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Where do you expect to go
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The Watchman.

THURSDAY, APRIL 10, 1890.

The Verdict.

The trial of the action for libel instituted by Mr. Joseph Cooper, editor and proprietor of the WATCHMAN, against Sam. Hughes, editor of the *Victoria Warbler*, has resulted in a verdict for the plaintiff with nominal damages. It is scarcely necessary to add that the libellous statements complained of were contained in an open letter published in the *Victoria Warbler* of November 8th last, over the signature of Sam. Hughes editor thereof, and addressed to "Joe Cooper and 'the family,' a Thanksgiving bone to pick." The libellous production and the serious charges contained therein against the character of the editor of this journal are fresh in the minds of the public. The verdict of the jury on Tuesday last pronounced those charges to be wholly and absolutely untrue. We shall not comment upon what the verdict implies in the minds of all honorable men to the man who so wantonly assailed us. To ourselves it is enough that no shadow of suspicion has been allowed to rest upon us in the community in which our lot has been cast for the past thirty-five years. To the most impartial jury it may be a difficult matter to decide whether any pecuniary loss has been suffered as a result of an attack upon a reputation, good or bad, established during a residence in the same community for over thirty years. We accept, therefore, the verdict as the honest decision of those who rendered it having regard to all the circumstances of the case, and as a complete vindication of ourselves from the wanton attack made upon us. From the able address of counsel which we publish this week, and from the eloquent charge of Mr. Justice Rose, which we will give to our readers in our next issue, the public can judge of the justice of the verdict better than from any words of ours. In conclusion we would say that in discharge of our duty to the public we denounced a species of journalism which we considered hurtful to the best interests of the community. In the discharge of that duty we were met by a line of attack which could be repelled by no other defence than the one forced upon us. The courts of the land in a civilized community must decide all arguments of the nature of those used against us. Nothing will deter us from a proper discharge of our duty to the public in the future, and to the good sense and better conscience of the community we confidently look for support on the lines we have laid down and which we are determined to follow.

THE residents along Wellington street, and for that matter along several streets, have again suffered through the overflow of the drain in that part of the town. How long is this state of things

to continue? A very large section of the town have been suffering for years from the want of a proper outlet for the water which comes pouring down from the western and south-west portion of the town, and what has been gained by the policy of delay which has been followed in this matter? Had a proper sewer been constructed years ago, either on the local improvement plan or by the town, would any one have been ruined? The extra burden of taxation would scarcely have been felt, whilst an immense amount of property would have been materially benefited, a portion of which belongs to the town. If the local improvement plan is going to be adopted for the future in public improvements of this kind, adopt it at once, and do something. There is nothing to be gained by gazing at the difficulty and discussing it any longer. There may be a good deal to lose, however. It would be interesting to know whether the residents of the Lindsay street drain section are to endure another season of stench and malaria from delay in the construction of the sewer in that quarter. Not to speak of the sanitary aspect of the question, we feel sure the owners of property in that section would be the gainers financially by the speedy construction of the drain, even though the cost should reach \$1000 or \$1500 above the present estimate of the engineer. Let our town fathers settle down to business on drainage matters.

"The debate, on the whole, was characterized with moderation and dignity; and its most prominent features—to many Catholics, at least—were the ballot and the teaching qualification test, which, we think, Mr. Mowat should have conceded. There is something repulsive in denying to Catholics rights and privileges freely granted to Protestants. Both should, in our judgment, be placed in this respect, and in every other respect, on the most perfect equality before the law."

The above is a quotation from a recent issue of the *Irish Canadian*, and voices the convictions of a large class of Separate school ratepayers. The latter as a body are by no means satisfied with the Separate School act as it now stands, or with the condition of their schools as conducted under it; and had the advocates of reform in connection therewith been as temperate and respectful in their use of language and as fair in argument as Messrs. Meredith, Clancy, Craig, and French, the vast majority of the ratepayers concerned would put their convictions into practise and support the desired changes. As it is, most of the opposition on the part of the Separate school ratepayers to Mr. Meredith on this question, is the natural result of the intemperate and disrespectful utterances of those who do not know how to argue without offence, or do not care to do so. As pointed out by the *Irish Canadian*, the refusal of the ballot to the Separate school ratepayers is nothing short of an expression of want of confidence in their ability to exercise it intelligently and properly. The position taken by Mr. Mowat that the standard of qualification for Separate school teachers must remain fixed at what it was at Confederation, cannot be a matter of satisfaction to those who are supporters of the schools. Whilst the qualifications of public school teachers has been time and again raised during the same period, the standing of the Separate school teaching profession remains that of well nigh quarter of a century ago, and according to Mr. Mowat is as unchangeable as were the laws of the Medes and Persians. This is not and cannot be satisfactory to the ratepayer, interested. At the same time the present order of things shuts out to a very large extent the children of Separate school ratepayers from the teaching profession. In towns and villages where Separate schools exist the line is necessarily tightly drawn between those institutions and the public schools. The child of the supporter of the former who qualifies on the higher standard has very little chance for a position in the public schools, and a poor chance for a fair salary in his own schools owing to the competition of the religious orders. The most satisfactory solution of the Separate school difficulty to all parties can only be reached by the adoption of the programme advocated by Mr. Meredith.

