

Guelph Mercury

VOL. VIII. NO. 64

GUELPH, ONT., CANADA, MONDAY EVENING, OCTOBER 19, 1874.

PRICE TWO CENT 8

Business Cards

D. W. H. LOWRY,
Graduate of University of Trinity College,
Member of College of Physicians and
Surgeons, Ontario. Office—Next door to Mr
Jas. Haselton, Upper Wyndham Street,
Guelph, August 2nd, 1874. d.w.h.

CUTBIE, WATT & CUTTEN,
Barristers, Attorneys-at-Law, Solicitors
in Chancery, Guelph, Ontario.

D. CUTBIE, J. WATT, W. H. CUTTEN
Guelph, March 1, 1874. d.w.c.

A. H. MACDONALD,
BARRISTER AT LAW.
OFFICE—Corner of Wyndham and Quebec
streets, Guelph, June 3, 1874. d.w.m.

LEMON, PETERSON & McLEAN,
Barristers and Attorneys at Law,
Solicitors in Chancery,
Conveyancers and Notaries Public.
Offices—Brownlow's New Buildings, near
the Registry Office.

A. LEMON, H. W. PETERSON,
K. McLEAN, County Crown Atty.

DUNBAR, MERRITT & BISCOE,
Barristers and Attorneys at Law
Solicitors in Chancery, etc.
Office—Over Harvey's Drug Store.
A. DUNBAR, W. M. MERRITT, F. BISCOE,
Guelph, Oct. 7, 1873. d.w.

OLIVER & MCKINNON,
Barristers, Attorneys at Law, Solicitors
in Chancery, Conveyancers, Notaries
Public, etc.
Office—Corner of Wyndham and Quebec
streets, Guelph, Ont.
R. OLIVER, A. M. MCKINNON.

STURDY,
House, Sign, & Ornamental Painter
Grainer and Paper Hanger.
Shop next to the Wellington Hotel, Wynd
ham street, Guelph. d.w.

DANIELS & BUCHAN,
(Successors to James Barclay.)
Carpenters and Builders,
South of the Mill race, Guelph.
Jobbing a specialty. Lumber and Cedar
wholesale and retail. Guelph, July 27, 1874. d.w.

IRON CASTINGS
Of all kinds made to order at
CROWE'S IRON WORKS,
Norfolk Street, Guelph.
d.w. JOHN CROWE, Proprietor

JOHN KIRKHAM,
GUNSMITH,
Quebec street, Guelph, opposite the
Churches.
Guns, Pistols, and Sporting Materials always
on hand. Repairing as usual.

FREDERICK BISCOE,
BARRISTER, &c.
Office—Quebec street, opposite Bank of
Montreal, Guelph.
N.B.—Money to loan in sums to suit bor-
rowers. d.w.f.


WILLIAM J. PATERSON,
Official Assignee for the County of
Wellington.
Office—Opposite Town Hall, Guelph. d.w.

**DOMINION SALOON
AND
RESTAURANT.**
Opposite the Market, Guelph.
The subscriber begs to notify his friends
and the public that he is now proprietor of
the above saloon, and hopes by keeping none
but first-class liquors and cigars to receive a
share of public patronage.
Oysters in their season. First-class accom-
modation for supper parties.
M. DEADY, Proprietor.
Guelph, April 7, 1874. d.w.

**WALBORN'S
CONFECTIONERY STORE,**
Next to Petrie's Drug Store.
Choice Confectionery,
Hot Tea, Coffee, and Lunch
At all hours.
CAKES of all kinds constantly on hand.
Weddings supplied on short notice. d.w.

**AMERICAN
HOTEL CAB,**
The subscriber begs to intimate to the
public that his new cab attends all trains at
stations, and will convey passengers to any
part of the town.
Pleasure or other parties hiring the Cab
by the hour can have it at very reasonable
terms by applying at the hotel.
THOMAS ELLIS, Proprietor
Guelph, July 2, 1874. d.w.

PARKER'S HOTEL,
—DIRECTLY—
OPPOSITE THE MARKET, GUELPH.
First-class accommodation for travellers.
Commodious stabling and an attentive
hostler.
The best Liquors and Cigars at the bar.
He has just fitted up a room where Oys-
ters will be served up at all hours, in the
the best style.
Fresh Salmon, Lobsters and Sardines.
W. M. FOSTER, L.D.S.,
Surgeon Dentist, Guelph.
Office—Over R. Harvey & Co's Drug
Store, Corner of
W. & Mac-
donnell-st, Guelph.
Lectures
administered for
the extraction of teeth without pain, which is
perfectly safe and reliable.
References kindly permitted to Dr.
Herod, McGuire, Keating, Cowan, and Mc
Gregor, Guelph.



