

# PROGRESS

VOL. II, NO. 394.

ST. JOHN, N. B., SATURDAY, NOVEMBER 23, 1895

PRICE FIVE CENTS

## TO JAIL OR OTHERWISE.

### WIDE RANGE OF PENALTIES FOR PEOPLE WHO PILFER.

One Man Gets a Month for Stealing Cash and Another Has a Sentence of Four Years in the Penitentiary for Stealing Soap—Some Specimen Cases.

Abner Crawford spent his thanksgiving day in jail, and he ought to be a very thankful man, indeed, for he has less than three more weeks to stay there. If he behaves himself properly, there is no reason why he cannot eat his Christmas dinner at home. Crawford is the man who stole \$49 and started to get out of the country with it. He was caught in Halifax, according to the distinction of Chief Clark's personal escort back to St. John, and was sentenced by Magistrate Ritchie to one month in jail. The law gave Mr. Ritchie some discretion and he used it.

Another man also ate his Thanksgiving dinner in jail, but he will spend Christmas there too. His name is Dell Vanwart, and he is one of two men convicted of stealing a tub of butter. Vanwart was not as lucky as Crawford, even though a tub of butter is not worth anything like \$49. He was sentenced by Judge Forbes to six months in jail. The law gave Judge Forbes some discretion, and he used it.

Vanwart's partner in the theft of the butter was Fred Reid. This evidence against the one man was as strong as that against the other, but Vanwart had several witnesses to his lack of bad character up to a certain period prior to the larceny. Reid, on the contrary, had not long before been convicted of assaulting a man and giving him a bad pounding. For this he was punished at the time by a fine of \$100 and imprisonment in jail for thirty days. This was considered a light sentence, in view of all the circumstances, but light or heavy, it was what the court considered sufficient, and in the eyes of the law at least the demands of justice were satisfied. When Reid came before the court on a charge of stealing a tub of butter, he was not to be tried again for the assault, nor is it to be supposed that there was any idea of making up for his previous light sentence by giving him a heavy sentence, so as to bring the average of his punishment about right for the two offenses. Reid was sentenced to three years in the penitentiary, while Vanwart, his partner in the same offense, was let off with six months in jail. An attempt was made to have his case heard on appeal, but as there were absolutely no legal grounds for it, the attorney-general refused to grant the necessary fiat. It should be understood that as a sentence is wholly in the discretion of the judge, the fact that it is a severe one is not a subject of appeal, so long as the judge does not exceed the limits prescribed by the code. The judge did as he thought best in sending one man to the penitentiary for three years, and another man to jail for six months when they jointly committed the crime of stealing a tub of butter.

Reid should have known what to expect, even though he could not understand why Vanwart was considered so much less culpable. There was a precedent in a case tried a short time before, under the Speedy Trials Act. The offender was John H. Wetmore, a stranger, who stole a cape from the house of Mrs. Flynn, where he was a boarder, and sold it for the paltry sum of two dollars. Wetmore was a sailor, belonging to Boston, who was troubled with hemorrhage of the lungs and had to leave his vessel at a port in Nova Scotia and drifted to St. John, where he applied to the U. S. consul for assistance. Consul Derby sent him to Mrs. Flynn's place, and being in need of funds he took a cape, said to be worth \$24 and sold it to a second-hand dealer for \$2, which he spent in riotous living. He elected to be tried under the Speedy Trials Act, before Judge Forbes, and having no money to hire a lawyer nor friends to help his cause, he undertook to defend himself. He told such a clumsy lie to account for his possession of the cape that it was apparent he was guilty a bungler in both robbing and lying, and should therefore have had a lawyer to represent him. During the trial, it appeared he had a wife and family in Boston, and that a few days before the larceny his wife had sent him some money to buy a suit of second-hand clothes. After purchasing these, he had a dollar or so left, and this balance, he admitted, he had given to a female of his acquaintance. This incident, the fact of a man with a wife giving a dollar to another woman, seemed to arouse all the virtuous instincts of Judge Forbes, who dwelt severely on the facts and also seemed to consider it a crime that the man got drunk. Doubtless the fact that the man was a liar, a drinker and a carouser was abhorrent to Judge Forbes, but it may not have affected the sentence, which was three years in Dorchester penitentiary.

