

### HAMPTON

#### Appeal in the Noted St. John Tobacco Case.

Very Wordy Arguments by Messrs. White, Hanington and Fowler—Judge Wedderburn's Charge and the Jury's Verdict.

#### HAMPTON, Kings Co., Aug. 1.—An appeal was argued today before Judge Wedderburn in chambers here in the case of Tribe against Jacob, tried at the last sitting of the court of King's county, and a verdict rendered for the plaintiff assessing the damages at \$186.55, the full amount claimed.

This was the most famous tobacco case in which so many points of law and fact were involved, and which called for the long series of questions upon which the jury required to settle the validity of the defendant's plea of acquittal. In presenting the grounds of appeal today, the Hon. A. S. White, K. C., and A. H. Hanington, K. C., represented Abram Jacob, the appellant, and the respondent, Albert Tribe, by Geo. W. Fowler, M. P.

Mr. White moved for the judgment to be set aside, and entered up for defendant, for arrest of judgment, and failing thereof, for a non-suit. He argued that an error existed in the form of the writ issued in the case, that there had been no acceptance of the goods under the meaning of the statute, that the goods delivered were not in accordance with the contract, that the jury did not charge the jury as to the meaning of the term "acceptance" with the law, and that the verdict was in direct opposition to the evidence given before the court. He claimed that the "disjunctive" given by English judges in the cases of *Morton v. Tibbets*, *Curtis v. Pugh*, and *Page v. Morgan* had so "frustrated" the law that in 1888 parliament passed an act, the provisions of which, if existent in the date of the trial made, would have reversed the decisions then given. He also quoted a further case, that of *Traylor v. Smith*, not hitherto referred to, the appeal from the decision of which formed the ground for the passing of the act. Our procedure has no such provision, but if the English procedure were followed, the plaintiff in this case would be entitled to the decision in *Morton v. Tibbets* and like cases. Mr. White pointed out that the goods sued for were delivered to James E. Tribe, labelled and billed by James E. Tribe, and finally payment demanded and suit threatened by James E. Tribe, and consequently James E. Tribe was the acceptor of the goods under the statute. The plaintiff in this case was Albert Tribe, who was nothing more than an agent for the sale of the goods, and that if defendant had accepted from the latter, James E. Tribe could have sued and recovered. He recited answers of the jury which to his mind were in direct conflict with the sworn evidence, and expressed the opinion that the failure to answer all the questions by the jury vitiated the effect of the answers to questions given. He regarded the letter of James E. Tribe of November 12th, in which he speaks of "my money," and his threat to bring suit to recover, as good ground of appeal, he being the principal, and not Albert Tribe, the plaintiff. The answers of the jury showed that they did not understand that the tobacco was to be "good" tobacco within the meaning of the trade, and this also should weigh with the judge in considering the appeal.

Mr. White's argument occupied about three hours, and he was followed by Mr. Hanington, mainly on the question of the "mental attitude" of the parties interested, as laid down in Benjamin "On Sales," and claimed that it was clear from the evidence that Jacob never "intended" to accept the goods, as shown by his acts and words, notwithstanding which the jury affirmed that he did accept them. Mr. Fowler, in reply, said the main grounds for an appeal might be summed up in the declaration that there was no acceptance, and that the plaintiff was not the right person to sue. As to the "attitude" of the defendant, that must be gauged by his acts. He contracted for the goods, received them, paid freight upon them, took them into his own warehouse, where no one could see without his permission, and held them subject to his own and only will and order. He refused the plaintiff access to them, and put in an offer for money paid upon them. It was claimed that there was no contract, but here again all the defendant's acts showed that there had been a contract, which was emphasized by his receiving and warehouseing the goods. The crucial test as to acceptance is found in these dealings of the vendee with the goods. The form and terms of contract were here recited, and the instructions given by the plaintiff for defendant to send the money to his father, James E. Tribe, had no claim on the goods, but he had advanced money to his son, and was to be recouped in this way. That was the understanding and hence his personal application for payment. That defendant recognized Albert Tribe as the principal is shown by his offering to pay him a reduced amount.