R. Campbell, L.D.S
Having recovered from his recent illness, is
again prepared to attend to the wants of all
who may require his services.
Office at the old stand, Wyndham street,
Guelph.

New Advertisements.

HOT AIR FURNACE.—For sale,
new—a coal furnace having been substituted.
This may be had on reasonable terms. A.
Lemon.
Guelph, Sept. 8, 1874. d.w.

WANTED.—By the 22nd of October,
a good cook who can wash and iron.
Also a housemaid. Must have references.
MRS. WATT.

WANTED to rent by the 1st or mid-
dle of November next, for six months,
a comfortable furnished house with all con-
veniences, in good locality. Apply to the
MERCURY OFFICE. d.w.f.

FOR SALE.—A splendid chance for a
small garden. Brick house and five
acres land, 5 miles from town. Apply to R.
W. Robertson, Flour and Feed Store, Guelph.

WAGONS.
We have received a consignment of
first-class wagons, with double-oxen axle
arms, which will be sold cheap for cash or
approved notes at 6 months. Prices \$60 and
\$85 without box. Call soon if you wish to
secure one at the above prices.
J. B. ARMSTRONG & CO.,
Old-die-st. Guelph, Guelph, Ont.

WOOD FOR SALE.—Parties wishing
to contract for supplying first-class
wood for fall and winter at reasonable rates,
apply at Chase's Hotel, or by letter to the
undersigned, at R. A. A. DUNBAR,
Old-die-st. Guelph, Guelph, P.O.

**SIX
Salesmen Wanted**
By JOHN HOGG.

20 Pant Makers Wanted
By JOHN HOGG

THE PEOPLE'S STORE,
61 GUELPH. 1w

OIL, OIL, OIL.
Guelph Oil Works
Just received at the warehouse of the
above named works, the superior water
white kerosene oil—the burning qualities of
which cannot be excelled. Orders promptly
filled.

O. CLARK,
Guelph Oil Works.
Guelph, Oct. 15, 1874. d.w.f.

**ROYAL HOTEL
LIVERY STABLES.**
The undersigned having purchased this
livery stable to inform the people of Guelph
and the travelling public that he has a fine
stock of first-class horses and rigs, comprising
single and double buggies, carriages,
etc., which he will let by the hour or day on
the most favourable terms.
CABS.—He has also on hire his splendid
New Cab, and will promptly attend to all
orders with which parties may favor him
whether to or from the station, pleasure
drives, &c. Orders left at the Royal Hotel,
or at the Livery stable will receive careful
attention.
JAMES EWING,
O'17-Gnd. Royal Hotel Livery Stables.

**STEPHEN BOULT, Architect, Con-
tractor and Builder, Planning Mill and
every kind of Joiner's Work, or consultation,
Office—Quebec Street, Guelph. d.w.**

DRESSMAKING.
The Misses Adams,
(Late of Baltimore, United States.)
desire to announce to the Ladies of Guelph
and its vicinity, that they have opened a
Dressmaking Establishment over Dr.
Herod's Drug Store, (entrance on Cork St.),
and are prepared to execute work after the
most approved style, and respectfully in-
vite their patronage. O'19-60-1st.

**THE undersigned have entered into
partnership in the practice of their
profession.
W. M. CLARKE, M. D., H. J. JARVIS, M. D.
Dr. Clarke will remain at the office every
Wednesday and Saturday, and Dr. Jarvis
every Monday and Friday, for consultation.
Office—Quebec St. Guelph. O'6-74-dw.**

**STOVES,
STOVES AND TINWARE.**
R. WEATHERDON
Begs to inform the inhabitants of
Guelph and vicinity that he has opened a
store in St. George's Square, where they will
find the best of the low price, no buy-
ing, or taking off on one article and putting
high prices on others; but by fair dealing
and honesty, he hopes by strict attention to
business to merit a share of the public pa-
tronage. He invites the public generally to
give him a call. "Immediately a saddling,
and Plumbing in all its branches.
Repairing promptly attended to.
R. WEATHERDON, 36t-wit
Guelph, Oct. 13, '74.