This may have been abstract justice, and it was certainly a matter in the discretion

of the judge. Crawford and Reid might have both got longer terms and nobody would have questioned the right of the judge to do as in his wisdom seemed fit. He indeed had given a longer term to a man who stole goods of no great value. This man's name was Ringalls, and he was a negro as well as a stranger. It was one of the first cases to come up after Judge Forbes was appointed. There were several charges against Ringalls. One was that he went into a drug store and when the clerk's back was turned pilfered a bottle of perfume and a cake of soap. Another was that he went into a trunk store and carried off a valise in the same way. It was also charged that he stole and ate some canned goods and was believed to have stolen some sheet mica for stove doors. The latter charge was not pressed, but he was found guilty on the two first mentioned. For stealing the bottle of perfume and cake of soap, he was sent to the penitentiary for four years, while he got three more for taking the valise, or seven years in all for two charges of simple larceny. Ringalls was somewhat in evidence as an immoral man, but this, probably, had nothing to do with the sentence he got. Judge Forbes, no doubt, used his discretion with the idea of doing abstract justice.

Far be it from PROGRESS to say that Judge Forbes is not right in sending a man to prison for a long or short term as he may see fit. It sends a thief to Dorchester for three, four or seven years, and Mr. Ritchie sends one to jail for only thirty days, it is not a matter for adverse criticism. The only thing about the matter is that it is puzzling to the public. It will doubtless be more puzzling to the antiquarian who seeks to give an account of our laws and customs, in some future age of the world. Making his deductions from the records, he will probably inform his readers that our criminal code had some of the following penalties annexed:

For pilfering perfume and soap, four years in the penitentiary.

Stealing a valise or tub of butter, three years in the penitentiary.

Stealing a tub of butter where there are friends to swear that they do not know the accused to have a bad character, six months in jail.

Stealing a cape valued at \$24, three years in the penitentiary.

Stealing \$49 in cash and running away out of the country, one month in jail.

Vanwart and Crawford had good reason for observing Thanksgiving day in a proper spirit, even if they were in jail. It is to be hoped they were both duly thankful for the way in which they had been spared, while others, no more guilty, were doing time with hard labor at Dorchester.

It is doubtful if Reid and Wetmore felt occasion to give thanks in the penitentiary, yet they might have done so, for their position is manifestly better than that of Ringalls, who is in for seven years. As for Ringalls, he should be thankful that he was convicted on only two charges, for had he been held to account for the alleged four he could hardly have hoped to escape with an aggregate sentence of less than fourteen years for petty larceny. Perhaps he would have been imprisoned for life.

According to the daily papers there have been some great happenings in St. John during the past week. They record the fact that a dead cat was found on the sidewalk on Sydney street, near Leinster, Sunday morning. A horse ran away on Brussels street and was stopped before any damage was done. A policeman shot a dog which had taken a fit at Indian town. There is a hole in the sidewalk on Britain street, and to crown it a board fence was blown down on Paradise row in the war of the elements on Thursday. "We are living, we are dwelling in a grand and awful time."

Make an Example of Them.

A number of young toughs have got into the habit of going to Sunday evening services in various churches in the North End, getting up in a gallery or other out of the way place, and making a disturbance. They confine their attention to no special church or denomination, but go from one to the other with no other motive than to have some fun. The best way to deal with such depraved youngsters is to give them in charge and have an example made of them in the police court.

Is a Sign of the Times

The cold wave and the stoves in the electric cars were on hand at the same time, the company having apparently calculated to a nicety when the heat would be required. Those who had to travel on the cars Thursday night and Friday morning found that the modern system of speed, warmth and comfort was one of the signs of the times in the way the excellent services of the company is being maintained.