Mr. Fowler repudiated the statement that the judge had been directed in his charge to the jury. On the contrary, he had been so full in his explanations to them, and so clear in his definition of fact and law, as to call forth a well deserved eulogy from the learned counsel for the defendant. He then went over the jurors' answers and showed that throughout there appeared an intelligent sequence, and a careful discrimination as to the extent and bearing of the answers given, so that having settled a given point they did not regard it necessary to repeat it again. As to the claim that their verdict was "in the teeth" of the evidence, he rehearsed the points at issue and showed how clearly they were justified in their conclusions. Under all these circumstances he claimed that the verdict should not be disturbed.

His honor recalled to the minds of counsel his request that the jury should carefully listen to his decision upon the application for non-suit, and the minute details he had given of the cases upon which counsel relied, as well as the fulness and extent of the questions submitted to them. Mr. White expressed satisfaction with the judge's charge, but thought the verdict of the jury was in open antagonism to it. If the appeal is allowed, it will come before the supreme court at the October term.

### THE FARM

#### Killing Woodchucks with Carbon Bisulphide.

In many parts of Canada a good deal of damage is annually done in grain, hay and pasture fields by the common woodchuck or groundhog. Not only is a considerable amount of grain or fodder consumed by these animals, but much more is trampled upon and destroyed, while the open burrows are occasionally responsible for accidents to horses employed in harvesting. Many ways of destroying these animals have been devised, but ordinary methods frequently fail to keep them in check. Probably the simplest and most satisfactory method is that of the use of bisulphide of carbon, an inflammable liquid, which on exposure to air volatizes into a vapor that is very destructive to animal life.

This substance has been used for some time in the west for destroying ground squirrels, and has also been largely used for destroying rats, mice and factories. It has often been recommended and utilized to destroy woodchucks, but its merits for the purpose do not seem to be very generally appreciated. A series of experiments covering several seasons' use of carbon bisulphide as a woodchuck exterminator has lately been reported by the New Hampshire Experiment Station, the results of which are herewith summarized.

So successful have these experiments been that the plan is strongly recommended for more general adoption. One special advantage of carbon bisulphide is that its vapor is more than twice as heavy as air, so that in a woodchuck burrow it will follow along the hole until it reaches the bottom, crowding the air above it to the top. As the animal is likely to be in the lower part of the burrow, it is most certain to inhale the poisonous vapor and be killed.

The equipment necessary for this sort of woodchuck hunt consists of a bottle of carbon bisulphide, a bundle of old cotton or other cloth, a pall and a spade. The pall is first filled with dirt and set near the hole ready to turn in; then a piece of cloth is laid between thumb and finger, saturated with about an ounce of the liquid, and immediately thrown as far into the burrow as possible. The pall of dirt is quickly thrown into the hole and the entrance carefully closed. If there is more than one entrance, all but one should be filled in before the treatment. This method not only kills the old woodchuck, but destroys in a humane manner the young in the burrow. It has, too, the additional advantage that the animal is not only killed, but its body is completely decomposed, and in each instance there was conclusive evidence that they had been opened from the outside by woodchuck burrowing into them.

Precautions to be observed. It should be distinctly understood by everyone who used carbon bisulphide for any purpose that it is highly volatile, inflammable, and poisonous. It is also highly explosive. With any reasonable care in its use, however, out of doors, no ill results can follow. Used as described above there is no real danger to the human body, and a small quantity in a glass stoppered bottle may be safely stored away in a cool place. Of course it must be kept out of the reach of children and away from fire of any kind. The person applying it to woodchuck holes should not be smoking while handling the liquid. For most people it is probably better to buy of the local druggist than to store a large amount. It is not expensive in any case, and the ordinary commercial grade will do as well for this purpose as that which is chemically pure.

F. W. HODSON,  
Live Stock Commissioner.

### ROLLING MILLS WILL GO

The delegation from the directors of the Portland Rolling Mills and the Maritime Mill Works, which was to visit Sydney last week to discuss the removing of those industries to Cape Breton, postponed their trip on account of the absence of one of the members. The delegation, which consists of D. F. Purdy, James Manchester, Jos. Allison, E. C. Elkin and E. Perkins, will go on Tuesday next. At Sydney they will confer with a committee from the town council, which is making strong representations in favor of the removal and is prepared to grant valuable concessions to obtain such an industry. Directors here say that free sites have been offered them along with other inducements and considering the advantage of a proximity to the coal fields and the fact that the scrap iron used in the business can be taken to Sydney cheaper than to St. John, they feel that the move which is practically decided upon, will be for the financial betterment of the industry.

