

The Application to Commit Him for Contempt is Dismissed With Costs.

CASE.

SCAIFE'S

The Court Held That There Was no Proof of His Responsibility for the Article.

Nearly all the members of the junior bar were in the chamber court this morning when the case, Potts vs. the Corporation, was called; they were there is therefore become . No direct charge to hear the motion made by the Consolidated Ry. Co. for the committal of Mr. A. H. Scaife because of an article in | I must discharge this application. The The Province of the 24th instant, which the company claimed would tend to prejudice the fair trial of the case and several others in which the company and the city are joint defendants. The actions, as everybody knows, are for damages received in the Point Ellice bridge disaster on the 26th May last.

Mr. A. E. McPhillips appeared for the Consolidated Ry. Co. and Mr. Archer Martin appeared for Mr. Scaife. Mr. McPhillips began by reading an atti-Mr. McPhillips began by reading an atti-davit of H. G. S. Heisterman, a stu-dent in his office, who bougit a copy of The Province of 24th inst. at The Prov-ince office, and also an affidavit of Mr. E. E. Weatten who is the soliditor on E. E. Wootton, who is the solicitor on the record for the company in this and considered serious until yesterday, when, nine similar cases, and who swore the after consultation, the doctors ordered article complained of tends to prejudice a fair trial of the actions. He then stated, the general rule of law to be that nothing shall be said tending to prejudice and party litigant in any pending action, and as an English judge had recently said, trial by newspaper must be discontinued. The gist of the he could not live. article complained of was that it judged the company liable, and that there was a conspiracy to evade their liability and thrust the burden on the city. It was a question that must be tried not only by a judge, but also by a jury, and besides it tended to prejudice witnesses, who have to be got together. Mr. Mc-Phillips made a lengthy argument and cited authorities from 11 Times' law reports showing that contempt is not always punishable by imprisonment, but

that often a fine is imposed, in addition to the costs of the motion. Mr. Martin opened by stating that where a motion is made to commit for contempt of court it is a criminal matter, and the charge must be specific and distinctly stated, and must be proved to a nicety. Authorities for the aboveproposition were cited from Paley on convictions, Roscoe's criminal evidence and re Pollard, 2 P. C. cases 106. Mr. Martin then proceeded to take up the Province, or that he was in any way guilty of the charge which he was call ed upon to answer.

Walkem J .- You know, that has been The action of F. G. Richards, Sr., vs in my mind all along: my ears are wide

ceed on its own knowledge," etc. His Lordship—That may be, but that does not, I think, concern this case. Mr. McPhillips—I think my learned friend would have shewn more respect to the Court by going a little further in the case. However, I leave the matter in your Lordship's hands. His Lordship—Now, there I do not agree with you. You are asking me to do which is prefer this work

leman any sum-\$1,000 if you like-but you ask me to commit a gentleman on whom you have served no affidavits and brought forward no evidence. Mr. Mar-

was born here just thirty years ago, and as a boy and man was very popular. Receiving a liberal education in an Eastern college, he returned to Victoria and became a member of the firm of Ellis & also told him that he owned upwards of Co., who purchased the Colonist news- \$200,000 worth of property in this city. paper and job printing concerns from On the 30th of July, witness, finding Hon. D. W. Higgins. Retiring from that Lawrence had not gone to Engthat firm nearly ten years ago, he engaged in the real estate business for a ling with him. Accused then told him short time, afterwards going to London, where he took a course in music. For did not come back to the city, he said, some time past he has held a position under the provincial government in the

education department. Since his return from London Mr. Higgins had delighted many audiences, stream. being possessed of a splendid voice, which his London training enabled him to use with good effect. Mr. Higgins was married about eight years ago to day shared in by her own and her hus-

LAW INTELLIGENCE.

A MESSAGE TO MEN.

Fhilanthropy Still Exist.

If any man who is weak, nervous and

fering from Nervous Debility, Loss of

I' have nothing to sell and therefore

want no money, but as I know through

my own experience how to sympathize

with such sufferers, I am glad to be able

to asist any fellow being to a cure. I am well aware of the prevalence of

quackery, for I myself was deceived and

imposed upon until I nearly lost faith in mankind, but I rejoice to say that I

am now perfectly well and happy once

more and am desirous therefore to make

rouble. Absolute secrecy is assured.

Send 5 c. silver to cover postage and ad-dress, Mr. George G. Strong, North Rockwood, Mich.

-A few weeks ago the editor was

taken with a very severe cold that caus-

ed him to be in a most miserable condi-

tion. It was undoubtedly a bad case of

la grippe and recognizing it as danger-

ous he took immediate steps to bring

Vigor and Organic Weakness.

band's many friends.

open for that. Here is the charge that Court Northern Light, is now being certain language appears in the Prov- tried before Mr. Justice Drake, This ince, and that that language is calculat- scciety is a branch of the Order of Fored to impair the administration of justice. Well, while it appears in the Province, there is not a word to connect Mr. Scaife with the writing or the publishing of it.

