

JUDGE BARRY'S RESCRIPT ON THE COUNTY RECOUNT

In a Very Lengthy Document Orders Judge Armstrong to Go on With Count.

In a rescript of 5,000 or more words Judge Barry announced his findings, refusing the master of the recount of votes cast in St. John County, Friday afternoon.

After going into the pros and cons of the case he decides that Judge Armstrong is legally out of joint with election laws and orders him to proceed with the count of the votes in compliance with the request of Mr. McKinnon.

The following are excerpts from his rescript. An application having been made to me for an order in the nature of a mandamus to compel the Judge of the County Court to resume and complete the recount, the several objections which were urged against the learned judge's entering upon the recount and final addition of the votes polled at the election, were again debated before me by the Hon. Dr. Beyer, K. C., on the one side and the Hon. W. P. Jones, K. C., on the other. Although some of the objections seem to me at first blush, if with every deference, may be permitted to say so, to be of a highly technical character, and entirely lacking in merit, it is my duty to examine them in detail, which I shall proceed to do, however, I may say, that on the return of the order nisi which I granted, the point was taken by Dr. Beyer, that I had no jurisdiction to order Judge Armstrong to proceed, because, to use the language of the enactment conferring jurisdiction in certain contingencies, he had neither omitted, neglected nor refused to proceed with the recount. For reasons which seemed to him sufficient, and, as it is said, after consulting other judicial authority, he had concluded that no sufficient foundation had been laid for the exercise of his jurisdiction; he delivered a written judgment giving his reasons for dismissing the application; his act proceeded from no improper motive, was a judicial act, and was neither willful, negligent, malicious nor contumacious; and it was only to meet an act bearing some of these characteristics, that the extraordinary mandatory powers conferred upon a single Judge of the Supreme Court were intended to be exercisable or exercised. That is the argument. But the act of the learned judge though it may have been, and doubtless was, actuated solely by the single desire to discharge in a judicial way the duties imposed upon him by the legislature, had, nevertheless, the result of preventing a recount, and according to my conception of the enactment, it was precisely to obviate a result of this kind that the powers which I am now asked to exercise were conferred upon the individual Judges of the Supreme Court by the legislature. I therefore, over-rule the objection.

In regard to the first objection urged before the learned County Court Judge and which he overruled, and as I think, quite properly overruled, nothing more need perhaps be said. Then it is said that there was no applicant. What we ordinarily understand by the word "applicant" is one who makes an application or request in there any difficulty, at all, in discovering who was the applicant here, I should not think so. In his written judgment the learned judge says: "That the only paper handed me on the application for this recount was the affidavit of John McKinnon"; and again: "In this case the petitioner could not did not represent himself as appearing for any particular person." If Mr. McKinnon is correct in the affidavits which he has made, then I think Judge Armstrong must surely have forgotten at least two outstanding circumstances in connection with the application for a recount. The former statement of the learned judge is clearly erroneous; the latter is contradicted by Mr. Trueman.

Although copies of both Mr. Trueman's affidavits have, it appears, been served upon Judge Armstrong, he says nothing in answer. While disclaiming any idea of questioning in even the slightest degree the good faith of the learned judge in making the statements which I have quoted, sitting here as a court of law, I am bound to accept the sworn statement of the putative witness such as Mr. Trueman against the sworn and casual statement of another party, even though that other party be one of the judges of the land. I am therefore, perforce, obliged to conclude because it is sworn to by a reputable barrister and is not contradicted, that at the time of making the application for the recount Mr. Trueman did dedicate to the learned judge in a manner not possible of misunderstanding the party for whom he was making it.

Then as to the third objection, the one which the learned judge has sustained, and which he holds to be fatal to his jurisdiction. The provisions of the N. B. Elections Act, with which we have to deal are intended to provide a summary, inexpensive and speedy means of determining the result of an election.

Such being my opinion, it follows that I think it is in order in conformity with the terms of the Act, commanding the Judge of the St. John County Court to take such action as will comply with and complete such recount. By such final addition of the votes cast, there will be no order as to costs.

SHOW IN QUEBEC
The first of the season, the first of the season, the first of the season.

JUDGE REFUSES TO GIVE CERTIFICATE IN RESTIGOUCHE

Ballots Were Not Replaced in Original Initialed Envelopes or Sealed Packages.

