

THE WESTERN GUARDIAN

FRANCE COUNTY OFFICE
8 Summer Street, Summerside, Phone 8031
New Subscriptions, Advertising Representatives
J. ELMER MURPHY and GEORGE CLOW

GENERAL INSURANCE. Ralph
G. Mutiar, Summerside.
—MR. C. F. GALLANT, Vice
President P. E. I. C. C. F., will
speak over CJRW Friday, April
28th, at 6.30.

—SALE OF USED CLOTHING.
Remember the Okto spring sale
in Town Hall, Saturday, April 29th,
at 2.30.

—MALPEQUE HALL, Friday,
April 28th, annual meeting People's
Cemetery Malpeque Incorporated
at eight o'clock. All interested
requested to attend.

—QUANTITY OF foundation
Seago seed, clear reading, also
quantity of hay available. Ken-
neth MacLean, Lot 16.

—OLIVARY PASTORAL CHARGE
The United Church of Canada,
Rev. W. G. Dickson, B. A., Minister.
Bloomfield at 11 A. M. West
Devon at 2.30 P. M. O'Leary at
7.30 P. M. This will be a joint
meeting with the Nazarene Church and
the special speaker will be a re-
turned missionary from China,
Rev. Michael Varro. He will dis-
play curious, Chinese gowns
and show colored slides. O'Leary
Sunday School at 10.30 A. M. Every-
body welcome at all services.

—Y'S MEN'S MEETING—Keith
Dibble was chairman of the week-
ly meeting of the Summerside Y's
Men's Club in the Olympia Restau-
rant on last evening. F. L. John
Bobby of the R. C. A. F. Trans-
port Command was guest speaker
and gave a very informative talk
on the organization and role of
Transport Command. Mr. Bobby has
the highest number of flying
hours to his credit in the R. C. A.
F.—S

—FUNERAL YESTERDAY
Funeral service was conducted yester-
day afternoon at two o'clock at the
residence for the late John E.
Campbell, Rev. Mr. Bishop of the
Church of Scotland was the officiating
minister assisted by Rev.
K. G. Sullivan. The pall bearers
were Messrs J. F. Arnet, George
Barnes, Amos Hubley, James
Calms, William Gillespie, W. P.
Strong. The floral tributes were
many and beautiful and a large
number of cars followed the fune-
ral party to the Wilmot Valley
cemetery where burial took place.
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—MISCELLANEOUS SHOWER
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Professional Cards

B. F. Hunter, R.O.
OPTOMETRIST
Complete Visual Analyses
Glasses Fitted
PHONE 2116
SMALLMAN'S BUILDING
Summerside, P.E.I.

T. Earle Hickey
Chartered Accountant
Canadian Bank of Commerce
Building
PHONE 2888
Summerside

E. E. Parkman,
Opt.D., R.O.
OPTOMETRIST
Eyes Examined
Glasses Fitted
Office Hours: 9 to 5
and by appointment.
REGENT THEATRE BLDG.
Summerside

Artificial Ice Rink In S'side Still Live Issue

While the matter of a new arti-
ficial ice rink in Summerside may
be dormant it is not entirely dead.
It was learned yesterday that
the citizens' committee has for-
warded to the Town Council a
request that a plebiscite be held
asking the citizens if they are in
favor of the Town building a rink.
It is also suggested that the
people be questioned as to whether
they are in favor of a combined
rink and community center cost-
ing approximately \$300,000 or
simply a rink with artificial ice
to cost in the vicinity of \$100,000.
Presumably they can vote for
either type building or none at all.
The citizens' committee is com-
posed of representatives of various
civic organizations and clubs and
this letter was sent following a
meeting held on Tuesday even-
ing.—S

Children's Aid Society Discussed

In connection with the investi-
gation now being carried on to
determine if the Children's Aid
Society should be re-constituted in
this Province, a meeting was held
in the Town Hall, Summerside,
yesterday morning to discuss the
situation as it pertains to Sum-
merside. The meeting was called
by Mayor Henry Wedge and pre-
sented were members of the Coun-
cil, and former members of the
Children's Aid Society including
members of the clergy. Here to
discuss the matter with the local
people were Mr. F. R. Mac-
Kinnon, Director of Child Welfare
for the Nova Scotia Government,
Major A. L. Nicholson, Director of
the Children's Allowance, Mr. Jack
Trainor, Director of Child Wel-
fare for P. E. I., Mr. Joseph Mac-
Millan, representing the Children's
Aid Society of Charlottetown.