Mr. McPhillips-Your Lordship, this is not the time

allowance was stopped owing to the His Lordship-Pardon me, this is just plaintiff recovering from his sickness. the time. I cannot commit a man ex-Up to the commencement of the suit cept he is charged with something. It the plaintiff neglected to pay the regis a delicate matter, and involves the ular subscriptions to the society. The Eberty of the subject. You must prove, plaintiff now claims that he is entitled step by step, that the party charged is to the allowance for the sick alleging guilty, and then the responsibility is that the assessments should be deductcast on me to decide from the evidence ed from the amount of such allowance placed before me. There is not the and claims an account of the money acslightest thing to show that Mr. Scaife cordingly. The defendants contend that is responsible for this. For my own through the failure of the plaintiff to sake, I took down your authorities, but pay the assessments under the consti-I was expecting this all along. Mr. ution of the society he has waived his Martin wished to put forward his cases, right to the allowance and is not entitled and I allowed him time to do so. Mr. to same. Messrs. Fell & Gregory for Martin's point is this, that Mr. Scaife 18 the defendants; Messrs. Bodwell & Irv

ing for the plaintiff. Mr. McPhillips-Well, I submit that the practice does not require us to state who the writer of the article was.

not accused.

His Lordship-You must do so. Were Proving That True Honesty and True an action of this kind brought against the Times or the Colonist, the persons reputed to be the editors, Mr. Templeman or Mr. Ellis, would be brought in debilitated, or who is suffering from any of the various troubles resulting from to court, and the first interrogatory subyouthful folly, excesses or overwork, mitted to them would be "are you the editor of so-and-so? That is one of the will 'ake heart and write to me, I will first things to prove. The trouble with send him confidentially and free of charge the plan pursued by which I the affidavit is this, I am not in a postwas completely restored to perfect health and manhood, after years of suftion to know who the editor is.

Mr. McPhillips-My learned friend has, in a manner, sprung it on me, but-His Lordship-No, I do not think so; he is within his rights. You have not shewn me that Mr. Scaife was the editor, or was in the slightest degree responsible for this article. It was not ecessary that he should have written it, but, in the usual language, published it. The writing and printing amounts to nothing, if he does not publish it; and this means sending forth the matter complained of to be published abroad. It can be done by placards. Mr. McPhillips-It is not a sine qua

this certain means of cure known to all. If you will write to me you can rely on non that I should bring in an affidavit being cured and the proud satisfaction of having ben of great service to one in need will be sufficient reward for my

Awarded Highest Honors-World's Fair ·DR

about a speedy cure. From the acvertisement of Chamberlain's Cough Rem edy and the many good recommendations included therein, he concluded to make a first trial of the medicine. To say that it was satisfactory in its results is putting it very mildly, indeed. It acted like magic and the result was a speedy and permanent cure. We have hesitancy in recommending this excellent Cough Remedy to anyone afflicted with a cough reenedy to anyone anici-ed with a cough or cold in any form.—The Banner of Liberty, Libertytown, Mary-land. For sale by all druggists, Langley MOST PERFECT MADE. A pure Grape Cream of Tartar Powder. Free nia, Alum or any other adulterant 40 YEARS THE STANDARD.

that he first tried to sell the Ophir mine it was tied up by a law suit until some time ago, when it was again left open esters, of which the plaintiff is a mem-In the letter of the 30th of for sale. her, and he is now bringing this ac-July he tried to sell it to the accused. tion to recover an amount which he In reply to a question as to why he laid alleges is due him under the sick fund. the information before accused, witness said, Do you think we could keep quiet The plaintiff for some time drew the regular allowance for sick members durwhen we were making assays of \$5 at ing the time he was an invalid, but the Goldstream and assays were made here of \$600 and \$1120? He (witness) went to the Attorney-General's office with his

then.

information, and subsequently the information on which the present proceedings are being taken was laid. Witess said he did not under his knowledge then wish his name, coupled with that of Lawrence. He thought that if he had not taken proceedings against him he would have been counted as his accomplice. He thought more of the He assays, he said, than of his money. wrote a letter to accused, which Mr. Bodwell produced, which he threatened to publish, making public the whole affair, should accused not return to him is money in less than 24 hours and ex-

plain the matter of the assays. He also **HEALTHY DIGESTION** said he would take proceedings against defendant should he not comply with his request. When the officer went to Lawrence's house witness went with him, he said, to identify his property. The property in Westminster, he said, he had placed in the hands of accused for sale. When he delivered the letter on September 29th to accused he showed him a letter which he gave to him to This letter he intended to pubread. lish, he said, in the Times. He had said in the letter that he and Donaldson had nothing to do with the assays. The previous letter, which he threatened to publish, he meant to publish in the police court: he had no intention of publishing in a newspaper. He had been

