

## The Hamilton Times.

TUESDAY, JULY 3, 1900.

## MORE KNAVE THAN FOOL.

Because to shorten a long quotation the Times omitted a portion of a paragraph from sub-section 2, Sec. 24, of the Act to protect magistrates and others against vexatious suits for damages, the Herald shrieks that we have been guilty of "trickery." The Herald contends that Sec. 24 protects a Police Magistrate against actions for damages because of official acts which he had no legal right to do. Its words are:

The previous sub-section provides that a Police Magistrate shall not be liable for action on account of any of his acts done in good faith by him in his official capacity, but which he had no legal right to do, including decisions given by him in cases which should have been heard by two Justices of the Peace or the Mayor of a city or town within the Magistrate's district.

The "previous sub-section" gives no such iron-clad protection. Turning to the index of the Revised Statutes we find, "no action to be brought FOR CERTAIN MISTAKES IN JURISDICTION"; and again, "Actions not to be brought against for acting under ultra vires STATUTE." The "previous" sub-section referred to by the Herald exempts a police or stipendiary magistrate from suits for damages only in certain cases. This is the sub-section in full:

No action shall lie against a stipendiary police magistrate for or by reason of any process issued, or conviction made by, or any proceedings of any kind taken before him alone, or authorized by him, in good faith, in any case which, by the law applicable thereto, was not cognizable by such police magistrate, or not by him sitting alone, or which should have been heard by two Justices of the Peace, or by the Mayor of a city or town within the district, county, union of counties, or part of a district or county, or union of counties, for which the stipendiary or police magistrate was appointed.

In other words the protection afforded by the section is against suits growing out of a police or stipendiary magistrate by mistake sitting on cases which should have been heard before another court, or with associates on the bench; and it has not the slightest bearing on the point at issue. Even then the police or stipendiary magistrate is not fully protected, for the next sub-section says:

This section shall not prevent an action from being maintained where and so far as the action would be maintainable against the Mayor or Justices of the Peace if the process had been issued or conviction made by, or proceedings taken before, or authority given by him or them. IN A MATTER IN WHICH HE OR THEY HAD JURISDICTION.

The words in capitals are those the Times omitted, and over which, to cover up the utter collapse of its argument, the Herald rags and rags us of "trickery" and "garbling." The sub-section shows that even in the matter of exceeding jurisdiction by erroneously sitting alone on a case in which he should have associates, or which should go before another court, the magistrate is not entirely protected, but is only exempt to the degree that the proper authority would have been exempt. The words we omitted do not affect the case. The Herald knew that.

The Act provides protection for magistrates in cases of convictions confirmed upon appeal, against defects or irregularities; it provides partial protection in cases of error in hearing cases that should be heard by another court, as stated in the sub-sections quoted; it provides protection in case of the enforcement of an ultra vires statute of the Province or Dominion, to the extent of making their liability the same as if the statute had been valid; but there is absolutely no provision made for the protection of magistrates who choose to act under an ultra vires by-law. Indeed the Act quoted prescribes the manner in which suits for damages must be brought, limits the time, and provides that when sued the magistrate may tender the complaining person "such sum of money as he thinks fit as amends for the injury complained of in the notice." Sec. 11 provides that in quashing a conviction "the court may, if it thinks fit to do so, provide that no action for a trespass shall be brought against the Justice of the Peace who made the conviction." (To head off a Herald quibble that this refers only to Justices of the Peace, we call attention to Sec. 1, S.S. 2, which makes Secs. 1 to 23 apply to Police Magistrates, as well as Justices of the Peace.) Provisions are made and rules laid down for the prosecution and hearing of suits for damages. Sec. 19 describes what allegations a person suing for damages is required to prove in certain cases, and malice and want of reasonable or probable cause is not one of them. Then Sec. 22 provides that "if in any case it is alleged in the statement of claim, or in the summons and particulars if the plaintiff sues in the Divisional Court, that the act complained of was done maliciously and without reasonable or probable cause, the plaintiff, if he recovers, shall be entitled to full costs. Crankshaw says:

"The liability of Justices in cases where they either have no jurisdiction, or exceed it, must not be taken in its limited sense, but must be understood to include not only those cases where there has been an absence of jurisdiction in fact over the case, but also where some statutory or formal requisite has been omitted, if such requisite be an essential ingredient."