Quite Another Matter.

The fact that Prof. Bridges cannot conveniently come to St. John before next June would have saved the agitators against him a great deal of trouble if they had known it in time. However, the chance they had to express their feelings probably did them good, especially the lady portion of the revellers.

## TREMAINE HAS HIS SAY.

### HIS ANSWER TO THE CLAIM OF MRS. PERCY LEAR.

No Doubt that He Got the Money, but He Says He Was Not Her Trustee—What He Has Charged Lear in the Brief Game of a Label Suit Against "Progress."

HALIFAX, Nov. 21.—The latest move in the Byron (Lear) vs. Tremaine suit for the \$900 hush money, is the filing of the defence of the plaintiff, F. J. Tremaine. The lawyer does not deny that he received the \$900 paid in by the young men to secure immunity from proceedings in the divorce suit. He specifically admits it in paragraph 12. The amount of \$150, for which Tremaine gave a receipt, is the sum referred to in the receipt published in PROGRESS two weeks ago. It was paid by one of the young men. The items of costs which are enumerated are interesting, showing a total of \$256.61 as against that \$150, a sum which Mrs. Lear says was paid to Tremaine as her trustee and over which she claims Lear had no control whatever. Tremaine denies that he was Mrs. Lear's trustee, but states that if he was he gave her \$200 more than he had left after the payment of another long bill of costs. These items of costs will be read not without interest, especially as part of them are alleged to have been spent in St. John. Here is Tremaine's defence. The pleadings of the plaintiff in reply, will be filed in due course.

The document is duly entitled in the supreme court, in the suit between Elizabeth Frances Byron, plaintiff, and Frederick J. Tremaine, defendant, bears the heading of "defence," and reads as follows:

"1. The defendant as to the 5th and 6th paragraphs of the statement of claim denies each and every one of the allegations made and contained in the said paragraphs.

"2. As to the 7th paragraph of the statement of claim the defendant denies that he elicited from the plaintiff the names of several gentlemen or of any gentleman as alleged and the defendant denies that he threatened said men or any of them in the name of said Percy James Adlington Lear or at all, that proceedings would be brought against them for improper relations with the plaintiff or that they would be summoned to give evidence in said divorce proceedings.

"3. As to the said 7th paragraph the defendant denies that said Percy James Adlington Lear assigned in writing under seal or at all the said sum or any sum of money to the defendant to be held by him as trustee for the plaintiff.

"4. As to said 7th paragraph, the defendant says that if certain moneys were received by him from said Percy James Adlington Lear, or the persons in said 7th paragraph referred to, the said moneys were not given to or accepted by the defendant in trust for the plaintiff, and defendant denies that there ever was any relation of trustee and cestuique trust between defendant and plaintiff with respect to said moneys or any moneys. The defendant further says that all the moneys he received were received by him as agent and attorney of said Percy James Adlington Lear.

"5. As to the 7th paragraph of the statement of claim the defendant says that if any moneys were received by him as trustee for plaintiff (which he does not admit) he says that he paid the same for plaintiff and fully accounted to the plaintiff for all such moneys.

"6. As to the 1st alternative paragraph of the statement of claim the defendant denies the receipt of any moneys by him as trustee of or for the plaintiff.

"7. As to said last mentioned paragraph of the statement of claim the defendant says that if any moneys were received by him as trustee for plaintiff (which he does not admit) he says that he paid the same for plaintiff and fully accounted to the plaintiff for all such moneys.

"8. As to the 2nd alternative paragraph of the statement of claim the defendant denies that said Percy James Adlington Lear constituted and appointed defendant trustee of said moneys or any money or that defendant collected such moneys or that he received them as such trustee or that he holds such moneys for the plaintiff.