**ST. VINCENT DE PAUL SOCIETY.
GUELPH CONFERENCE.
LECTURE.**
Mr. James Fahey will deliver a lecture in
the Town Hall, Guelph, on Tuesday Evening,
October 29th, in aid of the Charity Fund of
this Society. Subject—**OLIVER GOLD-
SMITH**—"The Good Natured Man." Lecture
to commence at 8 o'clock.
Tickets—25 cents; to be had at the Book-
stores, and from members of the Conference.
JOHN HARRIS, Secretary.
Guelph, Oct. 13, 1874. d.w.

BOOKBINDING.
BLANK BOOKS.
Merchants and others requiring first-class
Account Books would do well to call at
Chapman's Bindery
Ledgers, Journals, Day and Cash Books
made to any size.
Notes and Bill Heads, etc., ruled to order.
Get Your Magazines Bound.
Magazines and Periodical Works, Music,
and every description of Books neatly bound
in plain or fancy styles.
Charges moderate.
Call and see at Chapman's Bindery
**Over Mr. Hocking's Printing Office,
ST. GEORGE'S SQUARE.**
F. TROLLOPE CHAPMAN,
Guelph, Oct. 17, 1874. d.w.

MONTHLY CATTLE FAIRS.

HARRISTON—Friday before the Guelph Fair
BOWWORTH—Saturday before Guelph.
DRAYTON—Saturday before Guelph.
ELORA—The day before Guelph.
TRINITY—Friday before the Guelph Fair
NEW HAMBURG—First Tuesday each month
BERLIN—First Thursday in each month.
ELMIRA—Second Monday in each month.
WATERLOO—Second Tuesday in each month
MOUNT FOREST—Third Wednesday in each
month.
HANOVER—Monday before Durham.
DURHAM—Tuesday before Mount Forest.
FERRIS—Thursday following Mount Forest.
ORANVILLE—Second Thursday in Janu-
ary, March, May, July, September and
November.
MONO MILLS—Third Wednesday in January,
April, July and October.
EMERY—First Monday in January, April, July
and October.
MARSHVILLE—First Tuesday in February
and November.
BRAMPTON—First Thursday in each month.
LITTONVILLE—First Friday in each month.
HILLSBORO—Second Tuesday in January,
March, May, July, September and Nov.
MOOREFIELD—Monday before Guelph.
HAMILTON PALACE GROUNDS, the day
after Guelph.

Guelph Evening Mercury

MONDAY EVEG. OCT. 19, 1874

Town and County News.

BAPTIST SOCIAL.—The regular monthly
social of the Baptist Church takes place
this Monday evening. A good pro-
gramme of music and a collection. Admission
free. All are invited.

ROYAL HOTEL AND LIVERY STABLES.—
We direct attention to the card of Mr.
James Ewing, who is now the proprietor of
the Royal Hotel Livery Stables, where
first-class rigs can always be obtained.
He has also a splendid new cab, which
attends all trains, and can be hired by
the hour. See advertisement.

DRESSMAKING.—As will be seen by ad-
vertisement in another column, the
Misses Adams, late of Baltimore, have
opened a first-class dressmaking estab-
lishment over Dr. Herod's drug store.
This will be welcome news for the ladies.

VICTORIA BRIDGE.—The work of re-
building this bridge over the Speed which
promises to be one of the finest and most
substantial bridges in the County will be
commenced at an early date. Messrs.
Simpson & Wanless, Mount Forest are
the contractors for the work, the cost of
which is to be \$3,500. Mr. John Taylor
of Elora, drew the plans and will super-
intend the work. The structure will be
275 feet long and 18 feet wide, the piers
five in number, resting on 98 piles driven
into the bed of the river. The centre
span is 75 feet long.

FATAL ACCIDENT IN ERAMOSA.—We re-
port to announce the death of Mr. John I.
Peters, of Eramosa, which took place on
Tuesday last. He had been on Speedside
on business on the 2nd inst., riding a
young horse. He had received a letter
from the post office and was reading it
when the horse became frightened,
throwing him off on the ground causing
a concussion of the spine. He was
carried home by some parties who hap-
pened to be passing along the road about
the time. The injuries were of such a
serious nature that he died on the 13th
inst. He was the only son of the late
James Peters, and had resided in Era-
mosa 48 years. He was a native of that
Township, and was held in much esteem
by all his friends and neighbors. He
leaves a wife and seven children to mourn
his loss.