nining matters ever since he came. He pessimistic shadows upon all the contold accused that he had considerable cerns of life, and here they sit like a knowledge of mining. When accused deadly incubus upon every enterprise. propered the mining fartnership witness An impaired digestion gives rise to an wanted it to be under the mining act. irritability that exposes the person to This proposition was not put in writing, much annoyance, besides being extremeand he did not know whether the part- iy trying upon others. We are all aware nership had been registered. Witness of the value of cheerfulness in life. It repeated his evidence of the day before is a flower of the rarest worth and as to his trips to the mines. He also strongest attractions. It is a tonic to repeated the story of the interview with the sick and disinfectant to the healthy. accused in the drawing room of nouse, as already published. Asked if tual cheerfulness, lessen his usefulness, he asked to see the button resulting and ought therefore to be resisted by from the mill test of 800 pounds of ore; some drastic and efficient remedy. The witness said that he had, and accused duties that devolve upon the average

Witness did not ask to see the difficulty as to put a premium on hopesmelter return. Lawrence, he thought, fulness. The relation between the prehad told him that the test was made vailing moods of the mind, and the in Seattle. Witness did not know that health of the digestive apparatus is there was no smelter in Seattle. Shown a paragraph in the Colonist of Sept. 23 re the discovery of quartz at Gold-stream, he said he gave Mr. Ellis the indigestion. Judging by results, Dr information on which it was written. At this point an adjournment was tak- in its success, therefore it is confidently n until 2:30 o'clock this afternoon. Continuing his evidence then, Capt. McCallum said he did not know until after Sept. 21st that Mr. Donaldson had following facts will show. government assayer's certificate. Nearly every time witness came to town.

he said, he visited accused, and had many conversations with him regarding the claim. He had never doubted Mr. misery from a severe attack of dyspep-sia, which manifested itself in those many unpleasant ways for which dys-Donaldson's ability as an assayer. In pepsia is notorious. Every attempt June in his first interview with accused take food was a menace to every feel-& Henderson Bros., wholesale agents, he found that he knew very little of ing of comfort, until the stomach was mining. He protested, he said, about (relieved of its burden Ly vomiting.

a short but witty address. The followthe okestack in some way or other got en-gled with the wire. The tide entangled with the wire. The tide was North," Pipers Robertson, Munro, Mcrunning swift and a stiff breeze was Donald, Anderson and McKenzie; song blowing, which swung the boat round -"'Mary of Argyle," Mr. Gordon; violin and caused her to keel over on to her solo-"John Anderson my Jo, John," heam. The water rushed in with ter- "Bluebells of Scotland," "Jessie, the Capt. James Haley and Flower of Dumblane," Miss Brown; rific force. Engineer Morgan were the only persons Highland Fling, Mr. W. Anderson; song on board. Haley, who is an expert -"My Native Hame, Fareweel." Miss McKenzie; song (humorous)— Scotch Dainties," Mr. James Russell; dance (in swimmer, commanded Morgan to push the hatch overboard, seize a life preserver and cast himself into the briny deep, kilts)-"Reel of Tulloch," Messrs. Russaying that he (Haley) would take care sell, Munro, Jameson and Anderson; of himself. Haley took in the situasong (selected). Mrs. Anderson; songtion and coolly walked along the smoke-"Burns is Awa," Mr. .T. Brownlee; stack, which was then in a horizontal reading (Scotch), Mr Hastings; dance position, and with one flash of his jack-(in costume)-"Sailor's Hornpipe," knife severed the wire. The boat imme-W. Anderson; recitation-"Mary Queen diately righted herself, but only just of Scots," Mr. H. S. T. Henderson; song floated. It was a close call, and had -"John Grumlie," Mr. J. G. Brown; it not been for Capt. Haley's cool cour-"Auld Lang Syne." age and presence of mind the Lucy Mr. Ross was an efficient accompanist would have gone down in 20 fathoms of at the piano. water, which would have meant total loss

met yesterday and this morning in the A BOON AND A BLESSING TO MAN. office of the deputy minister of agricul-