Mr. Osler's Address.

Continued from page 1.

charges that are brought against him. Now then that application for particulars was made, and an order was made by the court in Toronto calling on him to give particulars. Apparently he was unable to give particulars of the charges in a great many of the paragraphs. For by the order of the court, made apparently after careful argument, it was ordered "that the defendant at the trial of the action be confined in his proof in his place to said paragraphs 16, 17, 18 and 19 of the statement of claim, and to so much of the paragraphs of the statement of claim as in clauses 16, 17, 18 and 19 aforesaid in the particulars to be delivered in pursuance of the order, save in so far as the Judge at the trial in the exercise of his discretion, may otherwise direct; and in default of delivery of particulars under this order, the defence of the pleas of justification to the paragraphs 16, 17, 18 and 19, and said portion of paragraph 3 as included: those shall be struck out." Then you see there was an order made after the careful consideration of the court, after hearing all the parties on the affidavits, and upon that order particulars were delivered. Particulars were delivered of various matters, some of which have been sought to be put in evidence by the defendant in this case to-day, and others apparently have gone without providing any evidence for them. Well, of course, where such an order has been made, where pleadings have been carefully considered, and all the charges pro and con sifted out before the trial, it would not be right that we should attempt to try some cases not on the papers, attempt to give some evidence that was not within the particulars; if that was to be the case what is the use of preparing for a trial at all, what is the use of having pleadings or an order? A man in that case, if general evidence was to be given, might be sued for one thing and have his character taken away for another, on which he was not prepared and with which he had nothing to do. Well, gentlemen, that being the general position of the case let us see what we have to try; let us see what there is on this record, because you are sworn to try the issues joined according to the evidence. You are not here to find that on the whole as between Samuel Hughes and Joseph Cooper, Samuel Hughes is the man that you might like best, or that Joseph Cooper is the man that you would like best. You are here performing the highest function in the administration of Justice. You are here with the responsibility and the duty, so neatly defined by your oath, to try the issues joined between the parties according to the evidence. Now what are they? On the case that is made out the only question, as it appears to me, is simply one of damages. Because it cannot be that in a civilized community the words that have been made use of in the articles complained of by the plaintiff can be treated as not libellous, as I will show you presently. They charge various crimes, they charge him as worthy of the penitentiary, and so on. That being the case, and going at the case step by step to see what we must fairly do, your first duty is to say, is this article a libel? If it is a libel, find that as a principal fact. The next step you have to take is to see what is the defence. The defence is that it is true. Well you take the various paragraphs and statements and you ask yourselves is this true. And if you find in that witness box he has proved these articles to be true as proved, that the plaintiff ought to be in the penitentiary; that one of the charges is proved that he is charged with, why that is the end of the case. It is a libel on the face of it, but no man shall pay damages for stating that which though apparently libellous is true. Now there is your second step. First is it libellous? Second, are the pleas made out? Well, on this evidence I shall ask you fairly to find that the pleas of justification are not made out. Then you come to the question of damages. Now if this libel was against a person who had never engaged in a controversy with another, if there was nothing preceding it which in any way provoked it, why then such a libel as this would call for enormous damages. But on the question of damages you have a right to consider, all that has fairly gone before which has provoked the articles, if provocation in any way justified it. If it was a mere continuance of an unhappy quarrel which only looked for hard words to say of another, if it was that sort of a libel, then because one man gets more stinging words than the other generally a jury will give very small and limited damages; if that kind of libel which is fairly provoked, slap following slap, then he who gets the hardest slap and who complains does not very often get much compensation towards his injured feelings from a jury. For see, gentlemen, I am endeavoring to get at this thing as fairly as I can. I do not want to get one dollar for any client if he does not deserve it. I am going to try and get at the very justice of the case. It is no part of counsel's duty to get a dishonest judgment from any jury. It is his duty merely to do the best he can for his client fairly and honorably. Well now, gentlemen, we have to take on these lines that I have outlined, the article, the plea, the provocation, and we have to consider all these things together. We say that the article is as bad an article as can be written of any man. We say that article is made a great deal worse by their attempting to justify it here in open court, and failing. Always the jury and court will say, if a man says evil of another and then puts upon the plea it is true, and then in open public court attempts to say further that it is true, that it is merely a matter of aggravation, which a jury have a right to give effect to, and ought to give effect to, in measuring the punishment that the defendant ought to get. Now we say that the article which preceded the articles complained of, that is the article in the WATCHMAN as to "Journalistic Blackguardism," we say that that article was justified by the articles which had been written by Mr. Hughes, and by those which had been