ROBBERY IN FERRIS.—About 2 o'clock
on Wednesday morning some clothes, a
silver watch, a revolver and \$3.00 in
cash, the property of three employees
about the North American Hotel, Ferris,
were discovered to have been stolen.
A man who gave his name as John
O'Clair, from Hamilton, who had been
shown to bed in the room from which
the articles were taken, and who had
left unobserved before the discovery was
made, was at once suspected. Constable
Graham arrested the man about 4 o'clock
a.m. upon an engine at the railway
station. He was wearing the stolen
clothes, and had the watch and revolver
in his pocket. He was taken before the
Reeve and Mr. Watt, who committed him
to jail to stand his trial. Luke Farrell, a
companion, was also arrested, but no
evidence being produced against him his
case was dismissed. While in the lock-
up Farrell cut two holes through the
boards with his escape, but upon
working through the wood he came upon
a stone wall which made his labour in
vain.—*News Record.*

THE LATE REV. JAMES NISBET.—We
have some particulars from the *Mani-
toba* concerning the death of the Rev.
James Nisbet which took place at Kildon-
an on the 30th ult. For some months
past his health and that of his wife's,
has been breaking down, and they were
forced to leave their field of labour
among the Indians in the Saskatchewan
Valley. They arrived at Winnipeg on
the 9th ult., with the design of passing
on to Ontario as soon as possible. But
this was not to be. On the 9th ult., Mrs.
Nisbet passed away, and on the 30th he
followed. They were lovely in their lives
and in their deaths they were not divid-
ed. Mr. Nisbet was a man of fair ability
of great prayerfulness and diligence, and
ardent zeal in the cause of missions. His
final at Kildonan was largely attended.
Rev. Dr. Clark and Prof. Bryce, of
Winnipeg, Rev. Mr. Matthews of Little
Britain, and Rev. John Black of Kildon-
an taking part in the services. Four or-
phan children, all young, survive their
lamented parents. The deceased was the
first foreign missionary of the Canadian
Presbyterian Church. He went to the
Saskatchewan in 1866, and from that
time till his return he had been most
laboriously prosecuting the work of the
mission among the Indians of the Saskat-
atchewan Valley, and with as great a
measure of success, it is believed. But
his final attended labor of the kind
among the native tribes of this country.

Attempted Patrieide in Stephen.

The *Exeter Times* contains an account
of a very sensational affair which occur-
red in the township of Stephen, on Thurs-
day last. An old man named McEachern,
living on the 16th concession, was shot
at by his son. It appears that the young
man who is about 18 years of age, as-
sisted his father in working their little
farm. For some time past he was scarce-
ly ever sober. On one occasion he came
home in a drunken frenzy, and com-
menced beating his father, mother, and
sister, turning him out of doors, and setting
like a fiend. On Tuesday, last, when in
his drunken rage, he commenced a quar-
rel with his aged father. Word followed
word, and at last anger raged such a
pitch of madness that the son, driven
by liquor, snatched the shot gun
from the wall, levelled it at the frighten-
ed and trembling father, who now stood
helplessly before him, and discharged the
contents of one barrel. Luckily in his
excitement and rage he missed his mark.
He a second time, with curses raised
the gun and took deliberate aim. But by
the mercy of heaven, the finger of a
deceitful devil was arrested and the mis-
deed saved. As he was about to press the
trigger, which would have sent his father
into eternity and made himself a murder-
er, a strange hand suddenly grasped
the gun and bent it downward, the charge
at the same instant levelled at the frighten-
ed and trembling father, who now stood
helplessly before him, and discharged the
contents of one barrel. Luckily in his
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BY TELEGRAPH TO THE MERCURY

Peabody Educational Fund.

A Major Murdered.

Brex and Gair Riot.

Collision with a Cow.

Several Persons Wounded.

Fire in Montreal.

Cession of the Fiji Islands.

Stanley at Zanzibar.

Schooner Sunk.

New York, Oct. 18th.

Mr. Everts, a Trustee of the Peabody
Educational Fund, on behalf of the Com-
mittee appointed for the purpose, has
made a report to that Board. After a
most careful comparison of opinions and
a most solemn consideration of the
elements of education affecting the in-
terests of education for the white and
colored population they have unanimo-
usly come to the conclusion that compul-
sory legislation by Congress in favor of
mixed schools as a system of public edu-
cation will be most pernicious to the in-
terests of education in communities to be
affected by it, and that the colored popu-
lation will suffer the greater share of
this disastrous influence. The report
was accepted and approved as expressing
the unanimous opinion of the trustees.