"9. As to said 2nd alternative paragraph of claim the defendant denies that the moneys paid to him by said Percy James Adlington Lear were paid to him in trust for the plaintiff or that there was any privity between the plaintiff and defendant with respect to such moneys.

"10. As to said 2nd alternative paragraph of the statement of claim the defendant says that if any moneys were received by him as trustee for plaintiff from said Percy James Adlington Lear, which defendant does not admit, he accounted to the plaintiff for all such moneys.

"11. As to said 2nd alternative paragraph of the statement of claim the defend-

ant says that the said alleged appointment by the said Percy Adlington Lear of defendant, as trustee for plaintiff, and the payment by said Lear to defendant of said moneys were voluntary and without consideration, and before the plaintiff had notice of said alleged trust, the said Lear revoked and annulled the same.

"12. As to the whole statement of claim, the defendant says that the plaintiff being at the time the wife of one Percy James Adlington Lear, committed adultery with certain persons in the city of Halifax, and the defendant being a Solicitor of this Court, was retained by said Lear to bring actions of Criminal Con. against the said parties, and to recover damages in respect of said acts of the plaintiff with said parties and not otherwise; and the defendant did receive from said parties the sum of nine hundred dollars, in several sums from the said parties respectively. As to one hundred and fifty dollars, part of said sum of \$900, the defendant received the same (Continued on Fourth Page.)

## EYE COUNTED SUNDAYS.

### Traits of the Character of the Manager of the Bank of Emergency.

A week or two ago, PROGRESS told the story of how a well known private banker kissed a woman to whom he was making a loan, and in fear of the consequences of his boldness, he had been unable to collect the amount of the note when it fell due. No names were given, and at least one private banker who was wholly innocent was unjustly suspected by those who read the story and did not see that the description was that of John P. Wells, of the Bank of Emergency. The sequel to the story, since learned, was that the woman afterwards went to his office to claim damages, and was only got rid of when Wells pushed her out of the room and snapped the spring lock of the door behind her.

Last week, as everybody knows, Wells was arrested at his own house in Carleton on the charge of having had in his room their two girls under the age of 14 years, with whom he was conducting himself in such a way as to debase their minds and corrupt their morals. He was committed for trial in default of bail for \$4,000, and at last accounts was still in jail.

Wells is known as one of the peculiar characters of St. John. He is now 82 years of age, and has been many years past been known as the most notorious tumbler in this part of America. He had an office in the upper story of a building on Prince William street where he did business, but the term of the "Bank of Emergency" was applied to the man rather than the premises. He was the one to whom people in need of small loans went in their extremity and paid the outrageous rates of interest which he exacted. His ordinary charge for discount was one-half per cent a day for amounts under \$20 and one-quarter per cent a day for larger sums. This was when there was what he considered good security, collateral or personal, but there have been instances where he charged as much as one per cent a day, or 313 per cent a year. As he piously announced, Sundays were not counted in his computation of interest.

This assumption of piety was one of the notable peculiarities of the old man. If a man came to him for a loan, he would quote scripture, and give any amount of good advice, concluding by taking a note of hand, with a watch or some other pledge as security. Sometimes he accepted endorsements, and he was one of the many lenders who were bitten to a large extent by the recent default of Arthur Clerk. Usually, however, with good collateral, he came out ahead. Some time ago, he was fined \$5 for doing a pawn business without license. He tried to make out that he had not taken the article as a pledge, but had bought it, the owner having the privilege of buying it back again.

Wells could quote scripture on all possible occasions, and with such unction that a stranger, judging by his venerable appearance, would take him to be a very pious man indeed. He was specially fond of pointing a moral from the downfall of people through strong drink or extravagant living.

With all his assumption of virtue, he was a very shrewd man, with a record for some pretty keen transactions when he was in mercantile business. An exploit of which he was fond of boasting was the successful landing of a schooner load of molasses at the North wharf, without the knowledge of the custom officials. He was full of anecdotes, and his life, as told by himself would make an interesting book.