### BOSTON

Death of Joseph M. Converse, a Prominent Baptist Layman.

BOSTON, Aug. 3.—Joseph M. Converse died at his home in Cambridge last night after a short illness. He was prominent in business life and one of the most distinguished laymen of the Baptist denomination. He was born in Boston in 1823. For nearly 40 years he was a director of Tremont Temple, which brought him into prominence in the Baptist church.

### Piles

To prove to you that Dr. Chase's Ointment is certain to relieve you of all every form of itching, bleeding and protruding piles, the manufacturer has caused to be printed in the daily press and sent your neighbors what they think is a free offer. You can get your money back if not cured. See a box of Dr. Chase's Ointment.

### DEATH VALLEYS

#### SECRET REVEALED

#### Strange Discovery After Fifty Years of Remains of a Missing Caravan.

The treacherous, merciless sands of Death Valley have yielded up the story of another gruesome, ghastly tragedy fifty years after it was enacted. Yearly, as the white men traverse that trapdoor of hell, they pay their lives against the tales of yellow lore that lie under their feet. The next year, says the San Francisco Chronicle, their mummified corpses are found by others, who may pity them as "good men"; they played the limit and lost. Here's the next that tries.

Fifty-one years ago a party of men, women and children—twenty all told—left Independence, Mo., in two wagons drawn by oxen, bound for the gold fields in California. From that day until now they have never been heard of and their fate has always been a mystery. All these years the bare desert held the secret securely locked, and only rarely have its cool, crawling sands disclosed the key—huge, rusted iron hook of ancient origin.

Don Pickett is a prospector with a frame of tempered steel and the muscles as tough as whang leather. He is not well known in San Francisco, but is a familiar figure from Carson to the Mexican line. He has just returned to San Francisco from a prospecting trip to Tonopah through the Panamint country and Death Valley by way of Mojave and Keeler.

At the foot of a spur on the Panamint Mountains on its northeastern slope, he, with his partner, Len Gordon, had stopped to rest themselves and their burros from the exhaustion attendant upon their trip across Death Valley. Where they stopped a spring of perfectly clear, cold water bubbled from the rocks and ran in a shallow gutter a few yards further on. They were sitting on the bank of the stream, did not notice the deadly ammonia, so did their burros, and the animals hardly sniffed at it as they turned to nibble the scant herbage. It was deadly poison, and the arsenic contained in a good druggist would kill a drake.

Years ago some prospector had scrawled the word "Poison" on a board from a packing box and had fastened it to a stake by the edge of the spring. Some of the boys of the party, and some were of human beings, a few evidently being those of women and children. They reentered in a trench and they took the word very seriously, and some were of human beings, a few evidently being those of women and children. They reentered in a trench and they took the word very seriously, and some were of human beings, a few evidently being those of women and children.

THE LOST PARTY.

It was in the fall of 1851 that a party came down Amargosa way with two worn-out teams. The party had left Independence, Mo., in the spring, and had been delayed by sickness and other things. They had turned south from Humboldt sink and had taken the southern route by the way of the old Carson and Death Valley. It is true, but it would have preserved life.

Neither did they know that it with axe or hatchet they had split the huge "balls" or "niggerhead" cactus which they were using for fuel. They would have found a scalding scalding pulp that would have moistened the parched throats of their oxen and themselves. But all this they did not know, and so they died.

AN EYE-WITNESS.

Charles H. Fish of San Francisco thinks he remembers the party. He crossed Death Valley in 1851, and, delirious from thirst, he finished the trip with a rope around him, led by his horse. Mr. Fish remembers that at the upper part of the valley they passed a party in which were some women and children, who begged piteously for water, but he and his partner had none for themselves. That was fifty-one years ago. It remains conspicuous as the first words Mr. Fish remembers were from a stranger to his partner: "Water and whiskey are the same price—you can have your choice."

