

HIS PLEA REJECTED

Clarke Trial for Monday Morning

Libel Case of Judge Macaulay Will be the First One to be Taken Up.

The libel case of Judge Macaulay against J. A. Clarke came up again this morning before Mr. Justice Dugas upon an enlargement granted Wednesday last to enable the accused to properly consider the plea he proposed entering. When asked by his lordship if he was ready to proceed Clarke filed the following plea of justification:

"On the 31st day of May, in the year of our Lord one thousand nine hundred and two cometh into court the said Joseph Andrew Clarke in his own proper person and having heard the said indictment read saith he is not guilty of the said premises in the said indictment specified and charged upon him, and without waiver of his plea of not guilty the said Joseph Andrew Clarke for a further plea in his behalf saith that our lord the King ought not further to prosecute the said indictment against him because he says the said alleged libels are true and pleads justification for the publishing thereof, because the judgment criticized was liable to do great injury to the public in encouraging a general breach of the peace by the protection and fancied impunity from punishment given open public upstairs gambling.

"That the rumored open corruption of some one or more officials by the subscribing and payment of an uncertain amount of money to secure connivance at said gambling was such a notorious scandal that all matters in connection therewith in the interest and protection of the public demanded the fullest and freest criticism and publicity. And the said Joseph Andrew Clarke denies that he alleged any personal corruption on the part of said C. D. Macaulay, and said Joseph Andrew Clarke denies any malice in the publication of the same."

The plea provoked considerable argument. Crown Prosecutor Congdon holding that it was not a plea of justification at all as contemplated by the law. His lordship held a similar view and inasmuch as Clarke was not represented by counsel he suggested that he amend his plea by making it more specific. It was pointed out that publishing to the world that such and such a man was a thief might be libelous; but in the plea of justification which the defendant might file in the libel action which might arise over such publication, it was not sufficient that the bare statement that so and so is a thief be affirmed. Such plea must state that on such a date and at such a place he who is alleged to have been libeled did steal such an article, and the publisher of such statement must be prepared to prove his allegations. Notwithstanding his lordship's suggestion Clarke refused to amend and waived all pleas.

"That is your privilege," said his lordship, "but remember that it is your own fault if you refuse to amend as suggested. For the reason that you are not represented by counsel I desire to help you all I can. You have the right to say these facts are true and justify yourself by proving the same, but it must be done in a proper manner."

Clarke insisted that his plea was all right and that it was the duty of the crown to prove the innuendos said to be contained in the alleged libelous articles which would give him the opportunity to offer evidence in rebuttal. His lordship rejected the plea as being not admissible, it not being a plea of justification as contemplated by the law. By his direction the clerk was instructed to enter a plea of not guilty and the trial was fixed peremptorily for Monday morning at 10 o'clock.

Clarke asked if the crown prosecutor was appearing in the case in a private or public capacity and if in the former he asked by what right he was doing so. His lordship replied that the gentleman of whom the question was asked was in court and he could speak for himself, upon which Clarke remarked that he had already endeavored to ascertain such information from the gentleman but had been unable to procure it. He then made the remarkable request that his lordship direct Mr. Congdon to define the position he is occupying, which led the court to say in an emphatic tone that could not have been misunderstood that his actions were very impudent and that such impertinence would not be tolerated for an instant. Clarke also objected strenuously to the Macaulay case taking precedence over that of Munroe, but as the order in which the cases are brought on rests entirely with the crown prosecutor, particularly as the prosecution in the Munroe case is a private one, the objections raised were of no avail. The three cases in which Clarke is defendant will all doubtless be heard next week. The Macaulay libel case comes on Monday, the contempt case before Mr. Justice Dugas Wednesday and the Munroe libel case to be fixed at a later date.

A Good Opportunity.

Anyone contemplating the purchase of machinery would find it to their advantage to apply to The Canadian Bank of Commerce, Whitehorse. Besides saws, belting and engineer's supplies, they have for sale:

- 1 Walrath's 40 Horse-power Horizontal Engine.
- 1 Atlas 35 Horse-power Boiler.
- 1 Albion 20 Horse-power Tubular Boiler.
- 1 Albion 26 Horse-power Vertical Engine.
- 1 Mitchell 20 Horse-power Vertical Engine.
- 1 Complete Sawing Plant, including Saw Frame, Log Turner, Log Hoist, etc.
- 1 Pile Driver.
- Complete Blacksmith Outfit.

WATER FRONT NOTES.

The May West is billed to leave Thursday, June 5, for the Koyukuk. The Prospector returned last night from a quick trip up the Stewart and return, being gone but three days. The objective point was a new landing which is known as Moose Cache some five miles below Fraser Falls. A short cut to Dun-can creek has been found and travel to that point will hereafter be via Moose Cache from which place a trail was cut this spring. A number of horses are now employed packing on the trail. General Manager Meed reports an excellent stage of water in the Stewart. The Prospector will leave again on her regular run Monday afternoon at 3 o'clock.

With two excursions tomorrow and the probability of both being well patronized Sunday will appear unusually quiet on the water front.

The La France on her return from Whitehorse will soon after leave on a trip to the head waters of the McMillan and Pelly rivers, ascending the former 100 and the latter 250 miles. Harry Hamburger will be a shipper of 12 tons of general merchandise to the head of the Pelly and if the situation looks good to him he will establish a trading post there.