Dalhousie, Oct. 23.—This morning, the fourth day of the Restigouche recount, Judge McLatchey announced that he would not give his certificate to the returning officer, Sheriff Craig. It was impossible for him, he stated, to do what he was asked to do, that he meant disfranchising a large proportion of electors of Restigouche. Out of the twenty-eight polls seven only are recounted.

The statement of these polls is as follows: Campbellton, eight polls, one counted, seven refused; Dalhousie, three polls, all refused; Balmar, two polls, one refused and one counted; Durham, three polls, all counted; Maplegrove, one poll, counted; Bel River, one poll, counted; Colborne, one poll, refused; Tobique, one poll, refused; Kedgewick, two polls, both refused; St. Quentin, three polls, all refused.

Reasons Given.
The reason for refusing to recount is chiefly because the ballots were not replaced in the original initialed envelopes, or in sealed packages. The declaration day figures are as follows: LeBlanc, Government, 1645; Harrison, Government, 1645; Stewart, Conservative, 2109; Diotte, Conservative, 1763; LaBilais, Liberal, 1590; Duncan, Liberal, 1062.

The result as found by the Judge, although not officially announced by His Honor, are as follows: LeBlanc (G.), 255; Harrison (G.), 269; Stewart (C.), 779; Diotte (C.), 725; LaBilais (L.), 369; Duncan (L.), 240. This, of course, is only for the seven polls that were recounted.

At the close of the court Mr. A. J. LeBlanc, defeated government candidate, made a strong plea to the Judge to disfranchise Lower Durham and one poll in Campbellton, the only one counted. Even if the Judge had granted his request, Stewart and Diotte, Opposition members elected would have the majority. At the close of the court the Judge said he would give no certificate of the recount, but he had made a recount but would issue a statement according to his records on Thursday next.

termining, in case the returning officer's return is questioned, one very simple, single, though important matter that he should do is to examine the affidavits of the candidates had a majority of the legal votes cast at an election. And although certain judicial officers have been designated by the legislature to conduct recounts, the duties assigned to them are not very onerous, and are to be regarded as perhaps it would be more correct to say, artificial rather than judicial. The Judge has simply to examine the ballots cast, see whether they are proper votes, reject those that are not, and count those that are good, and that, I think, is all. No directions are given in the Act in regard to procedure, excepting that before seizing upon jurisdiction, it should be made to appear to the Judge on the affidavit of a credible witness—and it does not, in my opinion, matter whether such a witness be a candidate for voter or not—that irregularities have occurred in regard to the counting or rejection of votes, adding them up or making the final statement. So this is required to be his procedure, that the affidavit forming the basis of the recount need not be entitled in any matter or cause. With the Controversed Elections Act before it, in which, in express terms, the Legislature has said that a petitioner must be either a voter or a candidate, it seems to me to be fairly obvious that it could never have been intended that an applicant for a recount, else it would have said so.

It is the duty of the Judge to make such construction of a statute as will suppress the mischief and advance the remedy; it is always safer to adopt what the legislature has said than to conjecture what it meant to say; and I think that the learned judge has no warrant in law, according to the accepted canons of construction, to import into the statute something which has no place there, and which, in my opinion, the legislature never intended.

Judge Armstrong suggests that for aught disclosed to the contrary in the affidavit, Mr. McKinnon, although describing himself as of Fairville in the Parish of Lancaster of the County of the City and County of Saint John in the Province of New Brunswick, may be a foreigner—or to be exact "an elector in some other county, or a resident of some other Province, or put these questions beyond peradventure, it should have been stated in the affidavit that he was not an alien, and that he was either an elector of the County of Saint John and entitled to the vote at the election, or that he was a candidate. Failing that, the learned judge holds that Mr. McKinnon has no personal status as an actor in the proceedings, and that the County Court had no jurisdiction. He therefore nullifies the order which he had made for a recount, as having been made with no proper foundation. With every deference, I cannot assent to this reasoning.

Such being my opinion, it follows that I think it is in order in conformity with the terms of the Act, commanding the Judge of the St. John County Court to take such action as will comply with and complete such recount. By such final addition of the votes cast, there will be no order as to costs.

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MICE AND MATCHES CAUSED BAD FIRE

House and Contents Destroyed by Early Morning Blaze—Family Just Escaped.

