PROGRESS

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POLICE ARE VIGILANT.

BUT THEIR VIGILANCE IS ONLY IN CERTAIN QUARTERS.

They "Search out and Prosecute" in Some Cases and Shut Their Eyes in Other Cases—The Widow Bradley Reported Again—How it Was Done.

"It shall be the duty of all policemen, as well as inspectors, to search out and prosecute ALL offenders against the provisions of this act, by making complaint and prosecuting the same to conviction."

So reads section 97 of the Liquor License Act, and a very good provision it is admitted to be. The only trouble about its application in St. John is that it is enforced in a jug-handled sort of a way and in a theory which is best known to Chief Inspector Clark and his policemen. The most regular and notorious offenders ply their trade with little or no molestation, while the smaller places are regularly reported and their proprietors promply fined. Almost any boy around the streets can name places where an entry during prohibited hours would reveal a flourishing traffic in liquor, and every policeman on the force has an equally good knowledge of such places. So has the chief inspector, and if he did not he would know so little about the city as to be unfit for his position. If he is asked about them, he will probably reply that it is quite possible that these places do regularly violate the law, but that he has no evidence of the fact, and in his alleged raids in the past he has never been able to find any evidence. That is to say, when he and his men go in state to a bar during prohibited hours they find nobody in the place, nor any obvious evidence of liquor having been sold contrary to law.

Admitting that this is the case, neither the public nor PROGRESS could blame the chief and his men for unfairness, were the same rule applied to all other places where liquor is illegally sold, but when the places which sell gallons go free month after month, and those which sell half-pints are reported two or three times, it is evident they are two ways of working, and two wholly distinct interpretations of the law. While the police look away when a crowd is going into one place, they "search out and prosecute," in the fullest sense of the term, some other place where they merely suspect that a violation of the law has taken place.

Not long ago, PROGRESS recorded the fact that 36 persons were counted going into a Lower Cove bar-room between 11 o'clock and noon on Sunday. It may be the policeman on duty did not see or hear of them, or it may be that he did, but was unwilling to make trouble so long as there was no drunkenness or disorder. On another recent Sunday, the chief inspector, being in the office of a hotel, saw three or four men going into the bar, whereupon he is said to have left the place, with the remark that if the law was so openly violated before his face, people must take the consequences. That was the last that was heard of the matter.

Now PROGRESS does not contend that there should be a system of pimping and spying to enforce the law, nor does it believe in following up people who are seen here or there, in order to use them as witnesses. It is opposed to any such method, and to the dogging of any one place which is not notorious as a nuisance. But if a reasonable latitude is allowed to one orderly bar, why should not the same spirit obtain in regard to another orderly bar? A recent instance will show that it does not.

Reference has once before been made to to Mrs. Bradley, who has a licensed tavern on the Westmorland road, beyond the Marsh bridge. Mrs. Bradley is a widow with an aged mother and three children dependent on her for support. That is why she stays in the liquor business, as she has been for years. It is her means of livelihood, and she is as much to be respected as the rich proprietor of any pretentious bar-room in the heart of the city. Mrs. Bradley's reputation in every respect is good, and her house is a most orderly one at all times. From the nature of the locality the liquor business done at the best of times is ridiculously small as compared with licensed places up town, and her customers are men of quiet behaviour and respectable character. This is the evidence of good citizens, who have known the place for years.

Mrs. Bradley was reported the other day for the second time this year, admitted her offence and was duly fined. This makes $50 she has contributed to the revenues of the city within a short time, or in addition to her license fee of $150, a total of $200 since the first of May. It means a great deal more to her than $1,000 would mean to a prosperous up-town publican. In her case the police, failing to find any evidence on the premises have dogged this person and that person around the streets in order to get their evidence in order to found a complaint.