thanking in unison, and the
singing of "I Am So Glad That Our
Father In Heaven". During the
business session over which Mrs.
Colin Waugh presided, plans were
made to serve supper to the dele-
gates attending the Annual Pro-
vincial British and Foreign Bible
Society, which meets in Summ-
erside on May 8. It was also decid-
ed to cater to the members of the
Local Association of Girl Guides
at a dinner on Wednesday, May
10. The special feature of the
evening was a debate, "Resolved
that it is better to remain single
than to get married." The speak-
ers on the affirmative side, scor-
ing the greater number of points,
were Mr. Jack MacFarlane, Miss
Anna Harris and Mr. Garth
Tombs. The opposing team con-
sisted of Mr. C. E. Jelly, Mrs. Ed-
ward Poole and Mr. Bruce John-
ston. Refreshments were served
by the committee in charge, after
which table tennis was enjoyed by
the members.—S

—RETURNS TO QUEBEC—Mr.
H. D. Boyle left recently by motor
for his home in Kenogami, P. Q.
He was accompanied by his niece,
Miss Lorena Thompson, who will
visit for a few weeks with her
brother, Louis Thompson and Mrs.
Thompson at Riverbend, and other
relatives. Mr. Boyle spent a few
weeks at Conway with his sister
and brother-in-law, Mrs. George
Thompson and Mr. Thompson for
a much needed rest after his re-
tirement from Price Brothers &
Company, Limited, which became
effective the 1st of April.

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HABEAS CORPUS

(Continued from Page 5)
17 April, MacIntyre came to the
Sheriff's home and said that he
heard the Sheriff was looking for
him. The Sheriff then re-arrested
MacIntyre and lodged him in
Queen's County Jail, handing the
original warrant of 24th February
to the jailor along with the prison-
er. MacIntyre still detained there
under the same warrant.
On the return by the jailor under
the order herein directed to him,
Mr. Bell and Mr. Mathieson
appeared (for the applicant of the
General Warrant). The Attorney-
General was present, but took no
part in the proceedings.
The sole issue is whether the ap-
plicant, having been discharged in
the manner related, can be legally
re-arrested and detained under
the original warrant. As an intro-
duction to a discussion of the law
involved, I may note that, by a
decision of the court of epistoms, an
escapee or releasee from custody may
be classified as an involuntary, a
negligent, or a voluntary escapee,
the adjective in each case referring
to the conduct or intention of the
custodian, and not of the escaping
prisoner.
The numerous authorities cited
by the applicant fall into two
groups.
The former group establishes the
proposition that, when a convicted
person who is detained under a
warrant of commitment is released
on bail pending an appeal, the
original commitment is exhausted,
and the prisoner cannot be again
detained under the same commit-
ment. In numerous Canadian
cases, including Ex parte Shepherd
(in this Court, before Mr. Justice
Arsenault) (1940) 3 D. L. R. 398,
this principle has been held to ap-
ply even in cases where the ap-
plicant is dismissed or abandoned,
without satisfaction of the original
sentence.
Since, however, these cases do
not lend themselves to the distinc-
tion hereunder noted between crim-
inal and civil detention, I must
conclude that the principle which
they establish is confined to the
rights of a prisoner relating to release
on bail, and has no bearing on cases
involving releases such as the
present.
The second group of authorities
is focused on the decision of Mr.
Justice Saunders in this Court, re
MacKie (1930) 59 C. C. 68, where
it was held that a prisoner who
had been in custody under a war-
rant issued pursuant to a conviction
under the Excise Act, and who was
liberated by order of the Lieuten-
ant-Governor, purporting to act in
exercise of the Royal prerogative,
could not be re-taken or detained
on the original warrant, as the
release was a "voluntary" escape.
The law mentioned in this de-
cision, upon facts substantially identical
with those of the present case, is
supported by the notice in Jones v
Pope (1834) 1 Wms. Saunders 35,
"but if it be a voluntary escape,
the sheriff cannot re-take him;
and is subject to an action for a
false imprisonment if he does."
That case is incidentally inter-
esting as showing the official de-
scription used (in the reign of
Charles II.) to denote the regime
of Cromwell, namely: "The court
of the late Oliver, pretended Pro-
tector of England." In the case of
Jones v. Pope, the prisoner con-
cerned escaped from custody on a
civil writ of habeas corpus, and the
regime, but the proposition men-
tioned is categorically stated, in
numerous authorities, to apply to
criminal cases as well. Archbold,
Criminal Pleading, Evidence and
Practice, 31st Ed. p. 1007; Russell
on Crimes, 8th Ed. p. 522.
Hawkins, Pleas of the Crown, is
often cited as authority for the
same extension. But an examina-
tion of the text of Hawkins re-
veals that what he says is as fol-
lows: "Where a gaoler hath
voluntarily suffered a prisoner to
escape, it is said by some, that he
can no more justify the re-taking
him, than if he had never had
him in custody before, because by
his own free consent he hath ad-
mitted that he had nothing to do
with him." Vol. 2, Ch. 19, s. 12.
Opposing counsel in this case has
shown that, in the year immedi-
ately preceding Re Mackie, the full
Bench of the Supreme Court of
Nova Scotia had reached the op-
posite conclusion, in D. Lorence
(1831) 3 M.P.R. 214; 55 C.C.C. 326.
There it was held that a prisoner
under the Nova Scotia Liquor Con-
trol Act, having been invalidly
discharged under medical certifi-
cate endorsed on his warrant of
commitment, could again be taken
into custody under the same
warrant.
In giving the unanimous judg-
ment of the Court, Chisholm, J., as
he then was, followed the state-
ment made by Dallas, C. J., in Butt
v. Jones (1819) Gow 99, where that
learned Chief Justice observed that
if the custodian of a prisoner who
has been convicted of a crime by a
court of competent jurisdiction
voluntarily and knowingly suffers
his prisoner to escape, he may af-
terwards re-take and detain him,
and the rule preventing re-arrest
in civil cases does not apply, be-
cause the public are interested in
the maintenance of the custody.
That opinion of Dallas, C. J.,
seems to have been expressed in
the course of his charge to a jury
in a civil case, and to be of the
nature of obiter dictum. For, al-
though the question of a voluntary
escape was formally raised by the
plaintiff's replications, the Chief
Justice remarked that "the replica-
tions were completely falsified by
the evidence."
Again, there is no mention of a
warrant in the case of Butt v.
Jones. The prisoner was convicted
before a Superior Court of Crimi-
nal Jurisdiction; if the practice