Further, comparing the statutes of the several Provinces, Crankshaw says—and every reputable lawyer agrees with him—that under the Ontario law, when the Magistrate exceeds his jurisdiction, persons suing

for damages do not need to allege malice or lack of reasonable or probable cause.

Magistrates are protected only against "vexatious" suits for damages; they are not relieved of the obligation of assuring themselves that they are acting under the authority of law. And it is only reasonable that that obligation should be binding upon them.

## EDITORIAL NOTES.

Cheer up! Rain is falling in India and Manitoba.

Hamilton is good enough for a holiday. The home-stayers had as good a time as the excursionists.

The Guelph Herald's blunder twine liar is at work again. Times are mighty hard with the Tory carpenter now.

Dundurn is a pretty place now, but, like the northwest crops, a little rain would do it good. The grass is suffering from drought.

The Mail and Empire is very cross because the Government did not make a big grant to Toronto's exhibition scheme. And if a grant had been made it would have raged at the Government for increasing the expenditure.

After all Dr. Montague showed a good deal of wisdom in having his picnic in Haldimand County without waiting for election day, which his opponents promise will be no picnic for him.—London News.

The Doc. is going to have his fun while he can. He knows his political night approacheth.

Hon. Clifford Sifton has got back to Ottawa, and if any of his Tory critics in Parliament feel like saying to his face what they have been saying behind his back, he is ready to listen and reply. He brings from Europe a good report of immigration prospects.

The Chinese situation looks gloomy enough to-day; but bad as it is there is reason to think that general war is far off. Unfortunately the position of the foreigners at Peking is cause for the gravest anxiety. The most optimistic must dread the story to be told when communication with the capital is opened.

It is most unlikely that we shall have any Indian war on the Rainy River; but if we do it might be well to get the Queen Mother's Big Chief Medicine Montague to issue a proclamation and send the great brave Talk-Through-His-Hat-Carscadden to serve it on the disgruntled red men. That would settle the matter.

Under regulations adopted by the British War Office the colonial troops will be entitled to "a gratuity of £5 when discharged medically unfit, or on account of their services being no longer required in connection with the war, or at the termination of their engagement. If a non-commissioned officer or man dies while serving, the gratuity will be credited to his estate. This gratuity will be in addition to the gratuity (if any) given to the troops at the end of the war."

Alas! Poor Sir Hibbert! The Senkler Yukon charges, fathered by D. G. McTavish, have been investigated by Judge Dugas, and have proven to be quite as baseless as the other Tupper charges; and McTavish, who played the Tupper role, has fled from the territory to escape prosecution for criminal libel. He was not as cunning as Tupper; Sir Hibbert fulminates only where, protected by parliamentary privilege, he cannot be prosecuted for his slanders.

Hon. Mr. Fitzpatrick has struck upon a good plan to ensure that the voter shall mark and hand back for deposit in the box the same ballot he gets from the returning officer. A number will be printed on a counterfoil at each end of the ballot. Before delivering the ballot to the voter, one counterfoil will be torn off and laid upon the table, so that the scrutineers can see the number. When the ballot is brought back, the other counterfoil will be torn off, before the ballot goes into the box. The correspondence of the numbers will prove that there has been no substitution of ballots.

The Toronto World regretfully remarks that "the trade that Great Britain is losing through her mistaken free trade policy the United States is gaining by her policy of enlightened selfishness." "Enlightened selfishness" is the product of a mighty brain. If Billy Maclean were to cross the pond and remonstrate a little with Salisbury and Chamberlain, he might get them to reverse Britain's policy. What they need is "enlightening," and Mr. Maclean is of all men the one to dispel their gloom. Then the news he would bring that Britain is losing trade would surprise them some; they have been under the impression that she was gaining millions annually.

Considerable complaint is made over the long time allowed to elapse between the reading of the Normal College examination papers and the announcement of the results. The matter is one of prime importance to the students striving to qualify for the highest grade of the profession. They want to get schools, and until they get the report of the examinations cannot apply as qualified Normal College graduates. The schools in need of teachers are rapidly being supplied, and by the time the young men and women know whether they have passed or not the time for contracting for schools will be nearly over. We are informed that the fault is not a local one. What can you do about it, Mr. Harcourt? Somebody is neglecting work for which he is well paid; can't you prod him up a bit?

## DOMINION PARLIAMENT.

A Good Day's Work on the Estimates.