The first information against Mrs Bradley was made by Sergeant Hastings (or "captain," as the chief calls him) in August last. Hastings went into the house on Sunday afternoon and found two men sitting in the front room. They were not drinking, nor was there anything to show they had been. He went into the bar, which was closed, but there he could find no evidence. He was, however, morally sure that there had been some drinking. Mrs. Bradley lives on a part of the road where men, taking a stroll on Sunday, would be very likely to call to rest and refresh themselves. So on the strength of this deduction the sergeant reported Mrs. Bradley and summoned one of the men as a witness. Mrs. Bradley, rather than to have this man brought into court, admitted a violation of the law and was fined.

Last Sunday week Policeman Semple walked into the house between 3 and 4 o'clock in the afternoon. He found the bar locked, and there were no visitors in the house. He seems to have reasoned out a theory, just as Hastings did, and though he had no evidence of any sort he undertook to hurt up some. This took until Tuesday, and his method consisted of stopping people on the street and asking them if they had been at Mrs. Bradley's on Sunday. Some of them had not, but by dint of diligent questioning he found one man who had been. Thereupon an information was laid against Mrs. Bradley and the witness summoned. As before, she went to court, admitted the offence to save the witness, and was again fined. So small has been her business this year, she had to borrow the money to pay the penalty exacted.

This is the way the police "search out and prosecute" some offenders. It is the meanest kind of a way, and one which the chief inspector himself does not employ. If he did, he would have his hands full. So far as Mrs. Bradley is concerned, PROGRESS is no more interested in her than anybody else, but the methods employed in her case are so strongly at variance with the severe letting alone of notorious offenders in that identical part of the city as to call for comment. Either this system of "searching out" should be applied to all classes, or it should be dropped save in cases of houses of notoriously bad character. There is no reason why it should be made to apply only to widows.

BLACKMAIL IN PICTOU.

The Doings of an Adventurous Pair of Women There and in Halifax.

PICTOU, NOV. 7.—Blackmailing is not confined to Halifax people or probably to residents of any other one place. We have here a gay and festive widow who has thus victimized people in her own town and has carried on her operations at the capital as well. The story is a long one but briefly told is like this: The widow and her daughter obtain a "pull" on a railway official here. They terrorize him with threats of exposure so that on the quiet he pays them a good round sum. Then mother and daughter come to Halifax Here they become the subjects of attention from the two members of a commission firm. In due time the widow and her twenty-two year old daughter, who dresses in the attire of a girl of sixteen, threaten one of the members of the firm referred to with legal proceedings unless he pays her a large amount of hush money. The merchant is alarmed, and it does not serve to diminish his terror to know that for the same cause exactly the woman has already blackmailed a Pictou railway official. The money is paid through the intervention of a city lawyer, and the woman's mouth is temporarily closed. Before very long the other member of the firm is attacked by the same couple and a third levy of blackmail is successfully made. In this act the end of her tether is reached in Halifax, and Pictou again becomes the domicile of this dangerous couple.

Return of the Wanderer.

William Cook, the former sexton of the Stone church, who mysteriously disappeared on the 15th of September, returned as mysteriously to his home one evening this week. His explanation was that he had been to England on private business, and it is evident he did not consider it any of the public's business. Mr. Cook had an undoubted right to go when and where he pleased, but when a man starts out of the house without a change of clothes, leaving his pipe and tobacco behind and with only a small amount of money in his pocket, there is good ground for apprehension when he does not return and no trace of him can be found. The trouble with such cases is that when a man really does disappear through misadventures the public are apt to think he has only acted as Cook did, and thus no interest is taken in his fate at a time when prompt action is needed. Mr. Cook, however, is now quite safe to disappear when and how he pleases without the public getting excited over the matter.

FOUGHT OUT THIS CASE.

END OF A SUIT WHICH COULD HAVE BEEN SETTLED.

The Loser Thought He Had Justice on His Side and Refused to Believe the Judges—The Latter All Agreed and Now There Is a Big Bill of Costs.

The daily papers have briefly noticed the termination of the suit of Hepenstall versus Merritt, by the refusal of the supreme court of Canada to disturb the judgment of the supreme court of New Brunswick, which latter court had refused to interfere with a verdict given in the St. John circuit court in April last. The circumstances of the case made it of some importance to the public, not only as showing the liability of owners of teams for the negligence of their employees, but as defining the rights of persons, including children in the roadway between sidewalks where drivers are too often of the impression that they have full control.