Albany and Vicinity

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Myron Dawson of Albany was a
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for any point in the Province.
Arsenault & Delaney
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CAPITOL Summerside
Tonight 7:15 - 9:15 — Saturday 2:30 - 7:15 - 9:15
The Mightiest Technicolor Spectacle of them all.
10 Big Stars — 2000 Players — 1000 Thrills
THE ALL-STAR ADVENTURE-SPECTACLE OF ALL TIME IN GLORIOUS Technicolor!
More thrills than the screen ever gave you!
GARY COOPER · CARROLL MADEIRA
in Cecil B. DeMille's "NORTH WEST MOUNTED POLICE"
Produced and Directed by Cecil B. DeMille

REGENT 2 - BIG HITS - 2
Today 3:30, 7 & 9:15 — Saturday 2:30, 7 & 9:15
The GREATEST ALL-THRILL SHOW OF ALL-TIME
SERIATION SPINE-TINGLING FEATURES
1001 SENSATIONAL THRILLS
ABSOLUTELY AUTHENTIC
TWO-TON GOLIATH IN A DEATH STRUGGLE!
WILD-MEN vs. "DEVIL-BEAST"
LIONS, HYENAS, VULTURES
in mortal combat!
VOLUMES IN PASSEPORTS COURTESY
ACTION PACKED PICTURES
BORNED DEVIL-BEAST

PACKS A MIGHTY WALLOP!
The ring rocks with pulse-
pounding excitement as
ganglands terror-fix
backfires!
DUKE OF CHICAGO
TOM BROWN · AUDREY LONG · GRANT WITHERS
with PAUL HARVEY · SKEETS GALLAGHER · LOIS HALL
A REPUBLIC PICTURE

CAMEO THEATRE KENSINGTON
Friday 7:45; Saturday Matinee
2:30; Evening 7:15-9:15. Joe Yule
and Renie Riano as "JIGGS AND
MAGGIE IN SOCIETY", featuring
Arthur Murray (Dance King), Dale
Carnegie (Author of How to Win
Friends), Shellah Graham (famed
film columnist); also last chap-
ter of Serial, Shorts and News.
CRAPAUD THEATRE
JUST ABOUT
THE MOST
WONDERFUL
LOVE STORY
EVER
FILMED!
SAMUEL GOLDWYN PRESENTS
Enchantment
DAVID HIVEN · TERESA WRIGHT
BYVELYN KEYES · FARLEY GRANGER
Released by RKO Radio Pictures, Inc.
Shows Fri. — Sat. 8.30

ATTENTION
ALBERTON AND SURROUNDING AREAS
HOOLEY'S MEN'S WEAR
Of Montague
TAKES PLEASURE IN ANNOUNCING
THE OPENING OF A NEW BRANCH AT
ALBERTON
STORE OPENING SALE
MAY 1st, 2nd, 3rd
This store will carry all types of men's and boys' clothing made by
Canada's leading manufacturers.
Suits by TOWN HALL, ready made, and made to measure.
Dress Shirts made by ARROW and B. V. D.
SUN VALLEY SPORTS WEAR.
Work Clothing made by WALKER, PEABODY and MURPHY.
Be sure to visit this store during the opening sale and take ad-
vantage of Reduced Prices.
THERE WILL ALSO BE A REDUCTION OF 10% ON ALL
MADE-TO-MEASURE SUIT AND TOPCOAT ORDERS TAKEN DURING THIS SALE.

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RIGHT FOR ALL YOUR BAKING!
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