### A CYCLONE

#### Cuts Swath Through City of St. Catharines, Ontario.

#### Houses Unroofed and Railway Cars Carried Up into the Air—Chimneys Wrecked Like Pipe Stems—No Lives Lost.

(Special to the Sun.)  
ST. CATHARINES, Ont., Aug. 3.—This city was struck by a cyclone at 1.40 this afternoon, and several thousands dollars' damage done to property. No lives were lost, but there were some very narrow escapes.

A large funnel-shaped cloud formed in a northerly direction and moved over the city with wonderful rapidity. It first blew out the end of the St. Catharines and Toronto railway car barn, and this new building was badly smashed. It picked up a freight car in the railway yard and threw it several yards, stripping the trucks from under it. Rugs were torn up and the road blocked. All along Court street parts of roofs are gone and yards and roads are completely wrecked. Scarcely a house left standing in this vicinity. The storm passed south, crossing Church, King and St. Paul streets, and turned east on Division street. The Belmont house was unroofed and damaged. Division street probably suffered the worst. Houses on all sides were unroofed, and Telephone Co. and other wires tangled near it. In this storm, the Belmont house was unroofed and damaged. Division street probably suffered the worst. Houses on all sides were unroofed, and Telephone Co. and other wires tangled near it.

Only the excessive dryness of the atmosphere permits one to live in such nearness to this terrible heat that boils the blood of a "tenderfoot" until the steam cooks the brain and drives him, a naked maniac, shrieking wildly across the blistering sands. These men "know" the way, going from one waterhole to another, always carry enough water to last them there and back in the event the objective waterhole should be found dry. There is water at certain points in Death Valley, but unless one knows the exact location of these springs or waterholes it is death from horrible thirst to attempt to traverse the valley in the summer months. The deadly ammonia of the country is such that all mountains, and peaks look alike to the stranger, and he may pass by his death within a few yards of where he could have found life.

### TRAINING THE BOERS

#### Canadian Teachers Instructing Boer Children in British Patriotic Songs.

Miss Ida E. McLeod, daughter of Rev. Dr. McLeod of Ontario, who resigned her position in Acadia Seminary to go as one of the Canadian teachers to South Africa, has the true idea of the only way to reach the question in that country will ever be finally settled—by bringing up the rising generation of the Boers to forget their fathers' hatred of the flag under which they now live and to feel that the Empire for which it stands is their own. In a letter of recent date to her parents, telling most interestingly of her new school, she says that she has begun her course of instruction by teaching the Boer children to sing God Save the King, The Red, White and Blue, and Rule Britannia.

She added that the youngsters seemed to take very kindly to the songs. At the time of writing Miss McLeod was located at Selatlogi, in Bechuanaland, about half way between Yrindling and Mafeking, the scholars of whom she is in control number about eight. All of them are Boer children ranging in age as high as 15 and 16 years. Miss Winifred Johnston of Fredericton is the only English teacher with her, and the two are assisted by Boer instructors. Miss McLeod is well pleased with the place, which is one of the most healthful locations in South Africa. The water supply is especially good and is obtained from an underground river, which runs under the town and which in times of drought can be heard roaring above its mysterious channel. The only thing she objected to was the too plentiful supply of ants, which made themselves an intolerable nuisance. Along the last of June she expected to visit Johannesburg, where a convention of teachers from all over South Africa was to be held for the discussion of the best ways of procedure. Free passes, however, were supplied by the government and all were to be accommodated at private homes in the city. The people of Johannesburg, she said, had subscribed a large sum of money for the entertainment of the teachers while there.

### LAST STONE OF NILE DAM LAID.

LONDON, July 31.—Sir John Aird, the contractor, announces that the last coping stone of the Nile dam at Assouan was laid yesterday.

## JAMES BUCHANAN & Co's

### SCOTCH WHISKIES

are supplied to H. M. the King and H. R. H. the Prince of Wales, under their Royal Warrants. To the Houses of Lords and Commons, London, the great transportation companies of Great Britain and the Continent, the leading Hotels, Clubs and every first-class Wine Merchant all over the Globe. When you want first-class Matured Scotch Whiskey ask for

# BUCHANAN'S SPECIAL QUALITY

OR

# BUCHANAN'S BLACK & WHITE.

Every bottle Guaranteed to be as represented.

