

TRIAL OF A DOG CASE.

Discussing the Question Whether a
Canine is Property.

Ann Faby was in the city court this morning charged with stealing a quantity of children's clothing valued at \$5. She said she took the things in fun and the plea of guilty was entertained against her. The clothes were stolen from Ann Lane, who appeared and identified the stolen articles. Mrs. Faby took the stand and said that she took the clothes in fun and was going to ask Mrs. Lane if she had missed anything. The court doubted her story and fined her \$5 and costs.

The case against Lawrence Farrell, charged with stealing an Irish setter dog from Chas. Audley, Friday evening, Dec. 20, was taken up. Judge W. C. Robinson, who appeared for Farrell, filed a demurrer on the ground that the crime of theft could not be committed when the matter stolen was not lawfully held as property. He claimed that dogs have never been considered taxable property in this state, but the legislature has seen fit to lay a dog tax to protect the sheep and property of farmers. In 1878 the legislature imposed a law empowering any citizens to kill any dog that might be found at large, and providing that they may receive a bounty from the town authorities. The law then places the dog on the same footing as snakes or rabbits. The law also demonstrates that a person is not liable for stealing such property. Judge Stoddard said he thought he ought not to sustain the demurrer. Still he thought the demurrer ought to be decided in the superior court. He overruled the demurrer and the case was tried.

Charles Audley was called, and stated that he lost an Irish setter dog, which he valued at \$75. It was stolen from his barn on Friday evening, December 20; Farrell, the accused, was once a coachman for him. On the cross examination witness said the dog was presented to him by Mr. Osborn on Tuesday morning previous to the Friday when the dog was stolen. The doors were generally kept locked when the men were not in the barn.

G. E. Osborn next testified—He had owned the dog, but presented it to Mr. Audley recently. He valued the dog at \$75. On the cross-examination Judge Robinson tried to find out what witness paid for the dog. He said he bought the dog a breeder in Seymour, and refused to testify as to what he paid for it, unless so ordered by the court. The matter of admitting the testimony was discussed at some length, and was finally admitted by the court. Mr. Osborn resumed his testimony, and stated that he paid \$15 for the dog. He never had the dog registered. It was in better condition now, and broke, which made it worth more than when he bought it.

Christopher Keefe, who works for Mr. Audley, testified to being at the barn the day the dog was stolen, and to leaving his dog in the hay-loft when he went to supper; Farrell left the barn before he did; don't think he took the dog with him when he went away; when witness got back from supper he went into the loft and the dog was gone; Farrell went into the loft with witness about half-past four o'clock on the afternoon before the dog was missed; he untied the dog at that time.

George McCormick testified to seeing Farrell and another man come into the barn after Keefe went to supper, pull down a ladder and go up into the hay loft; they took the dog out of the barn; did not know the man who was with Farrell; it was dark and no light in the barn. Heard Farrell call him Pat. This closed the evidence for the state.

Before hearing the testimony for the defense, Judge Stoddard inquired if the state claimed that there was a theft committed when there is no evidence that the dog was licensed or registered. As he understood the law, any one had a right to take the dog and kill it if it was not lawfully registered.

Mr. Pickett replied that the dog was the lawful property of Mr. Audley and that a hackman in his employ trespassed upon Mr. Audley's premises and stole the dog, and it did not matter if it was not registered.

Judge Robinson said that was a point he desired to call attention to later in the case. He would at this time move for the discharge of the accused.

Judge Stoddard stated that he should hear the evidence in the case.

B. C. Thayer and John R. Carrington testified to the good character of Farrell, who had been in their employ. The defense tried to impeach the evidence of the McCormick boy by the evidence of one McCann, who said that the boy told him that Mr. Audley had offered him an overcoat to testify against Farrell in the case. He also said that Mr. Audley gave him twenty-five cents.

Mr. Audley was recalled, and was asked what he knew about the evidence which the defense had offered to impeach the McCormick boy's testimony. Mr. Audley said that his son gave the boy twenty-five cents to tell him what he knew about the affair. Mr. Audley said he told the boy that he would give him an overcoat if he would tell the truth about the dog matter in court and if the case was decided against Farrell, as he saw the boy was in need of an overcoat. The defense closed here, and the case was argued by Mr. Pickett. The court had evidently decided the case, as it did not listen to any argument from ex-Judge Robinson. In disposing of the case, Judge Stoddard said that the evidence was not very strong against the accused. He thought, perhaps, that the case ought to go before the superior court. Still, by virtue of the statute, it appears that a man cannot legally hold a dog unless he is registered. It did not appear that this dog was registered, and he did not see how the state can hold the man. The accused was discharged.