

C. & Co. brought an action against H. for infringing this patent, the alleged infringement consisting of a similar device but with about half an inch of the carbonized leaf free from carbon, the leaf being turned over by means of this margin instead of the tape.

*Held*, affirming the decision of the Exchequer Court of Canada (3 Ex. C. R. 351) that the evidence at the trial showed the device for turning over the black leaf without soiling the fingers to have been used before the patent of C. & Co. was issued; that the tape across the end of the black leaf was the only novel element in the patented article, and that the device used by H. was not an infringement of the patent depending on the tape to render it patentable.

Appeal dismissed with costs.

*W. Cassels, Q.C.*, and *Edgar*, for the appellants.

*Johnston, Q.C.*, and *Heighington*, for the respondents.

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May 1, 1894.

New Brunswick.]

ST. JOHN GAS LIGHT CO. v. HATFIELD.

*Master and servant—Common employment—Negligence—Questions of fact—Finding of jury.*

The St. John Gas Light Co., being engaged in laying a main through one of the public streets of the city, applied to one Wisdom, a plumber and gas-fitter, for the services of a competent man, and H. was sent by Wisdom to work on said main. While H. was working at one end of a pipe he was injured by gas escaping therefrom being set on fire from a salamander used in carrying on the work, and exploding. One of the servants of the Company, whose duty it was to turn on the gas at this pipe every evening and turn it off every morning, had neglected to turn it off the morning the accident happened, and there was evidence that the salamander had been moved from its usual place and put near the end of the pipe where H. was working by order of the manager of the Company.

In an action by H. for damages from such injury, the jury found that the Company was guilty of negligence, and that H. at