### THE S. GARSLEY CO.

#### KODAKS

#### CAMERAS.

Summer at full and after weeks of rain and weather may be confidently expected for balance of season. That means a rushing business in Kodaks and supplies. We keep a full stock. Our goods are always fresh and our prices are as low as in Canada. Here are some leading lines:

BROWNIE CAMERA—Brownie Camera for \$12.50, picture \$1.00.  
TRANSWAVE—Kodak camera, 6 exposures, \$12.75, 15c.  
Brownie under detachable, 3c. Brownie carrying case, holds camera and lens, 60c.  
A large Kodak developing and printing outfit, including extra paper for 4 prints, 75c.  
Brownie No. 2 double size, \$20.00. Film, 6 exposures, Kodak No. 1 film, 12c.  
Brownie No. 2 double size, \$20.00. Film, 6 exposures, Kodak No. 1 film, 12c.  
TONING TRAYS—rubber trays, 20c.  
PRINTING FRAMES—25c.  
Photo Paper—10c, 12c, 15c, 20c.

### THE S. GARSLEY CO.

1765 to 1768 Notre Dame Street, 1904 to 1905 St. James Street, Montreal.

### A MAINE JUDGE

Where Jurisdiction Should Be Extended to the St. John River and Its Tributaries.

AUGUSTA, Me., Aug. 1.—In the somewhat celebrated equity suit brought by the lockwood Company and the Hollingsworth and Whitney Co. of Waterville, against various sawmill and pulp mill owners in Kennebec, Somerset and Franklin counties, which has been on trial in the supreme court at different times for several months, Judge Whitehouse rendered a decision today in favor of the plaintiffs and they grant a perpetual injunction against the owners of 46 saw mills and three pulp mills, prohibiting them from throwing any mill refuse, sawdust or screenings into the Kennebec river or its tributaries. This has been one of the longest and most important cases ever tried in this state, and its decision has been awaited with great interest. Seventy-nine defendants appeared, but thirty of them proved they do not throw any refuse into the river.

### A FIGHT WITH A SHARK

A Clam Digger's Thrilling Experience at Milford Harbor.

NEW HAVEN, Conn., Aug. 2.—A big blue shark and a young man had a furious battle for their lives in the waters of Milford harbor. By dint of dexterous use of a clam rake and assistance from shore, Harry Hunsford, the man, won with his life. In the struggle Hunsford struck a blow, and buried the clam rake in the monster's back. Enraged to fighting pitch, the shark fought his way back and Hunsford caught him again just back of the head. His father, Ezra Hunsford, came to his aid and stunned the shark with many blows, while the son in a measure prevented escape by holding him with the rake. When the shark was stunned they hauled him ashore and cut his throat. The shark measured more than seven feet.

### Is Your Back Lame?

Does it hurt you to stoop or bend down? Have you a heavy dull pain at the base of the spine? If so, the best remedy is "Nerve-Line," it will invigorate the tired muscles, make them supple and strong. Nerve-Line will drive out the pain and make you well in no time. Nothing so good as Nerve-Line for Lumbago, Stiff Neck, Rheumatism, Neuritis and Sciatica. Buy a 25c bottle of Nerve-Line today, and try it.

### Dr. Hamilton's Pills cure Constipation.

An offer of \$500 has been received by Fredericton city council from the village of Tupper, N. S., for the Shaws steam fire engine owned by the city and not required since the introduction of the water works.

### BEST WASH

Wash your face with this best wash.

### Grocer

the session met the primary teachers' union, with S. Turner as president, and Smith as secretary. The primary teachers' union, with S. Turner as president, and Smith as secretary. The primary teachers' union, with S. Turner as president, and Smith as secretary.

### Headache in ten minutes use Headache Powders

Headache in ten minutes use Headache Powders.

### PROFESSOR FOR SCHOOL OF MINES

Halifax Chronicle.

### AFFECTING INCIDENT

(Montreal Star.)

### AS PARALYZED

Walk or Raise His Head.

### Private Case Could Scarcely Be More Wretched

Ont., Aug. 1.—(Special.)

### Dr. Chase's Ointment

to prove to you that Dr. Chase's Ointment is certain to relieve you of all every form of itching, bleeding and protruding piles, the manufacturer has caused to be printed in the daily press and sent your neighbors what they think is a free offer.