## THE EXPENDITURE ON CANALS.

Ottawa, July 2.—The House celebrated Dominion Day to-day with ten hours' solid work, and no sky-rockets. The electric and railway estimates are not conducive to oratory, and it was these somewhat dry subjects that were discussed until 1 o'clock in the morning.

In reply to a question by Mr. Pattee, Sir Wilfrid Laurier said that the Department of Justice had given orders to put the alien labor law in force in the town of Welland against certain workmen imported against the law from the United States. The Government was not aware whether they were American citizens or simply aliens under the American law.

The House went into committee again upon the bill respecting elections. A long discussion took place upon several technical points, relating to the practice in Prince Edward Island, under the Provincial election act, which has been adopted as applicable to Dominion elections.

Mr. McNeill suggested that ballots should be initiated by the scrutineers as well as by the deputy returning officer, but the idea did not find much favor and was not adopted. The House had been considering how provision might best be made to prevent substitution of ballots, and it occurred to him that if a ballot be adopted with two counterfoils attached, each bearing the same number printed thereon, this would prove an effective check. The deputy returning officer would tear off one counterfoil when giving the ballot to the elector, and on the ballot being returned to him and before placing it in the box would tear off the second counterfoil after comparing the numbers.

Mr. Foster agreed that this would be an effective remedy for the substitution of ballots. At the suggestion of Sir Louis Davies the 80th clause was amended by inserting a proviso that the deputy returning officer shall before opening the ballot box at the close of the poll place all the spoiled ballots in an envelope and seal it, so as to prevent these ballots becoming mixed with the rejected ballots.

Mr. Ingram called attention to the necessity for having a clause compelling the deputy returning officer to allow the agents of the candidates to see the face of the ballots when counting them.

Mr. Fitzpatrick pointed out that clause 80 provided that full opportunity be given to those present to examine each ballot. The penalty for offences by returning officers was, at the suggestion of the Solicitor-General, made a minimum fine of \$500 or one year's imprisonment.

Mr. Ingram moved to strike out the clause requiring a deposit of \$100 as security for costs when a re-count is asked for, but Mr. Fitzpatrick said he could not accept the amendment. The amendment of Mr. Casgrain, providing that it shall not void an election if an agent causes the printing of any election matter without the name of the printer, and that the printer shall also be punished, was just about to be passed when Mr. Foster remembered that this would cover all the literature now prepared for the next election. Mr. Fitzpatrick said he would wait a clause to reach the class of scurrilous matter that it was desired to control in this way.

On the clause providing for the payment of returning officers, Mr. Ingram objected to the payment to them of \$2 for each polling subdivisions over 30. He said it was outrageous to have such divisions as there were in Toronto, where there were more than half a dozen voters in a division. The \$2 was a temptation to the returning officer to multiply divisions.

At the evening session Mr. Ingram asked that it be made clear that the soldiers now in South Africa who would otherwise have votes, should not be deprived of their franchise by reason of their absence from Canada.

Mr. Fitzpatrick replied that he intended drafting a clause that would remove any doubt upon the question. Having disposed of the entire bill excepting the clauses relating to the form of ballot and the vote of electors serving in South Africa, the committee reported progress.

The House then went into Committee of Supply on the Supplementary estimates of the Department of Railways and Canals for 1899-1900.

Mr. Haggart protested against the vote of \$170,000 for the north channel at the entrance of the Great Lakes Canal, contending that the \$1,000,000 spent upon it was thrown away, as there was a good channel on the American side of the river.

Mr. Blair replied that the new channel gave a straight course directly opposite the entrance to the canal, and was a much better channel than that on the American side. The channel is 1.4 miles long, and the course by the old channel was a mile longer than it is now. The engineer's report showed that it was cheaper to construct the new channel than to deepen the old one, and a better channel was provided.

Upon the item of \$263,000 for construction of the Soudan Canal, Mr. Haggart demanded that Mr. Blair give a statement of the estimated cost of the work when it was undertaken, and

## Something for MOTHERS.

EVERY CHILD born into the world with an inherited or early developed tendency to disfiguring, disfiguring humours of the skin, scalp, and blood, becomes an object of the most tender solicitude, not only because of its suffering but because of the dreadful fear that the disfigurement is to be lifelong and mar its future happiness and prosperity. Hence it becomes the duty of mothers of such afflicted children to acquaint themselves with the best, the purest, and most effective treatment available.