In another respect it may also be of importance to others than the man who has to pay the costs in this instance, and it will at least point a moral in respect to the prolonging of litigation when a small amount of money is at stake. A lawyer and his client may conscientiously believe they have justice on their side, and yet find no court to agree with them. In the case of a poor man this fighting out of a principle might be ruinous in the end, but in the present instance it fortunately happens that the loser is well able to afford what the several adverse decisions have cost him, while the winner, whether anything will be left of the amount of his verdict or not, has the highest authority for the belief that he was in the right in seeking redress by the law. He will have at least some satisfaction, and possibly some cash. The amount of the latter will wholly depend on the amount of his lawyer's bill.

The facts of the case are very simple. Between six and seven o'clock on the evening of the 29th of July, a year ago, Edward Gorman was driving the grocery delivery wagon of his employer, William H. Merritt, along Brittain street, when he ran against a child named Hepenstal, who was playing in the middle of the street. He was going at a moderate trot and did not see the child until after the accident occurred. The boy was seriously injured. Gorman had been taking around parcels during the afternoon, but went to his supper before delivering the last one, and was on his way back when the accident took place. This was on Monday, and on Thursday or Friday Mr. Merritt called at the house, but took no steps to assist the parents, who were in poor circumstances. Later, Mr. Hepenstal claimed damages for the loss to which he had been put, and it is understood that he would have been very willing to settle for so small a sum as $75. Mr. Merritt, on the advice of his attorney, it is said, declined to pay him anything, and thereupon he brought a suit in the supreme court, Mr. J. R. Armstrong acting as his attorney. Mr. C. A. Stockton appeared for Mr. Merritt, and at the last March circuit the case was tried before Judge Vanwart without a jury.

The contention of the plaintiff was that Mr. Merritt was liable for the wrong doing of his driver, who had been guilty of gross negligence. The defendent contested the suit on the ground that the driver having gone to his supper and returning by another way was not acting within the scope of his employment and Mr. Merritt was not liable; it was urged that the accident had not been due to the negligence of the driver, and that there had been contributory negligence on the part of the parents and the child.

The evidence having been heard, Judge Vanwart decided that the driver had been grossly negligent and that Mr. Merritt was liable. It only remained to fix the amount of the damages, and in this an average was struck between Mr. Armstrong's suggestion of $500 and Mr. Stockton's of $100. The court awarded $300, receiving leave to ask the supreme court to rule on certain questions.

Had the amount thus awarded been paid then and there, all the parties except the lawyers would have been better off than they are today. It was, however, carried to the supreme court at Fredericton on the grounds of the improper admission of evidence that the verdict was against law and evidence, excessive damages and contributory negligence. In April last the court at Fredericton heard Mr. Stockton's arguments in support of an application to have the verdict set aside, and without hearing any argument on the other side refused to grant the rule.

In delivering this judgment, Judge Tuck expressed his opinion that the damages were very moderate, while Judge Hanington considered that if there was any cause of complaint, it was that the damages were too small. The rest of the judges concurred in these opinions.

By this time, the suit which could have been settled in the first instance for $75, had rolled up a verdict and costs for several hundred dollars, but even then money could have been saved by ending the fight. Mr. Merritt and his counsel, however, seem to have been impressed with the idea that the judges were wrong, and in the face of the very pronounced judgment made an appeal to the supreme court of Canada.

The arguments were heard at Ottawa last week, or rather Mr. Stockton's argument was heard, and then without waiting to hear Mr. Armstrong, the court confirmed the verdict and virtually expressed regret that it was not for a larger amount, affirming that it would have increased the sum had there been a cross appeal filed for that purpose. Having heard Mr. Stockton, Chief Justice Strong asked him what his contention was and was told it was that the amount of the verdict should be reduced to $250.

