merits.

He refused the postponement and the indictment must look after itself. This being the conclusion he had reached he would ask Mr. Crockett to give his own recognizance to the amount of \$300 to appear at any circuit he may be called upon to answer the indictment. Mr. Hazen—I think your honor that such a recognizance very indefinite as an indictment may be held over for the rest of his life. I think probably at another circuit if the indictment was not proceeded with the judge then presiding would take into consideration the question as to whether or not the recognizance should any longer hold.

Mr. Barry—if the recognizance was made with the condition that Mr. Crockett appears at the next circuit in January next it would be sufficient. Judge—I think that you are probably right and I will ask that the recognizance be drawn in that way, the circuit judge shall deal with the matter. Mr. Hazen—Mr. Crockett will enter into this recognizance at once. On Mr. Hazen's request Mr. Crockett stepped forward and entered into the recognizance in the above named conditions. The court then adjourned and the indictment goes over until next January. In the meantime it is expected that the case reserved will be argued before the full bench.

BOSTON AND NEW ENGLAND SUFFER FROM HEAT WAVE Cambridge and Somerville Schools Closed and Factories Shut Down—Two Deaths and Many Prostrations.

Boston, Mass., June 25.—Death and extreme discomfort throughout Massachusetts and northern New England attended the eighth day of the present severe hot wave. Today was not the hottest of the season, but the most uncomfortable with the humidity at 87, seventeen degrees above normal. The river valleys of New Hampshire and southwestern Maine received temporary relief from the oppressiveness tonight by severe thunder storms which, however, brought death and destruction in their track.

At least two deaths and probably another fatality, with about two score prostrations were charged to the weather today. Edward S. Hathaway, of Lynn, one of the Mystic Shriners who participated in yesterday's big parade in Boston, fell victim to the heat today following his sufferings from yesterday's exposure to the sun. In Berwick, Maine, Mrs. Herbert W. Johnson, formerly of Arlington (Mass.), was struck by lightning and instantly killed, while Henry Charette, of Somerville, N. H., was hurled from his wagon east by a lightning bolt and physicians said his chances for recovery were slight.

Boston had the most marked distinction for being the hottest place on Uncle Sam's weather map, with a temperature in the middle of the afternoon of 91. While the degree lower than the best previous temperature of this present hot wave and seven degrees below the record-breaking June temperature of 1901, the humidity, coupled with the severe strain of the past eight days upon the public health, caused many prostrations. At midnight fully 25 prostrations had been reported to the police. So intense was the discomfort that in Cambridge and Somerville the schools were closed and in Boston and large and manufacturing establishments throughout northern New England and Massachusetts factories were closed down for half a day.

DEFENSIVE ALLIANCE BETWEEN SPAIN AND FRANCE Will Take Common Action If Their Possessions Are Threatened. Paris, June 25.—The official text of the French-Spanish understanding was published today. It declares that each government is firmly resolved to maintain intact its insular and maritime possessions in the Mediterranean and Atlantic, and binds each country in the event of circumstances arising which threaten to modify the status quo to consult the other with the view of "common action." The latter is the most important provision, amounting practically to a military convention for the mutual guarantee of their possessions. In a note for transmittal to the powers, each country distinctly points out that the agreement was made in the interest of peace, as the status quo cannot be modified without prejudicing the vital interests of the signatories. The declarations contained in the agreement were exchanged May 18.

Smith Got Wise A score corn, he said was bad enough, but to have it stepped on was the limit. He invested in a bottle of Putnam's Painless Corn Extract and now he wears a happy smile. Corn is gone, enough said, try Putnam's yourself.

ONTARIO MINISTERS TO BE EXPELLED London, Ont., June 25.—The Baptist council, which has been hearing the charges preferred against Rev. G. M. Coulman, formerly of St. Catharines, decided to publicly expel Mr. Coulman from the ministry. The accused was summoned to offer a defence but failed to do so. Charges of immoral conduct had also been laid against Coulman, and when these charges came up for investigation he offered no defence. It was also alleged that he had bought and sold mining stocks. The offending clergyman was ordained about five years ago, and had charges at Brampton and St. Catharines. At present he is residing in London. Rev. J. D. Freeman, formerly of St. John, and for five years pastor of Bloor street, Toronto, Baptist church, has resigned and will sail on Thursday for England. He will preach in the Robert Hall Memorial church, Leicester, for about a month.

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FISHERY BULLETIN Halifax, N. S., June 25. NOVA SCOTIA. Digby—Herring plenty, cod, haddock and lobsters fair. Port La Tour—Cod, pollock and squid fair, haddock scarce. Lockport—Cod very plenty, forty barrels mackerels in traps; banker "Springwood" arrived with 1000 quintals fish. Liverpool—Cod and haddock fair, herring and salmon scarce. Lunenburg—Cod fair, few mackerel in nets, traps report 400 barrels small herring. Musquodoboit—Trout plenty, cod, haddock, mackerel fair, lobsters scarce. Spry Bay—Cod fair, dogfish very plentiful. Salmon River—Cod, lobsters, trout and salmon fair, herring scarce. Canso—Pollock very plentiful, cod and haddock fair, lobsters scarce. Port Malcom—Mackerel fair, herring scarce, no cod. Arichat—Haddock very plenty. Lunenburg—Haddock and lobsters plenty, cod and mackerel scarce. St. Anne—Cod, herring and lobsters fair, salmon scarce. Cheticamp—Haddock very plentiful, cod, lobsters and salmon fair. Mabou—Cod, herring and lobsters fair. Port Hood—Cod and lobsters fair, haddock and herring scarce. PRINCE EDWARD ISLAND. Georgetown—Cod fair, herring and lobsters scarce. Malpeque—Cod and lobsters fair. Bloomfield—Cod fair, haddock, herring and lobsters scarce. NEW BRUNSWICK. Grand Manan Bulkhead—Cod fair. Grand Manan, North Channel—Hake fair. Lacumac—Point lobsters and salmon plenty, mackerel fair. QUEBEC. Anticosti, English Bay—Cod fair. Anticosti, Ellis Bay—Oupla fair. All branches dull at West Arichat, Descausse, Hawkesbury and Petit de Gnat. BAIT AND ICE. Bait obtainable at Quenepport, Half Is-

Pupils of New Brunswick School for Deaf Held Annual Closing Exercises Yesterday. The closing exercises of the New Brunswick School for the Deaf, were held in the Opera House yesterday afternoon and were attended by an interested gathering. Mayor Sears presided, and G. W. Hansell, principal of the school, conducted the demonstration. During the school year the following pupils have attained the highest averages in the different classes: In Grade IV, that of the youngest pupils, Oswald Crawford, of Newcastle Creek, Queens county, was the leader, with an average of 92 per cent. Mr. Hansell is the instructor in this grade. In grade II, Sarah Leaman, of Clint Hill, Albert county, leads, with an average of 94 per cent. Miss Lamont, instructor. In grade I, Robert Sowerby, of Shediac, leads, with an average of 90 per cent. Miss Prince, instructor. The pupils and teachers are now leaving for their homes to enjoy a vacation until the resumption of work on Sept. 20. No change will take place in the school staff. During the past year thirty-eight pupils have been in attendance, twenty-one of whom are girls and seventeen boys. Principal Hansell will leave today for Montreal to take steamer for his home in Scotland. The schooner Hattie C. Capt. Kitz, which brought a cargo of sulphur here from Port-au-Prince (Haïti), and landed it at the Miramichi Mills cleared yesterday for Windsor (N. B.), to load lumber for Miramichi.