Warm baths with CUTICURA SOAP to cleanse the skin and scalp of crusts and scales, gentle applications of CUTICURA Ointment to allay itching, irritation, and inflammation, and soothe and heal, followed in the severe cases by mild doses of CUTICURA, are the only safe and effective treatment for such cases, and are the only ones that can be relied upon to give permanent relief.

Sold by all Colonial Chemists, and by the Proprietors, 240, 242, 244, 246, 248, 250, 252, 254, 256, 258, 260, 262, 264, 266, 268, 270, 272, 274, 276, 278, 280, 282, 284, 286, 288, 290, 292, 294, 296, 298, 300, 302, 304, 306, 308, 310, 312, 314, 316, 318, 320, 322, 324, 326, 328, 330, 332, 334, 336, 338, 340, 342, 344, 346, 348, 350, 352, 354, 356, 358, 360, 362, 364, 366, 368, 370, 372, 374, 376, 378, 380, 382, 384, 386, 388, 390, 392, 394, 396, 398, 400.

## TENTING BARGAINS

A1 A. L. Pentecost &amp; Co's.,

Corner York and MacNab Streets.

A Great 3 Days Bargain Sale.

A Big Snap in Dress Gingham.

Your Choice 10c and 12½c.

2 and 25c Zephyr Gams, the latest patterns and colors, washable; see them; on sale 3 days at per yard 10c and 12½c.

100 Rustic Sailors for 47c.

1 dozen \$1.00 Knox Rustic Sailors, trimmed ready to wear. This is the biggest hat snap of the season. Go one; only 47c.

ALL NEW GOODS AT THE NEW STORE.

## SALE OF RAVELLERS' SAMPLES

At 25 Per Cent. Below Manufacturers' Prices.

## White Cambric Night Doses

25 samples of Ladies' Fine Cambric Night Doses, each with two pieces, handkerchiefs, and embroidery and tuckings, from \$1.50 to \$3.50, this week each ... \$1.12, \$1.50

## Samples of

## Girls' White Aprons

Girls' Fine White Aprons, tucked and trimmed with embroidery and lace, no tucks, worth from 50c to \$1.50, each ... 25c, 35c, 45c, 60c, 75c

## Samples of

## Infants' Long Dresses

Infants' Fine Cambric long Dresses, all new styles, no tucks, tucked, embroidery and lace, each ... 50c, 60c, 75c, 85c, 1.00, 1.25, 1.50, 1.75, 2.00, 2.25, 2.50, 2.75, 3.00, 3.25, 3.50, 3.75, 4.00, 4.25, 4.50, 4.75, 5.00, 5.25, 5.50, 5.75, 6.00, 6.25, 6.50, 6.75, 7.00, 7.25, 7.50, 7.75, 8.00, 8.25, 8.50, 8.75, 9.00, 9.25, 9.50, 9.75, 10.00

## Samples of

## Ladies' Combinations

Ladies' Combinations, Skirt and Chemise and Drawers and Chemise, in fine white cambric embroidery and insertion trimmed, at less than half price, each ... 65c, 85c, 1.00, 1.50, 1.75

## Samples of Girls'

## White Cambric Drawers

Girls' Fine White English Cambric Drawers, well made and tucked, special per pair, 23c and 25c

## Ladies' Shirt Waists

Just arrived, a large variety of Fine White Muslin Shirt Waists, the very latest styles, insertion and lace trimmed, special, each ... \$1.35, \$1.50, \$2.00

## Summer Dress Skirts

to Order at 50c.

There is no better place to have your Summer Dress Skirts made than here, where we make them to fit well and guaranteed perfect satisfaction for the low price each ... 50c

## Dress Skirt Materials

We have a large variety of Wash Dress Materials to choose from:

New Piques in lace and cross-over effects at per yard, 12½, 15, 18, 20c

New Linen Homespuns, wide width, best qualities, at per yard ... 12½, 15 and 18c

New Covert Skirt Denims, all new shades in the plain and stripe effects, very stylish for the seaside, special per yard ... 18 and 25c

Skirt department second floor.

## FINCH BROS.

18 and 20 King St. West.

R. M'KAY &amp; CO.

## OUR MILLINERY SPECIALS

We propose to wind our most successful millinery season by offering the balance of the stock at rapid selling prices.

## Untrimmed Hats 25c

All colored Untrimmed Hats worth from 50c to \$1.25 and \$1.50 each, we intend clearing at 25c each.