"Has any cross appeal been filed by the respondent?" asked the chief justice, and on being told that there had not been he continued. "If there had been, I would certainly have gone for increasing the damages very largely."

It took about an hour for this court to determine a case which has been in litigation the last year or more. Including the costs and verdict, Mr. Merritt will now have to pay a sum which is moderately estimated at one thousand dollors. It may be more if his own lawyer's bill is of reasonably fair length. What share Mr. Hepenstall will get of the $300 awarded him will also depend on what charges his own attorney has against him. The law is a queer thing, and not always safe to handle.

AS BAD AS ALLEGED.

The Leinster Street School Building in a Pretty Foul State.

At a conference of the school trustees and a committee of citizens, last Monday night, the question of the sanitary condition of the Leinster street school was brought up, and a letter was read from the teachers of the Leinster street church, stating that the sanitary arrangement could be fixed up all right. In the course of the discussion, Mrs. Macmichael said that the premises were not fit for children, and that stables were palaces compared with some of the rooms.

A visit to the building shows that this lady may have used strong language if she referred to the class rooms, but that she failed to give an adequate idea of the situation if she had reference to the basement where the alleged sanitary arrangements are located. While the class rooms are over crowded, this is a matter which can be remedied, but it is another matter with the black-holes in the cellar.

Black-hole is the correct term. That in the eastern end of the building is used by 250 boys. It is reached by a stairway so dark that that one coming from the clear light of day can see absolutely nothing in making the descent. At the bottom is a small, malodorous apartment, only partially light at high noon on a bright day, and in a large portion of it as black as night even then. It is foul in every respect, and the only apparent way to remedy matters is to close it up and find the necessary accommodations somewhere else.

The arrangements in the basement at the western end of the building are a trifle better, for there is a little more light, but neither place is fit for the use of a large school.

The trustees may make these blackholes better than they are. They cannot do otherwise if they attempt to do anything, but to make them suitable for the purposes intended in a school of that size is an undertaking not likely to be accomplished. They are not only too dark, but entirely too small.

There appears to be a matter of dispute whether the Leinster street building was put up especially for permanent use by the school trustees, or whether it was merely built to be occupied as long as needed and vacated at pleasure. Mr. John March was secretary of the school trustees at the time, and he was also either secretary or something else for the trustees of the church. The question appears to be what arrangement he made for himself in one capacity with himself in another capacity.

The racket over the changes in the grammar school appears to have subsided by the decision of the trustees to change their plans. The board has kindly condescended to let the public know that it has bought a part of the Chipman field, on Union street, and purposes to put up a new building

Patching Up Fort Howe.

The board of public works, has tried to make the rock over the sidewalk on Main street less liable to tumble down in the winter and spring, by building up bits of wall here and there, held by iron stakes sunk into the rock. The only way to make the place what it should be is to cut down enough of the hill to allow the rock to have a safe slope, instead of being perpendicular. This will have to be done some day, and the sooner the better.

NO SECURITY FOR COSTS.

WHY JUDGE GRAHAM SO DECIDED IN TREMAINE'S CASE.

He Considers that the Lawyer Already Has Enough of Mrs. Lear's Money to Secure Him—The Story Told by "Progress" Makes a Great Sensation in Halifax.

HALIFAX, Nov. 7.—The biggest journalistic sensation of the season in this city, was undoubtedly, the appearance of PROGRESS last Saturday. Everybody who saw the news-boys selling it, or who heard them tell of its principal story for the week—which the urchins lustily did—bought a copy. Many purchasers invested in several copies, not only to supply their own households, but to send to friends. Copies were sent by people in Halifax to friends in the city, who might not have had a chance to buy for themselves, and large numbers were sent away by mail. Business men, professional men, supreme court judges, and even the clergymen read the paper on Saturday, talked about it on Sunday, and are talking about it yet. The great staple of conversation was the Byron-Tremaine suit, the particulars of which were graphically outlined in the published records of the court. The pros and cons of the case were discussed, and predictions made regarding the probable outcome of the action. Everybody seemed to be of one mind regarding PROGRESS' vindication of its course in the blackmailing exposure of a year ago. There was the utmost unanimity on this aspect of the matter. People were equally unanimous in stigmatizing that chapter in the history of Halifax as blackness itself. It seemed impossible to believe that such occurrences had taken place, but there were the documents speaking for themselves in thunder tones; mingled with expressions of reprehension for the blackmailing carried on were some sentiments of sympathy for the poor young men who had paid their money. According to Mrs. Lear's affidavit, and the statement of claim, four young men had paid into Mr. F. J. Tremaine's hands, as trustee for Mrs. Lear, the sum of $900, to secure immunity from proceedings.

