

The King vs. Spracklin.

CRIMINAL APPEAL.

Judgment was given yesterday on the appeal in this matter. The conviction was upheld by the Chief Justice and Judge Johnson. In the opinion of Judge Emerson the appeal should be allowed, and the conviction quashed.

After the delivery of the judgment the prisoner was sentenced, by Judge Johnson, to two years in the Penitentiary, with hard labor, the time to run from August 21, 1912. The Judge said that in consideration of the meritorious service of the accused for a number of years, and also because of the manner in which the appeal had been presented, the sentence was much lighter than it would otherwise have been.

It was unanimously held by the Court of Appeal that the Criminal Appeal Act, 1907-8, (English) is in force in this Colony. This is the first decision on this point, and changes the practice here as to criminal appeals. The prisoner's counsel had said, at the outset of the appeal, that the Judge held this Act to be in force, he did not rely on the objections which would otherwise be made as to the manner in which the jury had been empanelled at Harbor Grace. Arguments on this point were therefore presented without prejudice. In view of the decision reached, that the Act is in force, it therefore became necessary to decide the question about the jury. But the Chief Justice referred to it in passing, by saying that as to the first jury panel, the action of the Crown officers, in asking to stand, is null because of what the Judge had done, had the effect of making the question of the legality of the Judge's action of no importance; and that as to the second jury panel, the fact that the prisoner had not challenged the full number he was entitled to had the effect of making the Judge's action of the importance which it might have possessed if the challenges had been exhausted. These remarks, however, not being a necessary part of the real decision, it appears that the vexed question which has so much interested the public—Can a judge deal with a jury as Judge Johnson did at Harbor Grace—has not been passed on by the Court.

The question that really has been decided by the Court in this case, beyond the decision that the Criminal Appeal Act applies, is this:—Tried for breaking and entering the shop of James Crox, with intent to steal, the prisoner on cross-examination was asked if he had been charged with stealing from Ernest Simmons. There was no connection between the facts in the two matters. The Chief Justice and Judge Emerson agree that the question about the Simmons matter should not have been asked or answered, because the facts of that matter were inadmissible. The charge on which the accused was being tried, and therefore a violation of the Criminal Evidence Act. But here these two judges differ. Judge Emerson holds that the trial Judge did not sufficiently withdraw this evidence from the jury, and that, therefore, the conviction should be quashed. The Chief Justice holds that the trial Judge's remarks to the jury robbed this evidence of its sting to such a degree that the jury could not have been affected, and therefore that the conviction should not be disturbed.

Upon one point of great interest to lawyers, the Chief Justice gave an opinion, but Judge Emerson made no remark whatever, though his decision seems to imply disagreement with the Chief Justice on the point. He has, however, promised to deliver a reasoned judgment for his decision, and if he does so he may deal with this matter. Relying on an English decision (Rex vs. Nicholls, 1908, 25 T.L.R. 65.) the Chief Justice holds, in effect, that where there has been non-direction by a judge to a jury (which seems equivalent to misdirection) the Court of Appeal will not quash the conviction on the ground of "Misdirection of Justice" unless the Court is of opinion that if the jury had been properly directed it would have found or ought to have found the prisoner not guilty. This seems to constitute the Appeal Court a second jury in the action, and to amount to this, that nothing illegal done in the course of a trial is a "Misdirection of Justice" if the Appeal Court concludes that the accused was really guilty. This seems to be opposed to another English case, Rex vs. Dyson (1908) 2 K.B. 454, where it was held that "where the Court of Appeal were of the opinion that even had they been properly directed the jury would in all probability have convicted the prisoner, the Court nevertheless quashed the conviction on the ground that they were unable to say certainly that the jury must have convicted even if properly directed."

On the question of fact, the Chief Justice and Judge Johnson said that they were convinced the prisoner was guilty, and Judge Emerson said he did not express any doubt of this. The sentence was a merciful one in this light, and in passing it Judge Johnson had evidently given consideration to all that could be said in favor of the accused.

Morline, K.C., for prisoner; Howley, K.C., and Warren, K.C., for the Crown.

Calendars For 1914.