Special to The Standard.
Sussex, N. B., Oct. 29.—"Mice and matches" are supposed to have been the combination which started a blaze at the residence of Mr. and Mrs. Thos. Atterborough, McCane Settlement, recently they burned the house with all its contents. Last spring Mr. and Mrs. Atterborough, who were formerly residents of England, came to Sussex from British Columbia, and purchased two farms at McCane Settlement, about five miles from Sussex. One farm was purchased from Ora Anderson and the other from the Gallery estate.

Mr. Atterborough is now having the house on the farm he purchased from the Gallery estate put in good repair and will take up his residence there. Mr. Atterborough, who was connected with the legal profession in England, and Mrs. Atterborough are splendid additions to the citizenship of Kings county, and much regret is felt at their piece of bad luck and everyone will wish them better things in their new home.

D. J. BUCKLEY DEAD AT NEWCASTLE

One of Leading Lumber Merchants and Mill Owners of the Miramichi Passes Away

Special to The Standard.
Charlottetown, N. B., Oct. 29.—The death occurred at an early hour this morning at his home in Newcastle, of Mr. D. J. Buckley, one of the leading lumber merchants and mill owners of the Miramichi district. Mr. Buckley has been in failing health for many months. He is survived by his three children, Yvon, at home, Mrs. D. S. French, of Newcastle, and Lee, of Newcastle; also by two brothers, John, of Newcastle; William, of Methuen, Mass.; two sisters, Mrs. Harnett, of Moncton, and Mrs. O'Brien, of Rogers-Diotte, and one sister to mourn, in Moncton is Mrs. Buckley, mother of the deceased. Mr. Buckley was the sole owner of the large plant at French Fort Cove, and also the North mill. He was 56 years of age. The late Mr. Buckley had been a member of the Forest Advisory Board since its establishment in 1918.

DIED.

CONNOR—On October 26th at 555 Massachusetts Ave., Boston, Mass., J. J. Connor, formerly of St. John. Funeral from Cathedral of the Immaculate Conception, Friday, at 2:30 p. m. **CURRY**—At 99 Elliott Row, on Oct. 28, 1920, James A. Curry, of Barnerville, aged 79 years, leaving his wife, one son and two daughters, one brother and one sister to mourn. Service at 99 Elliott Row on Friday evening at 7:30. Remains will be taken to Barnerville for funeral service in the Catholic church on Saturday at 3 o'clock. **LEAHY**—In this city on the 29th inst., at the residence of Mrs. J. J. Dwyer, in Garden street, Alice, wife of the late Thomas Leahy, leaving five daughters to mourn. Notice of funeral later. **DOUGLAS**—The death of Mrs. Warren Douglas, of Hatfield's Point, Kings county, occurred this morning at the home of her son Mr. Mayes Douglas, Quispamsis, at the age of seventy-seven years. Besides her loving husband she leaves to mourn one daughter and four sons.

Secrets of London Complexion Doctors

Famous London specialists who cater to titled ladies and others of social prominence employ a remarkable method of complexion rejuvenation. One undergoing this treatment visits the beauty doctor late in the afternoon, has something dabbed over her face, then heavily veiled, departs in her motor car. The repeated daily for a week or so, when a complexion of snowy purity and exquisite delicacy is in evidence. The secret of this method is a simple home treatment, to all like cold cream before retiring, and washed off mornings. Its success is due to a peculiar absorbent property of particles of starch, revealing the younger, healthier skin beneath. A wonderful wrinkle-chaser, also in vogue among Englishwomen, is prepared by dissolving an ounce of powdered axotite in a half-pint of witch hazel. Used as a wash lotion, this completely and quickly effaces even the deepest lines.

Ladies' Wear

LADIES' COATS—Wonderful styles at savings of \$10 to \$20 on every garment. **\$14.98 UP**
LADIES' DRESSES—Serges, Silks, Georgette, Tricote, in newest styles. **FROM \$12.95 UP**
LADIES' SUITS—Serge, Tweeds, Velours. **FROM \$14.95 UP**

GOLD NUGGETS
Knowing what it is to suffer the tortures of female disorders, I have decided to send FREE, a trial treatment of Dr. Mason Angell's Gold Nuggets, a simple home treatment, to all suffering women who will write for it. I WONDER WOULD IT HELP ME? This question has been answered by many women the country over who have found health and happiness in the use of this treatment. Women who had suffered terrible agonies from debilitating womb, headache, extreme nervousness, others free from unpleasant menstruation, painful periods and such female trouble. Write to me today for FREE trial treatment. Enclose 2c in stamps to cover postage, wrapping, etc. **MRS. A. FRISER, Box 125, Windsor, Ontario.**

FARMER LEADER TO ANSWER ATTACKS OF MACKENZIE KING

Hon. T. A. Crerar, After Several Months' Silence, to Go on Stump Again.