## Straw Braided yard.

A range of Colored Straw Hats, worth as high as 75c yard, to clear this week only 10c yard.

## Our Trimmed Hats at 30c.

See thrange of beautiful Trimmed Hats, trimmed with white chuffs and black velvet, all worth \$5.

## Trimmed Hats \$1.75.

A range of Trimmed Hats—good, serviceable styles—worth up to \$3.00 each, special price \$1.75.

## Leghorn Hats 10c.

We have a few of those White and Black Leghorn Hats left 10c each; will trim up nicely.

## Linen Crash Suits \$2.95.

5 only fine Linen Crash Suits—jacket and skirt, with navy and white trimmings, value at \$5 and \$6, special clearing price \$2.95.

A number of fine Pique and Duck Skirts will be cleared this week at \$1.25.

## R. M'KAY &amp; CO.

## NEW CUT GLASS.

We have jumped up another lot of BEAUTIFUL CUT GLASS. All the latest patterns at the lowest prices.

## E. DAVIDSON

THE IMPORTER,

17 KING STREET EAST,

OPPOSITE THE CORE.

## SKIRTS MADE FOR NOTHING.

We have greatly increased our staff of dressmakers, and for the next two weeks your dress goods will be made into skirts free of charge. We positively guarantee satisfaction at quick delivery. Money back if you want it.

Webber Bro., No. 40 King Street West

claimed that the expenditure had exceeded the estimate. Mr. Blair reminded Mr. Haggart that the work was commenced under the claim in this case was that the his direction, and, therefore, he might Government were to blame because he was able to give some information they did not take proper care of the on the matter.

Mr. Haggart wanted an explanation of the reason why Mr. Blair had claimed \$200,000 worth of water limit. He was sure it could not be called cement, from Thorold. When at the head of the department, Mr. Haggart for meeting of the National Education Association at Charleston, S. C., on July 7th to 13th, the Lehigh Valley Railroad will make a special low fare excursion, July 19th, for full quantity supplied subsequently by the contractors had entered suit for the balance and for breach of contract, which is now pending in the Exchequer Court. The contractors had been paid \$22,000, but the deposit and drawback which the Government retained reduced the amount to \$17,000.

Mr. Wm. Gibson said he had used a great deal of Thorold cement and found it excellent. It was used on the Welland Canal and the St. Clair tunnel, and he would rather have the fresh ground Canadian cement than

the one imported, which often was over a year old and was only mush when put into use. The claim in this case was that the Government were to blame because they did not take proper care of the cement. The House rose at 1 o'clock.

Reduced Rates to Charleston, S. C., Via Lehigh Valley Railroad. For meeting of the National Education Association at Charleston, S. C., on July 7th to 13th, the Lehigh Valley Railroad will make a special low fare excursion, July 19th, for full quantity supplied subsequently by the contractors had entered suit for the balance and for breach of contract, which is now pending in the Exchequer Court. The contractors had been paid \$22,000, but the deposit and drawback which the Government retained reduced the amount to \$17,000.

serious fire occurred at the substation of the Lehigh Rapids Hydraulic and Land Company, Montreal, on July 1st. A. A. Cowther, the night watchman, was overcome with smoke and injured.

When we have good blood we are strong, vigorous, and full of energy. Blood's Saraparilla is good blood.

When we have good blood we are strong, vigorous, and full of energy. Blood's Saraparilla is good blood.

## BOBS AND ANGUS

Success With 2 B's.

In what respect are they alike? Bobs has been successful in clearing out the Boers. Angus is now meeting with great success in clearing out the E.M.C. Cassel immense stock of Boots. We were crowded on Saturday, and we are sorry we could not wait on all who called, notwithstanding we had extra hands. Great bargains in every line of Boots and Shoes, as the stock must be cleared out.

No. 38 King Street West. E. M. C. CASSEL. JAMES ANGUS, Manager.

## DON'T SCOLD THE COOK,

—But buy—

## KEEWATIN FLOUR.

2 more carloads on track. Customers properly insist upon having this choice article of flour.

THOMAS S. MORRIS,

45 Wellington street north.

361-263 King William street. Phone 38.

## Trunks! Trunks!

The reasons why we sell so many—they are made strong. Prices right and we have the largest stock in the city.

W. E. MURRAY,

24 MacNab St. North,

20 Market Square.