If you want something new and original in advertising calendars for 1914, place your order with us. We will give you a choice from hundreds of subjects, viz. landscapes, seascapes, sporting pictures, views of St. John's and suburbs, all appropriate and of local interest suitable for calendars, which no doubt will be more appreciated by the receivers than the meaningless lithographs and colored prints usually sent out.

Call and see our specimens.
S. H. PARSONS, & SONS,
Photographers,
Corner of Water and Prescott Streets,
Jan 15/13

FOR HEALTH TRIP.—Mr. R. Thistle, late of the Confederation Life Assurance Co., goes by the s.s. Waterwitch to Pernambuco on a health trip he having been unwell of late.

Did you all get served? If you did not, we are sorry, but don't blame us, it is the fault of the rush.
TRY FORENOONS.

IT IS NOT TO REASON WHY?

But come and get your share of the bargains while they are going. Scores of delighted patrons of our Great Sale are wondering why we are selling at such Low Prices. Suffice it to say that when the right time comes we'll explain it fully. Hundreds of articles that we cannot find space for here are marked away down just waiting for you. All must go. Friday and Saturday will witness the biggest gathering and the biggest bargains ever seen in St. John's.

Men's Suits at HALFPRICE.

157 Men's American Cut Suits, in all sizes in Tweed and Serge. The best product of the best workmanship. These Suits are built—not made. They are built to fit the man; Coat has cuffs on sleeves, well padded shoulders, lining of superior Italian Cloth, and every item in the make-up we guarantee. Pants, peg top, side seam, patent buttons. Why pay \$20.00 to \$25.00 for a suit in these high cost of living days? Your choice now from \$8.50 to **10.00** (Come and examine.)

Men's Overcoats.

If you want a bargain in an Overcoat, hop in. Remember this Sale is genuine, and out they must go. From, up **\$5.00**

Boots and Shoes.

All clearing at Cost. All must go. Boots that we can guarantee to be all leather and wear resisting. Some broken lines going below cost. For instance we have 29 pairs Women's Vici Kid, usually \$1.80 and \$2.00. Now, per pair **\$1.30**

White Goods for Sewing Circles.

Here They Are in Great Variety, all at Bedrock Prices.

100 yards Circular Pillow Cotton, 25c usually 40c. per yard, now **25c**

White Bleached Sheetings at Half Price.

Longcloths and Shirtings from the most renowned manufacturers, all marked away down.

Wonderful time to buy Embroideries.

Victoria Lawns, fine sheer goods, at Cost Price.

Dress Ends.

Dozens of Remnants at half price. Special—5 pieces Dress Goods in Grey, Green and Navy Blue Cloth. Usual price 50c. per yard. This week, per yard **30c**

What the People Are Saying.

"My boy can thank your Sale for a new Overcoat, anyway."

"This is something like a Sale."

"What do you intend doing?"

"Oh, if one had plenty of money."

"I could not believe that you had such good values in Flannelettes and Blankets."

Last Word.

Every item in this store is a bargain. Hundreds of articles that we cannot find space for in this paper are waiting on you.

Room for Extra help during sale. Must be experienced. Apply personally at Store.

Boys' Suits & Overcoats.

Every Boys' Suit we have in stock has to go. Some splendid offerings in Norfolks and other lines. Bring your boy here if you have clothes needs. Come to-day, they will be quickly snapped up at prices we have marked them. **2.10** 2 or 3 doz. Boys' Overcoats, remaining from a huge line which we have just cleaned up. If your boy's overcoat is getting shabby, or if you've been planning to give him a new one, here is your spot.

Men's Cuffs and Collars

AT HALF PRICE. 10 doz. Men's Linen Cuffs, 20c. quality, now, per pair **10c**

This is certainly a bargain (square and round corners).

50 doz. Collars, double and standing, best four-fold linen; 18 and 20c. goods for, each **5c**

The double collars are high, ranging from 2 1/2 to 3 inch. Among lot some nice goods for evening wear; all 5c. each.

Blankets and Quilts.

Hundreds of thrifty housewives have turned this word over and over in their minds during the late frosty spurt. It is a heavy item in the home, and many a poor mother and child have felt the piercing cold and the need of warmer bed covering. But the price—we can help you now.