San Francisco, Oct. 18th.

Major Henry Larkins, recently of mili-
tary post in this city, was shot and in-
stantly killed last night, at Calistoga, by
E. J. Meybridge, of this city. Jealousy
of the latter's wife is supposed to be the
cause of the murder.

Cincinnati, Oct. 18th.

The following despatch has been re-
ceived here:—
Jackson, La., Oct. 18th.—At a mass
meeting of colored people held at this
place yesterday afternoon, called at the
instigation of Webster P. Brex and Gair,
a riot took place between the Brex and
Gair men, in which four colored men
were shot, three probably fatally. In
the morning the Hon. John Gair was way-
laid and shot, as rumor says, to prevent
him from speaking at the meeting.

Chicago, Oct. 18th.

Last evening on the Pittsburg, Fort
Wayne, and Chicago Railway, a passenger
train, running at full speed, near Piere-
cattion Island, struck a cow which was
standing on the track. The engine ran
over the cow, but an immigrant car and
two passenger cars were thrown from the
track down an embankment of about 25
feet. None of the passengers were killed,
but a large number were wounded. Benj.
F. Howard, Commercial Editor of the
InterOcean, received a dangerous wound
in the head.

Montreal, Oct. 19, 1.45 a.m.

John McArthur & Sons' oil and pa-
per stores in the fine new Nuns Building, on
Leory-street, is now on fire 1.45 a.m.
There is every appearance of a large fire.

Cleveland, Oct. 19, 3

The schooner *Wastead*, from Erie,
laden with coal for Chicago, came in
collision with the schooner *Pataville*
from Chicago, laden with grain for Buf-
falo, yesterday, off Ashtabula, Paiva-
ville. Thirty thousand bushels of wheat
are sunk in 13 fathoms of water. No
lives lost. The *Wastead* was towed to
this harbor in a disabled condition.

New York, Oct. 19.

The *Herald's* London despatch states
that Stanley has arrived at Zanzibar.

The Sultan has accorded exception to
American press. Von Arnim is reported
to be in close confinement awaiting trial
three weeks hence. He is charged only
with insubordination.

London, Oct. 19.—The Government
has received a despatch from Sir Hercules
Robinson, announcing that the King signed
the documents for the cession of the
Fiji Islands to Great Britain on the 30th
of September.

The Post Office gives notice that with
the desire of the New Zealand Govern-
ment, the mails will again be sent to that
colony by way of San Francisco.

Despatches from Berlin represent that
Count Von Arnim has been excluded from
all communication with the outer world.

A despatch to the *Standard* from St.
Jean DeLuz reports that a Spanish gun-
boat has been allowed to tow the steamer
Nives into the harbor of San Sebastian.

Permission has been granted Alfonso
Prince of the Asturias, to study at
Sandhurst.

Paris, Oct. 19.—The *Journal de Paris*
states that the Prefect of the Depart-
ment of the Alps Maritime will soon be
removed on account of his course with
regard to the election.

Rio Janeiro, Oct. 19.—The Brazilian
Government has declined to interfere
with the steamer *Parana*, whose deten-
tion at Rio Grande was requested by
the authorities of Buenos Ayres. The
steamer sailed yesterday morning for
the Rio de la Plata after completing her
run.

ARTHUR VILLAGE COUNCIL.—This Coun-
cil met on the 5th inst. Present, the Reeve,
Messrs. Allan, Church, Hathway and
Henderson. The Council asked for ten-
ders to repair the stone work of the Drill
Shed, the said tenders to be handed in
to the Clerk not later than the 18th inst.
The Council also bound themselves to
give Mr. W. Thompson a suitable site on
which to erect a foundry, also exemption
from taxes for a term of ten years. The
solicitor for the Municipality will be
instructed to collect from certain magis-
trates, all sums of money for fines due
this corporation.

WELLINGTON FALL ADVIZES.

Court House, Guelph,
Saturday, Oct. 17.

HOOD vs. GOW.

The following is the conclusion of the
evidence in this case.