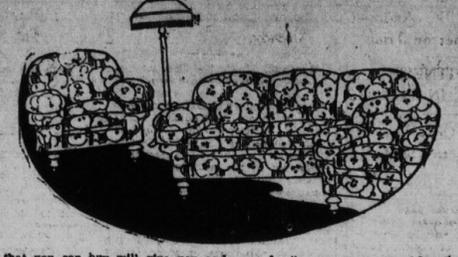
Winnipeg, Oct. 29.—Hon. T. A. Crerar, federal leader of the Farmers' political party, is to deliver next week his first political speech in some months, it is learned today. He is due to address the Prince Albert Unit of the Saskatchewan Grain Growers' Association annual meeting which will be held at Prince Albert, Nov. 3 and 4 and it is stated that they will deal with the questions of the day and with the issues raised during the present tour of Premier Meighen and Hon. Mackenzie King. It is said to be probable that the Prince Albert meeting, Mr. Crerar will proceed to East Edgemoor to take part in the by-election contest on behalf of the Farmers' candidate.

LAD KILLED BY FALL UNDER TRAIN

North Sydney, N. S., Oct. 29.—William Hood, the nine year old son of John Hood, of this town, lost his life today. While on his way to school he attempted to board one of the cars of a passing Nova Scotia Steel and Coal Company ore train and fell under the cars. Both legs were cut off. He died about two hours later.

Better Furnished Homes Means Greater Happiness to You

And it is surprising how easily an ordinary uninteresting house can be readily transformed into a real home, in which it is a pleasure to live, by the magic of beautiful, yet not necessarily expensive furniture—**LAVY MARCUS** ASSIST.



Nothing that you can buy will give you and your family so many years of happiness, comfort and solid satisfaction, as **GOOD FURNITURE**, and we have it, the "best assortment of medium and high-grade furniture in Eastern Canada."
Don't fail to see our truly wonderful display of distinctive Bedroom furniture in our Show Windows.

J. MARCUS, 30-36 Dock St.

SHIP SHORT OF COAL
Halifax, Oct. 29.—The Spanish steamer Arnes, from Rotterdam for Hampton Roads, put in here short of coal.

TO WITNESS RACES
Harry Ervin, City Editor of the Standard is among those who love real sport and left here last night for Halifax to enjoy the "International" schooner race.

CHANGE IN ARRIVAL TIME OF BOSTON EXPRESS.
At present time the Boston Express arrives in city at 12:50 p. m., local time. After October 31st arrival time will be at 1:05 p. m. This train is daily except Sunday into St. John.

ROBINSON IS ACQUITTED OF BABE'S MURDER

After One Hour's Deliberation Jury at St. Andrew Frees Farmer on Trial

ENTERED WITNESS BOX IN DEFENSE

Four Hours' Cross-Examination Failed to Shake Evidence.

(Continued from page 1.)
The prisoner Robinson was called and denied any knowledge of the disappearance of child. He Mrs. Matthews was at his home he went to work on May 27th. He returned that night both the baby were gone and he never saw baby alive again. He did not Mrs. Matthews for two days, when he came home from work May 28th about nine o'clock. Matthews was sitting alone on front steps waiting.
Robinson asked her where her was and she replied, "At her near Eastport." Robinson told the same story as told on the trial Mrs. Matthews.
On cross-examination he was asked closely by the Attorney-General as to the location of the light rock in the St. Croix river, from the theory is the baby was put in the river. Robinson, although he lived at Upper Mills some years, disclaimed any knowledge of this and did not know anything about location of booms and rocks on river at his farm. He also gave evidence as to roads and paths leading from his property, down to the river. He admitted buying a bottle of gork and two apples at the store Mrs. Matthews soon after the baby born, and he found the paragonite empty in the house the day disappearance of child.