KIND. The Life of a Dyspectic One of Constant Misery-One Who Has Surfered from Its Pangs, Points the Way to Kenew-

ed Health. From the Cornwall Freeholder. The life of the dyspeptic is proverbially a miserable one, enciting universal commiseration. Not so much because

fruits free from pests. A strong reso in this province, witness said, eleven of the natural painfulness of the ailyears, and had taken an interest in ment, but largely because it projects its lution was pased urging upon the gov, themselves with the condition of nurser ies and orchards in the Dominion. Copies of the resolution will be sent to His Excellency the Governor-General, the director of the experimental farms at Ottawa, with the request that they take action in the matter. The regulations were amended to enable quarantine offcers to insist upon the re-shipment of his Those things that destroy a man's habiinfected fruit and the destruction condemned nursery stock. Palpitation of the heart, nervousness had told him that he had not got it man and woman are invested in so much and feet, pain in the back, and other forms

close and vital. Hence it is not surprising that many would-be benefactors have Judging by results, Dr Williams' Pink Pills is a remedy unique recommended as a safe and adequate

cure for acute dyspepsia. This claim is substantiated by experience as the Mrs. D. McCrimmon, of Williams town, Glengarry county, suffered untold

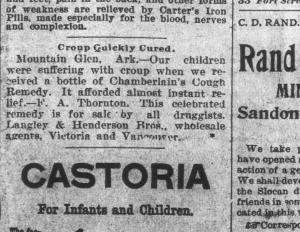
Mr. Torrance, of th "Oh, that was a counterfeiter for your saw Hon. Mr. Laurie The party with the unkempt fringe on his of securing the new be subsidized for the tween Halifax and Li trousers leaped into the air. "'Tis false!" he shricked. "Who ever heard of an artist making money?" Hon. Mr. Malock is the mail contracts an VILLANDANA CONTRACTOR CONTRACTOR changes are promised BIG FIRE IN F Starts Early This Mo Considerable SOAP. Toronto, Nov. 3.-Th from 3 yesterday after morning, but no busine was done and obstruc PICTURES by the aqueduct promo on the order paper. meet again to-morrow ueduct business. Richmond, Nov. 3 .-WRAPPERS ing fire broke out in spread like lightning street through to Coll soon a mass of fla A pretty colored nicture for every and Grand Trunk briga 12 "Sunlight" or every 6 "Lifebut it was not until th buoy'' Soap wrappers. from Sherbrooke that These pictures are well worth under control. Cax getting. Guardian printing plan rons, general store; T. ADDRESS: shop: J. A. Dalton's fur ing of N. P. Pilotte: LEVER BROS., Ld. Wallace, Mrs. Scott and 23 Scott St., Toronto. lege street, and the stables were destroyed. is about \$100,000, and C. R. KINC, Victoria, Agent for British Columbia. Lard, IOc. per Ib. AMERICAN DISI Hams, 15c. per lb. Failure of a Large C Bacon, 15c. per lb. Philadelph Coffee, 25c. per lb. Philadelphia, Pa., No Coon, wholesale clothie of the care exercised in Canada to keep | Pure Coffee, 40c. per lb. Liabilities are estimated M. M. Tea, \$1.35 5 lb. box. failure was brought abo inability to meet paper. Rome, N.Y., Nov. 3. ernment of Cape Colony to acquaint Victoria Flour, \$4.50 per bbl. Ogilvie's Flour. \$5.25 per bbl. artesian well here, the Building Company struc Choice Black Tea, \$1.00 per box. well at a depth of 245 Dominion Board of Horticulture and the Granulated Sugar, \$5.00 per cwt. STRUCK BY A WA' Dry Salt Bacon, 9c. per Ib. \$8 per cwł. Town of Proviac Destro We are giving 35c. per dozen for Many Lives strictly fresh eggs in trade. Ponto del Gada, Azor 3.-A water-spout at Pr to The above Prices are Strictly Spot Cash. most of that place and g in consequence is reported R. H. JAMESON, TO RECOGNIZE 33 Fort Street, - - Victoria, B.C. Resolutions to That Eff D. S. WALLBRIDGE. mitted to the Senate London, Nov. 2 .- News Rand & Wallbridge ceived from Sucre, Boliv commission of foreign affa ate has presented a motio MINING BROKERS, r the recognition by Cuban insurgents as belli **Sandon**, = = B. C. A Prominent Long We take pleasure in announcing that we Chase's Ointment, is have opened an office at Sandon, for the transaction of a general mining brokerage business. emedy for Itching Files a case I would pay \$50 per

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of

Mr.

BOARD OF HORTICULTURE.

Discuss Important Matters Relating to

Fruit Growing.

The Provincial Board of Horticulture

ture. Those present were Messrs. T.

Cunningham, who presided, T. G. Earl,

Henry Kipp, A. Ohlsen, J. R. Anderson

and R. M. Palmer. The most important

matter discussed was the action of the

government of Cape Colony in prohibit-

trees from Canada and the United

States. The members of the board be-

lieve that Cape Colony government took

blings, nervous headache, cold hands

such action betcause they were ignoran

ing the importation of fruit and fiuit

We shall devote our ene gies to the mines of the Slocan district. and hope to interest our friends in some of the valuable properties lo cated in this vicinity. Correspondence solicited. RAND & WALLBRIDGE.

- Antonio Pra

it could not he otherwise

JOHN PEDI

160 Sy