79 pairs Cotton Blankets, large size; usually \$1.00 to \$1.30. Now **75c**

63 pairs Woolen Blankets, selling at \$7.00 and \$8.00 pair, now \$4.80 & **6.50**

About 2 doz. pairs of \$3.00 quality, this week, per pair **2.00**

A wonderful time to buy Blankets. 25 Eiderdown Quilts going at half price. Don't miss these.

White Marcella Bed Spreads—a splendid line. If you don't need these goods now you would do well to buy them and lay aside, for you will never get such a chance again.

J. M. DEVINE, The Right House

WATER STREET EAST.

K&A Store
TALK
New CAPS.
AT THE YOUNG MAN'S STORE.
The K&A Store

EX "CARTHAGINIAN,"
40 cases Onions, 5's.
40 cases Sweet Oranges.
40 kegs Grapes.
GEO. NEAL.
PHONE 264.

Officious Little Officials
A railroad attorney travelling on a personal mission, requested the train conductor to file a telegram at an approaching station and was curtly advised to attend to his own business. As the train came to a stop, he sought to leave his car but found the vestibule doors locked. By the time he had run through the train it was too late for him to accomplish his desired purpose, and an important connection was missed. Meeting the conductor, he informed him of his status with the road and roughly rated the man for his surlyness. "Why didn't you tell me who you were?" was the reply. "I would gladly have accommodated you; I took you for one of the passengers in the tourist car. I am sorry that I was hasty." "You are not sorry that you were disobliging," rejoined the lawyer, "but sorry that you made the mistake of being insolent to some one with sufficient influence to have you reprimanded." There are far too many little men, who mistake a tiny responsibility for great power. The average citizen is constantly insulted and inconvenienced by minor employees who overestimate the extent of their authority. All men who pay an equal price for service are entitled to an equal degree of civility. The world is filled with petty bullies. One of the hardest tasks of public service corporations is their inability to secure complaints against bad servants. Big business, however much it may be criticized for its grasping and greed, is none the less intelligent and realizes the profit that lies in good will. Every protest against neglect and officious officials guarantees better treatment to the next man.—Herbert Kaufman in Woman's World.

Cape Report.
CAPE RACE, To-day. Wind light and variable, weather dull; an unknown two-topmast schooner passed in yesterday afternoon followed at 10 a.m. to-day by the S. S. Erik Bar, 3004, ther. 20.

Rossley Theatre
Commencing Monday, January 13th,
Great Scotch Pantomime,
JOCK THE KING'S PIPER.
THE FUNNIEST EVER SEEN.
35-PEOPLE-35
HOCH AYE AND ALL IN NEW SCOTCH COSTUMES.
An Inspiring Sight.
Scotch Songs, Reels, Flings and Fun by the ton. Hoot mon ye will aye have ta be in-time for a seat and there's no a rise in the price either.
Grand Fashionable Night, Friday.
Fun for the Children in a Safe Theatre.

JUST RECEIVED.
1,000 sacks WHITE OATS.
1,000 sacks HEAVY-BLACK OATS.
890 bds. CHOICE TIMOTHY HAY.
And in stock:
500 bds. SWEDISH TURNIPS.
800 bds. "BLUE NOSE" POTATOES.
50 cases P. E. I. EGGS.
These are offered at lowest market prices.
Telephone 302.
M. A. DUFFY,
CAROT STREET, SMYTH'S BUILDING, DUCKWORTH ST.

Obituary.
MRS. JAMES ANDREWS.
The death of Mrs. James Andrews took place at her home, 57 Brazil's Square, last evening. Death came very unexpectedly as she had been confined to her bed less than one week and previous to that, had been in her usual good health. Deceased was a native of St. John's, and was in her 69th year. She leaves behind her besides her sorrowing husband, one son and one brother and four sisters. Mrs. (Anton) Bell, of this city is one of the sisters. The funeral will take place on Friday at 2.30 p.m. and will be conducted by officers of the Salvation Army, of which organization the deceased had for many years been a most faithful and respected member, and her passing away will be deeply regretted, not only by members of her own family, but by hundreds who knew her as a good soldier of Jesus.
Servant of Christ well done.
Rest from thy loved employ;
The battle fought, the victory won,
Enter thy Master's joy.—COM.