Saw the Body.
He told of looking at the body of a child after the inquest at the house at Milltown, and he thought was the same child born in his but he was not positive. He was at St. Stephen's rural cemetery the baby's body was exhumed and clothes taken off of it. The only he recognized was one napkin which he gave to Mrs. Matthews some time of the baby's birth. This napkin was put in his grip at Eastport by some young ladies, and he thought it was a joke. Robinson contradicted Mrs. Matthews as to several details the important conversations were contradictory. He bore up well under severe cross-examination by the Attorney-General for four hours. Evidence closed the testimony, which addresses were given to jury by the counsel representing prisoner and the Crown. His Honor then charged the jury until six o'clock when recess was taken until the next day. After recess the Attorney-General, after an hour's deliberation, a unanimous verdict of not guilty was rendered.

AMDUR'S on the Square Grand Opening Sale

Of New Store, Corner of King Square and Charlotte St. Begins This Morning, 9 O'clock Sharp

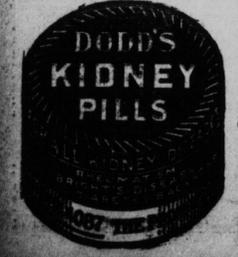
Ten unprecedented days in which thousands of dollars' worth of Fall merchandise will be cleared from store by sensational low prices. This sale is the climax of all that has been done by us since we established business. It will be the very peak of value-giving—the combined efforts of our organization and the leading manufacturers with whom we do business, have been enlisted to make this sale such a huge success that it will be remembered a long time by the people of St. John. No newspaper page can hold all the items that we might list. We urge only that you come to the store in an adventurous spirit ready to find wonderful bargains at every turn.

- ### Boots and Shoes
- MEN'S BROWN BLUCHER BOOTS—Rubber Heel. \$8.50 value. **WHILE THEY LAST \$4.98**
 - MEN'S SAMPLE BOOTS—Black and Brown; recede, and Blucher cuts. Finest qualities. Values to \$14.00. **ON SALE \$7.98**
 - MEN'S WORK BOOTS -- Ames-Holden, Williams make; tan and black; waterproof soles. Values to \$8.50. **ON SALE AT \$4.98**
 - LADIES' BOOTS—Small sizes only. Values to \$6.00. **ON SALE AT \$1.98**
 - LADIES' KID, CALF AND GUN METAL BOOTS—Black, brown, grey. Leather and Neolin sole; military or high heels. Values to \$9.00. **FOR \$4.98**
 - CHILDREN'S BOOTS—\$4.50 values. **TO CLEAR \$2.98**
 - CHILDREN'S CRAVENETTE BOOTS—Value \$2.25. **FOR \$1.48**

- ### Men's Wear
- ACCORDION PLEATED SERGE SKIRTS—\$11 values. **FOR \$7.98**
 - LADIES' VOILE WAISTS—Regular \$2.50. **AT HALF PRICE \$1.29**
 - LADIES' SILK WAISTS—\$4.50 values. **FOR \$2.49**
 - LADIES' GEORGETTE WAISTS—Values to \$12.00. **ON SALE AT \$4.98**
 - LADIES' HOSE, UNDERWEAR—At equally reduced prices.
 - MEN'S SUITS—Made of dark brown and grey Tweed. Worth at least \$25.00. **FOR SALE AT \$15.95** This beats 1914 price. Other lines at equally reduced prices.
 - OVERCOATS—40 only. **ON SALE AT \$18.00 UP TO CLEAR \$7.98**
 - MEN'S RAINCOATS—**TO CLEAR \$7.98**
 - MEN'S RIBBED WOOL UNDERWEAR—\$2.25 value. **FOR \$1.48 GAR.**
 - MEN'S RIBBED WOOL BLACK SOX—60c. value. **FOR 39 CENTS**
 - LEATHER GLOVES AND MITTS—79 CENTS
 - MEN'S NEGLIGEE SHIRTS—Only 10 dozen. Value \$2.50. **TO CLEAR \$1.69**
 - TWEED WORK SHIRTS—Value \$2.50. **FOR \$1.69**
 - MEN'S SWEATERS—\$3.00 value. **FOR \$1.98**

All Roads Lead To AMDUR'S

Any Street Car in the City Will Take You to Our Door. Please be Early in the Morning if Possible.



DR. WILLIAMS' KIDNEY PILLS