They paid their money expecting it would accomplish its purpose—that they would never be known in the matter. These men are, in a sense, fit subjects for sympathy, because, while they paid their money, and secured the immunity from threatened proceedings, yet their names might almost as well have been published in the court records, for they are in nearly everybody's mouth, and a half dozen other names are there as well. PROGRESS' disclosure of what took place in the court in the case of Byron versus Tremaine was only second in point of widespread interest to the disclosures of blackmail made in these columns a year ago.

Another surprise was hurled into the arena in the contest between the defendant's and plaintiff's solicitors over the question of security for costs on the part of the plaintiff. The rule is that if a plaintiff resides outside the province, security for the costs of the action must be put up. Failing this security, the case may be thrown out of court without further ado. Tremaine's lawyer applied to the court, asking that such an order be issued by the court for security for costs. Mr. Justice Graham heard the application at Chambers on Tuesday of last week. Ordinarily a decision would have been given offhand granting the order but his lordship reserved judgement in this instance. Day after day passed and the judgement was not filed. On Monday the judge placed on file in the prothonotary's office his decision. His lordship refused Tremaine's application for security. While the rule is that security must be given, his lordship found this case to be an exception to the rule. It cannot be said that this decision came "like a thunderbolt out of a clear sky" to the defendants, for the time taken to consider the case must have half prepared the defense for the result. But it came with some force nevertheless.

Mr. Justice Graham's decision was as follows:

BYRON VS. TREMAINE. I think that the evidence before me establishes an express trust in regard to the fund of $900, paid into the defendants hands for the benefit of the plaintiff. Exhibit A is very clear in respect to one payment of $200. It is executed by the settler and signed by the defendant, (as a witness, it is true, but) constituting a good acknowledgement. Lewin on Trust, page 54. Then there is an admission in a letter, of a balance coming to the plaintiff. The defendant says, in his letter of 10th April, 1895: "I assume you know there was a sum of money in my hands, to the benefit of which I considered you morally entitled, subject to certain charges of my own, being costs in suits, etc., including the divorce proceedings, which I thought should be a first charge on any money I held. You received either directly or indirectly, in the shape of paid bills, about $400, part of which I remitted. Some was sent by Mr. Lear and Miss Wiswell. I am not at present in funds to send you any more money owing to circumstances I cannot detail, but I hope to be able to send something before very long." The plaintiff swears that she has only received $175, or thereabouts. But, perhaps, she is not making allowance for any sum which may have been paid by the plaintiff to her solicitor for costs in the Divorce Court. Of course Mr. Tremaine's costs could not come out of the funds, as he could not act for both parties in the court. Neither could his costs in securing the divorce, in which Mr. Lear and not the wife was a party, be payable out of that fund.

While there might not be sufficient evidence as to an exact amount to order it at once into court upon an application for that purpose, under such cases as London vs Lord 8 C. D. 90; Wakelin vs Watson, 35 C. D. 181; there is clear evidence of a larger amount in the plaintiffs hands that would be sufficient to pay any costs that the defendant might ultimately recover against him.

Therefore at this stage of the case I will not order security for costs to be given notwithstanding that plaintiff is out of the jurisdiction.

WALLACE GRAHAM, J. S. C.

Halifax, 4 Nov. 1895.