written and admitted to his paper by the correspondent from Woodville. Wesley that that article was one which was called for by the articles in Mr. Hughes' paper which preceded it. No articles attacking us, but articles which Mr. Hughes himself here to-day, to his credit be it said, even if he repents at the last hour, articles which he says to-day he is ashamed of. These are the articles we criticize, articles imputing conduct, articles which can only be described by the words "journalistic blackguardism." These are the articles that were criticized by the WATCHMAN, in that article you have heard an article using strong language I will admit but under circumstances calling for strong language. Now prior to that state of things no doubt there had been squibs between the papers and perhaps names called either way, you have heard them both, but it was the articles immediately preceding the article of October "Journalistic blackguardism," it was the articles preceding that, and articles which were not squibs, but articles which Mr. Hughes himself says ought never to have appeared in his paper, which called for the strong language used. Then remember that it is no excuse to Mr. Hughes here to-day to say, Oh that is "Swipes," that is Dr. Clarke; that is no answer. He is the publisher of that paper, is responsible for every line that goes into it; he is absolutely responsible before the law for every item. The law protects an editor from mistake. The law admits that an editor's eye cannot always be on his correspondent's writing, but then it gives him relief only if he apologizes, only if he makes amends as soon as he discovers the error. Now then, endeavoring to do it very shortly let me follow the evidence in the case on the lines that I have indicated upon which we say that we are entitled to recover; and as the articles have been read to you more than once I shall endeavor merely to point out the pith of the articles without reading them in full. Now it is one thing to remember, a thing that you must bear in mind in this case particularly, mere words of abuse where people have got their tempers up, mere scurrilous words, however unfortunate they are, however wrong they are as indicating a bad moral tone are very different and, are entitled to be given very different weight to words imputing crime or criminality. Now the first thing we get is in the paper of the 25th of October, 1889 which is, "If he had any sense of decency or any proper idea of the true meaning of the word, any recollection of his past conduct and how much he is despised by the public, he would hide his head in shame at the very mention of it. It is only the most depraved of fallen humanity, the miscreant lost to all sense of propriety, who would have the audacity to charge another with his own sins for which a term in the penitentiary might not only improve his understanding but mend his morals." Now let men abuse each other, but that is a direct charge of crime. That is a direct charge of serious crime, for which a term in penitentiary is what he should get. He says to you here to-day, I gave him a dressing down and did not give him half enough. That is the man that you have to treat with. You have to consider that the man who has said that his neighbor in a rival business was so guilty that he ought to have had a term in the penitentiary. He is here to tell you that he did not give him enough; he is here to ask you to justify that language; he is here to ask you to allow him to do it again and do it free. That is what you are asked to justify, asked to allow by giving a verdict for the defendant. Well in the next paragraph he includes all the bad words he could, "One thing is certain this miserable canting morality, which has been so freely indulged in by this pharisaical editor of the paper referred to, had better come to an end or he will get such a thorough exposure as will astonish him and put the public on its guard against such scandalous vilification with which its columns have been filled." Now these are the items, there are nearly two columns of it, but I just point out the strongest part of it, the rest is steady abuse. I point you out those two items. These are the two items which he says were not sufficient, had not given him half enough. Then we take up the article of the 8th November, 1889, the principal article which you see gentlemen he published on the principal page of his paper and which is headed in large type, "A Thanksgiving bone for Joe Cooper and family to pick," and which extends nearly over three columns, and which is admitted and which in fact is signed by Mr. Hughes himself. Well now in the first place see what he points out; he calls him, "To have noticed you would have gratified your weak intellect." Then look at this, "And your miserable carcass, so puny as to be free from the punishment such craven wretches as you deserve." Now, use of abuse of that sort is very apt to commit a breach of the peace if we were not in such a law abiding country. In many a country a man using such language to another, violence would be used. Again he says, "You are polluting Victoria." There he insinuates and on fact charges. "Have never sent a paper to a man without its being ordered. Never take the voter's lists at random and send them abroad. Never dropped them into the houses and stores depending on the law forcing payment as you do." Charges him with dishonesty in his business as a newspaper man. Then he uses this language, "The grit patent combination, the Romish church combination and the family compact may be dissatisfied. I admit that I am glad of it. The *Warbler* never had as large a circulation by 2,500 names as it has to-day." All this is with a view of crushing his opponent whose journal was occupying the same field as his own, drawing from the same political party, and the whole tone of these articles touched the pocket, and is to a very great extent the expression of venom from a man who feels that he has got an opponent whom it is his duty to crush, in order that his circulation may still keep up. Then he says a good word for himself, that the *Warbler* is being recognized by the people of Victoria and Durham as the journal of this district. Then he pitched into him as being the

Continued on page 8.

A Hideous Story.

MADRID, April 8.—A horrible story comes from Morocco. A large box was recently brought from the interior to the port of Mazagan for shipment. When opened a ghastly sight was revealed in the box. Packed closely together were the bodies of sixteen young women, one man and a negress. All the victims had been decapitated, and their heads were missing. The bodies were embalmed, and had evidently been in the condition in which they were found for a long time. The slaughter had been to all appearances the work of some pacha who visited vengeance on his harem for unfaithfulness.

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