Here and There.
CARD TOURNEY.—The members of the C. E. I. will hold a card tourney to-night.
Drink Campbell's Delicious Milk Shakes, 5c.—decc21tt
TRITONIA LEAVES.—The A. N. D. Company's steamer Tritonia left Boston to-day for London with 3,500 tons of pulp and paper.
CALENDARS.—We thank The Bank of Montreal, The Royal Bank of Canada, Bowring Bros. Ltd. and S. H. Parsons & Sons, for calendars.
Stafford's Liniment for sale at Marshall's West End Store. Jan 14, 13
TROITERS OFF.—The trout season opened yesterday and scores of Waltonians have left the city for the different suburban ponds and rivers.
RECOVERED.—Mr. J. Carter, who is studying for the priesthood at Rome, where he met with an automobile accident sometime ago, has recovered from his injuries.
GETTING BETTER.—Capt. Samuel Barbour, who became suddenly ill on the s.s. Sea Bird, Sunday night, was improved last evening but may have to undergo an operation.
WILL ATTEND FUNERAL.—The Royal Sicres, Ltd., will be closing to-morrow (Friday), from 1 to 4 p.m. to enable the employees to attend the funeral of the late John W. Green.
NURSES' HOME FORMAL OPENING.—The Nurses' Home will be formally opened on next Tuesday night. A dance will be held to mark the ceremony and invitations are now being sent out.
WILL TAKE MAILS.—When the Bruce arrives at Port aux Basques to-day the mails and passengers from Sydney will be transferred to the steamer which will take them to Placentia to be transferred here.
Another shipment of Wool Blankets, extra good value, received at THE NATIONAL STORES, Greaves & Sons, Ltd. Jan 13, 13
VERY QUICK WORK.—One of the smartest responses ever made to a fire was that of the western women Tuesday evening. They were on the scene and had their hose lengths out before the alarm bell had ceased ringing.
Electric Restorer for Men Phosphonal restores every nerve in the body to its proper tension; restores strength and vitality. Prevents decay and restores weakness averted at once. Phosphonal will make you a new man. Price \$1.50 a box, or \$10.00 a dozen. Write to any address. The Siphon Drug Co., St. Catharines, Ont.

NEW CHURCH.—The new "St. Matthew's" Church, at Box Roberts, will be opened for service by Rev. Canon Noel, on Sunday, Jan. 19th.
Come and spend a pleasant evening at the Recital in Cochrane St. Church, to-night at 8.15. Vocal and Instrumental music. Admission free. Silver collection. Jan 16, 13
We have just opened a very pretty assortment of Silver Deposit Ware. This is glassware consisting of Tea, Sugar and Cream Sets, Plates, Salts, Tobacco Jars, Vases, etc., having pure silver firmly deposited directly to the glass in beautiful designs by an electrical process. R. H. TRAPNELL, decc21tt
LOOKED SUSPICIOUS.—At 7 p.m. yesterday, in the upper part of a building on Water Street West, a fire shone through the windows, and a crowd collected fearing the place was burning. Head Post sent two officers to inform the owner, when it was discovered that some fire had been lit in the grate but that it was well safeguarded.
BE SOBER AND WATCH.—The Annual Soiree of the P. A. & Society, will be held in their Hall, Monday, January 27th. Music by the Society's Band. Tickets: Double, \$2; Gentlemen (single), \$1.50; Ladies, \$1. Tickets may be had from members of the Committee and at the Hall. JAMES VANGLE, Chairman; W. J. GALLIVAN, Secretary. Jan 16, 13
RECITAL.—The talented Organist and Choir of Cochrane Street Church will give a Recital this evening at which the Xmas Music will be repeated. Mr. Frank Bradshaw, violin; Mr. Alice Mews, cello; Miss Harriet and Mr. Ruggles, vocalists, will assist so that those who attend are assured that all the numbers will be first class.
MINARD'S LINIMENT CURES DISGET IN COWS.