Mr. Justice Graham refers particularly in his decision to a "receipt for $200," which he says is "very clear," and his lordship quotes fully from a letter from Mr. Tremaine to Mrs. Lear, dated April 10, 1895 It is therefore unnecessary to republish the letter, but in order that the judgment may be thoroughly understood by those who may not have read the receipt alluded to as exhibit A., it is republished here as well as a second letter from Mr. Tremaine to Mrs. Lear, dated April 29, 1895. They follow:

Know all men by these presents, that I, Percy J. A. Lear, of the city of Halifax, gentleman, having threatened legal proceedings against ————, of said city, merchant, in consequence of certain improper relations existing heretofore between the said ———— and my wife, E. Frances Lear, and whereas, in order to avoid a painful publicity, the said ———— has consented and agreed to pay me the sum of $200, on my executing a release and discharge to him of all my claims against him in regard to the said above mentioned matter. Now know ye, that I, the said Percy Lear, in consideration of the promises, and of the said sum of $200, to be paid by the said ———— the receipt whereof is hereby acknowledged, which sum will by me be paid into the hands of a trustee to be disbursed for the sole benefit of my said wife, against whom I am about to take divorce proceedings, do hereby release and forever quit claim to, and discharge the said ———— all claim and demands now and forever, in respect of and in regard to said improper relations, and any claim I may have now or hereafter, in respect thereof against said ————, in any way or manner however, and I undertake to bring no action, proceeding or suit against said ———— in respect of such matter, in anything connected therewith, as witness my hand and seal this first day of November in the year 1894.

PERCY J. LEAR.

Signed, sealed and delivered in presence of etc.

F. J. TREMAINE.

HALIFAX, April 29, 1895.

Miss E. Frances Byron

Dear Madam, I am today in receipt of your favor of the 26th instant. Perhaps it will simplify matters if you at once hand the matter, and all the particulars to which you refer to your barrister friend. Of one thing, however, I think I should advise you, viz. that you have no legal claim to an accounting by me. I shall today write your former husband enclosing a copy of your letter, and await his action. I will certainly, as a matter of favor, let your barrister friend know where every dollar of the money I received is gone, but I cannot consider any claim of right. Yours truly

F. J. TREMAINE.

The affidavits used on the motion contesting the application for security for costs were ordered by the learned judge to be "impounded;" that is, the documents are to be specially locked up in the prothonotary's office, It Mr. Tremaine does not give notice of appeal the next move will be the filing of the defense which must be done in the course of a few days.

He May Get into Trouble.

Orange Street has always been considered a quiet respectable street in daylight and darkness and some of the handsomest residences and "oldest families" reside on both sides of it. Quite recently however the street has been haunted by an individual who loves to wander in the dusk and look for congenial spirits who have as little regard for morality as he has. There is not much doubt that he would find this search a most difficult one for the "prowler" has figured in the most sensational family court brawl ever aired in this city and the affidavits there gave him a certificate of character that will stick to him for all time. Still he has been so persistent in haunting Orange Street and has made so many mistakes in addressing ladies unknown to him that his proceedings have been brought to the attention of a prominent body in the neighbourhood who will doubtless take prompt action, it indeed they have not done so already, to prevent its lady members from liability to insult from this source.

Will Be Eastern Standard.

The general committee of the council has not yet a chance to consider the time question, and it is just as well that the public should have a good chance to fully consider the matter in advance of any action. The benefit of adopting Atlantic standard would be evident enough, if the railway were also to adopt it, but as it is quite certain they will not do so, the only point is whether to retain the old local time or use the Eastern standard. The latter course is obviously the only one, if uniform time is wanted, and there is a preponderance of feeling that unless the change is to Eastern standard it would be as well to keep the clocks where they are now. As each day finds new accessions to the list of places where Eastern standard is kept, there now seems only one course to be taken, and that is to adopt it.

He Always Suits.

Keefe, the ladies' tailor, has a new advertisement in PROGRESS this week, which merits attention. Mr. Keefe has done work for a large number of well known people and the general verdict appears to be that his garments have all that he claims for them.