Still another delay will be experienced before the Whitehorse reaches here. She left Whitehorse last night at 6:30 and was thought to be well on her way down the river today, but at 11:10 this forenoon a wire was received from upper Lebarge stating that the steamer was still there and had not yet crossed the lake. No details were given and what is causing the delay is not definitely known.

Later, 3:30 p. m.—The Whitehorse is stuck on a bar near the head of Lebarge and is transferring her passengers, freight and mail to the Sybil which expects to get away some time this evening. She will probably not arrive before Monday morning.

Kelly & Co., Leading Druggists.

Ice cream soda—at Gandolfo's 17th

HI, THERE! MOVE ON

Is the Latest Order in Dawson

City By-Law Forbidding Loitering to be Rigidly Enforced by Police.

Complaint having been made to Sergeant Smith of the town station that loitering on the streets has become more or less of a nuisance, a "move on" crusade was inaugurated yesterday. Where two or three were gathered together a policeman was soon in their midst with the injunction: "Move on!" In one instance the men were not only told to move on but they were told to move down to police court this morning to answer to the charge of obstructing the sidewalk.

The first man to face Judge Macaulay on the above mentioned charge was Mr. L. Teatbe, known in baseball circles as "Slim" and, owing to his usually happy and unoffensive disposition, for "Slim" has no enemies, he is also known as "Flowery Fields." He had stopped with L. Lee and K. Doyle in front of the Pioneer saloon while a fourth man went across to the Aurora dock to see about the excursion to Eagle tonight and while awaiting his return an officer had warned them to appear in court this morning. It had never entered "Slim's" head that such an ordinance existed, else he would not have violated it. The case was dismissed as were also the other two, but hereafter the long man with the genial disposition will keep moving when out taking his constitutional and seeking for information relative to excursions.

Bank Boys Returning

Wm. Sims, Jack Baker and Jack Patterson, the three young gentlemen from the Canadian Bank of Commerce who left last July on a year's exploring trip to the head of the south fork of the Stewart river, are expected to return in a day or two. The Prospector on her recent trip down from Fraser Falls passed the outfit in their own boat near McQueen, leisurely making their way down the river.

Constitution O. K.

Special to the Daily Nugget. New York, May 31.—Regarding the announcement that a new challenger for the America cup is to be built in England, Commodore Coates of the Larchmont Yacht Club says it is not necessary for America to build another defender as she has a splendid boat in reserve in the Constitution.

London, May 31.—Representative number of British horse owners have waited on Sir Michael Hicks-Beach and protested against the tax on oats and maize.

Memorial Day

Special to the Daily Nugget. Washington, May 31.—Yesterday, Memorial day, was generally observed throughout the States. President Roosevelt delivered an address here.

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HARRIS TO BE SENTENCED

Upon Arrival of Remittitur From Ottawa

Decision of the Supreme Court is Expected Upon the Next Mail.

Edwin Harris, the last of the Dominion trio of highwaymen, the pal of Brophy and Tomerlin, will probably be brought before Mr. Justice Dugas early next week for sentence. At his trial some weeks ago he was found guilty of complicity in the affair, but the extent of his guilt was a matter which in the opinion of his lordship admitted of some doubt, and in order that no error might be made a reserve case was forwarded to the supreme court at Ottawa for its decision. Some time ago the telegraphic communication was received that the supreme court had sustained the decision of Mr. Justice Dugas upon the question and sentence will be no longer deferred until the arrival of the remittitur which is expected on the following mail. Harris has been serving time at hard labor ever since his trial and whatever sentence he now receives he will be credited with the time already put in. Brophy, the short man who was wounded when captured and who upon conviction received life, has entirely recovered from the shot received at the hands of Constable Pat Egan and is now engaged in working out what to him must be an interminable sentence. His employment is entirely indoors, principally in the prisoners' kitchen, and he is never seen in company with the others under guard at outside work.

STEAMER ..CLIFFORD SIFTON..

WILL SAIL FOR WHITEHORSE

ON OR ABOUT JUNE 4th

FOR TICKETS, RATES, ETC., APPLY

FRANK MORTIMER, Agent, - Aurora Dock

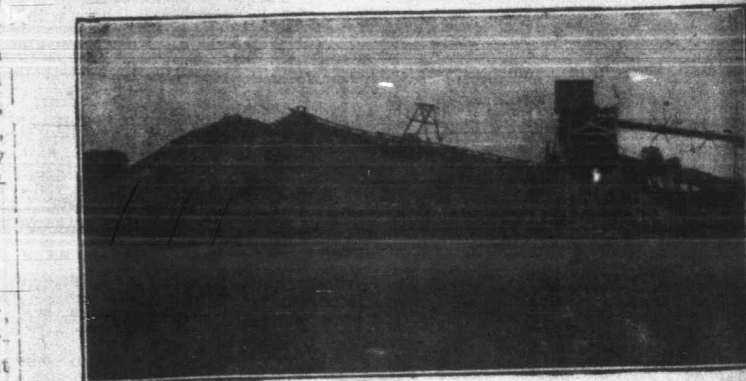
AUDITORIUM

Dawson Amateur Operatic Society PRESENTING "MIKADO" THE Wednesday, Thursday, Friday, Saturday

RAIN COATS

The New Cravenette Waterproof Coats, swell wear in place of Other Coats. No rubber, no smell, just like any other Smart Coat in appearance, but Absolutely Waterproof. Also Currie's Mackintosh Coats, a heavier coat for rough service.

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