Last spring he came into prominence through the drowning of two little girls whom he took for a drive up river. According to his account, he left the carriage to call a ferryman, when the horse ran away, taking the carriage and children into deep water.

As to how far he has been an offender in respect to the kind of crime for which he is under arrest, cannot be known, nor would it be right to hazard a speculation pending his trial on this serious charge.

## LOOKING FOR WIDOWS.

### THE STEADY JOB OF THE POLICE AT ALL SEASONS.

Further Instances of the Way the Liquor License Law is Enforced—The Case of Mrs. Donovan—Other Instances of How the Law is Not Enforced.

Among the people who have had cause to be thankful this year are the unlicensed liquor dealers who have not been disturbed by the police when their neighbors have been repeatedly reported and fined. Quite a number of them carry on business in Kings ward, though it is a matter of notoriety to the police and the public that they are not all within the area bounded Union, Smyth, Pond and Georges streets. Some of them are.

This notoriety, however, is not due to the fact that the police report them, or that their reports are acted upon if they do so. The public know them because they see groups of men going in sober or otherwise, and often "otherwise" when coming out at any hour of the day or night, Sundays or week days. The police have the same superficial source of knowledge, and they can also do as some of the public do, walk in and see the gin mills in full operation. They apparently never go at the right time, but they are quite regular in calling at certain other places which they duly report, and the proprietors of which are regularly fined. In this respect the administration of the law seems to strike in spots.

Last Sunday forenoon a number of mere boys were reeling drunk in the vicinity of York Point slip, and on any Sunday drunk men may be seen in that neighborhood. They begin to get drunk long before daylight, for there are places open then, and by church hours they are making an exhibition of themselves around Mill and Smyth streets. Men and boys can alike get liquor from the twenty places where it is said to be sold illegally in this district, and a very little money will go quite a way. A boy with a bottle can buy half a gill of whiskey for the moderate sum of five cents, and half a gill of that particular kind of whiskey will go quite a way in making drunk come when a lad is not old enough to be seasoned to it.

It must not be thought that all the custom comes from the neighborhood. A large number of the residents of York Point are hard working temperate men, but the facility with which liquor can be got on Sundays in this neighborhood brings travellers from remote districts, both in the North End and Lower Cove. There are hard looking tickets hovering around whom York Point would be very sorry to own.

Many of the twenty places do a quiet business and sell but a small quantity. Several, however, do a rushing trade, and possibly, in the busy part of the day, half a hundred customers may be seen going into this place or that in the course of an hour or so. A recent visitor to a Sunday bar in this district reports twenty-four customers inside and three women serving the drinks.

Such places as these are not reported, or if they are the public never hear of the reports. There may be such a thing as reports which are kept from the newspapers, and fines imposed "on the quiet," but it so, why should there be a special report and quiet knock-under in some cases, and regular public report in other cases?

Perhaps it would be more correct to say in "one other" case, for to judge by the newspapers nearly all the sales of liquor without license in Kings ward are made by Mrs. Julia Donovan of Pond Street. PROGRESS is sorry to have to again bring her into a prominence she does not desire or deserve, but her case points such a moral on the administration of the law that this course is necessary.

Mrs. Donovan is a widow, of course, and bears an excellent reputation. She keeps a small grocery, and by hard work and economy has supported herself and her family. She has kept a little liquor on hand at times, and has sold it to people whom she knew as neighbors and who did not abuse it. She has not run a Sunday business, nor sold to minors or drunken people, nor has she permitted hard characters to make her place a resort. Every resident in the neighborhood knows her place to be a respectable one.

About once in every two months the police call on Mrs. Donovan and ransack her premises in search of liquor. Some times they find it, and at other times there is none for them to find. Last year they used to call only about once in every three months, but finding that she paid up well when caught, they seem anxious to get from her all the money that she can gather. In the course of the year her total liquor profits have been much less than the amount of the fines, but she has from time to time kept a little liquor on hand to oblige her regular grocery customers, who take their drinks in a quiet way.

Mrs. Donovan's custom, when caught, has been to acknowledge the offense and

submit to a fine of \$20. As she is poor and known to be honest, the court has usually allowed her time to rake, scrape and save, until she raised the amount demanded. She had not quite succeeded in getting enough to pay the last fine when she was again visited last Saturday night and again reported. The case has not yet been dealt with as she has not been well enough to go to court.

On the Saturday previous four big policemen, including Sergeants Jenkins and Baxter, made a visit and search, but found nothing, owing to the fact that there was no liquor on the premises. Last Saturday, four more big policemen, headed by Sergeant Caples, called again, and did find a small quantity of the contraband article, it is said. Any quantity, however small, would be enough, for on one occasion the only liquor found in the house was less than a pint of wine in a bureau drawer, but not intended for sale. She has never kept wine for sale. It was enough to convict her, and she submitted to be fined.

They have not always found this much. Last summer a police detail of four, made a thorough but useless search of the whole house, looking under beds, moving barrels of potatoes and poking around in the cellar. If these four big fellows were not ashamed of themselves when they got through, they should have been, in view of the fact that there were so many other places where no such rummaging was needed to secure sufficient evidence.

There is this to be said, however, that a search is at least open and honest, and far ahead of the way Policeman Semple took to convict another widow, Mrs. Bradley, by hunting up witnesses to prove what he merely suspected.

About the time Mrs. Donovan was reported, two months ago, Patrick Cotter, of Water street, was reported. He was reported also when she was on the list this week. This shows the periodicity with which the police strike in spots. Do they mark up a calendar with dates in advance, as a man sometimes does when he has a note coming due?

Another widow, Mrs. Haley, was reported for selling liquor this week, and was fined \$50. The police do not visit her as often as they do Mrs. Donovan, but when they do she pays a heavier fine.

Another report made this week was that of a notorious woman, Frankie Raymond, who was fined \$20 for keeping liquor for sale. At the figures supposed to be charged for drinks in her establishment, \$20 with her is an easy price to pay for immunity from further prosecution for a time. If respectable widows were fined in proportion, as regards the amount of liquor sold, their fines could be counted in cents, and not many cents at a time.

When do the police intend to be as vigilant with the big dealer as with the small one, and when will they learn that most of the unlicensed liquor sellers in the city do not happen to be widows?

## Not on the Programme.

Just before the end of the Opera of Billee Taylor, Thanksgiving evening, the house was plunged in darkness, something having gone wrong with the electric lights. The company faltered for an instant, then kept right along without sight of the conductor's baton. This gave confidence to those in the audience disposed to be timid, and elicited a tremendous storm of applause. Soon a candle appeared on the stage, then another, after that a railroad lantern, then a kerosene lamp and the incident was turned into a scene of much merriment. The Halifax boys in the audience "caught on" and gave three cheers for the St. John electric light company. Mr. Gilbert appeared and said every effort was being made to connect the light but it proved impossible in the short time and the audience dispersed without seeing the Living Pictures. Still as the opera company remain Monday, Tuesday and Wednesday of next week there will be other opportunities to hear and see.

## These Carleton Lots.

The impression that Mr. John Connor wants to make too much money out of the land required to give railway facilities to the Beaver line warehouse does him an injustice. Mr. Connor asks no more than what is the value of other lands in the vicinity which are of no utility to the city, and he does not demand that the city shall take the whole lot. He is willing to dispose of whatever portion may be required, and to accept for it a price in proportion to the fair value of the whole. This proposition seems as reasonable as any man could make.

## Has Decided at Last.

Word comes from Halifax that a well known bachelor, somewhat advanced in years, who has filled a high civic position, and is interested in a big industry, is about to take a partner in the person of the handsome daughter of a prominent merchant. As the couple are of a different religious belief, it is understood that the lady is to accept the faith of her future husband.