Frederick Passmore, P. L. S.—To Mr.
Cameron—The bed of the river varies,
and it is difficult to make measurements.
The effect of the dam is to back the wa-
ter at Mr. Hood's land and above that
point to the point of the dam the fall in
the bed of the river would be 3 feet 8 1/2
inches. The water deepened above the Rocky
Bar and also below. If the dam were
gone the river would be lower to the
shoal. The Rocky Bar itself forms a
dam of the river up to within foot 2
inches of the present height of the river.
The top of the dam from the bed of the
river is 4 feet 7 1/2 inches; this is with the
arrows timber, without the slash-boards.
The gravel ridge on Hood's land is 14
feet 9 inches high; there would be suf-
ficient fall to drain the land to the
river. Hood's land is 1 foot 7 inches
higher than the bed of the river.

J. C. Present sworn.—Own the first
mill above Mr. Gow's at the mouth of
the main branch of the Speed. Have
known the water for about twenty-six
years. Know Mr. Gow's stone dam. The
present dam does not back water so far
up as the first one did. The old dam
backed water into my mill-race; the pre-
sent one does not; I found this on
Thursday, when my mill was stopped
to test it. Mr. Gow's dam was then
full.

To Mr. Cameron—There is back wa-
ter below my tail-race but not in it.
Last summer there was back water there,
when the high boards were first on the
dam.

To Mr. Guthrie—The dam I speak of
was the one which was used for the tan-
nery at first.

William Bittle—Worked for Mr. Gow
after the tannery was burned down.
The second dam was in operation then.

Robert Thomson, land agent, said:—
Mr. Hood's land varies in value. The
unimproved land, if dry, is worth about
\$30 to \$100 per acre; if the water on
the river is worth from \$50 to \$90 per acre.
The low part would rent for pasture at
\$3 per acre.

This closed the case for the defence.

Mr. Kerr then addressed the Jury.
He stated the case involved the ques-
tion of rights, the taking of the dam
would be a serious matter to the defend-
ant. He has gone to a large extent into
manufacturing enterprises, and the ver-
dict, if against him, may close those
useful works. Now, even admitting
that damage to the plaintiff has been
done, there is a limit to the amount
which only an action can be brought by
him. It is only for the loss within the
past six years that the plaintiff can
claim damages, and these are to be
reckoned at the yearly loss sustained.
In this case the damages can only be of
a trifling character. The amount of
damages that can be claimed by the plaintiff
extends over the four years previous to
the last two, during which his tenant
has occupied the premises. The present
value of the fifteen acres of land—82
acre—would represent a damage during
those four years of \$30 a year, or an ag-
gregate of \$120, or value of the dam
at \$1 each acre, the fifteen would represent
\$150 damages during the four years men-
tioned. But the last tenant has realized \$14
a month for pasture land, and taking
this as a set-off from the damages claim-
ed in this action brought by Mr. Hood,
who is a neighbor of the plaintiff, is a very
paltry one. If there is back water
it is not caused altogether by the dam.
The evidence shows the swampy character
of the land. There are springs above it,
and there are springs upon it, which
saturate the land. There is a soakage
from the gravel ridge above the low
lands, and the water from freshets and
rainy weather would percolate through
this and cover the low land. The evi-
dence to establish the backing of the
water is various. That given by casual
observers is not reliable and should not
be depended on. There are numerous
places which must be taken into ac-
count, such as the falling of rains either
here or further up the stream which
would certainly influence the stream.
Mr. Cooper says there is a backing of
water of 1 foot 8 1/2 inches. He went to
the dam when the water was at its
highest, and observed in three different
places. Another day he went and found
that when the dam was full the water
had risen at the bridge 1 foot 3 inches.
Further up he finds that the water had
risen six inches. The third day he
found that the water had backed to an
extent of five inches farther up the
stream than it did lower down. That would
make the stream run up, and on ac-
count of its absurdity destroys all
Cooper's testimony. The defendant's
surveyor clearly shows that there
cannot be a backing on Mr.
Hood's land of more than six inches.
[The witness did not claim that the old dam
did damage to him, and the evidence shows
that the present dam is no higher than
the old one. We claim that no trespass
has been committed, but if so, we assert
that the defendant is not responsible for
it. The property has been leased to Mr.
Gow's tenants. He has leased the power
of the dam—not the abuse of it, to these
parties—and if there is a trespass they
are the responsible parties. If Mr. Gow's
present dam does not back more water
than the old one did he is entitled to the
verdict. Having said the above, I leave
many years, he uses the dam for
the law of prescription, to con-
tinue his works providing the dams built
since that time back no more water than
the old one. All the evidence shows that
the present dam is no higher than the
former ones. The old dam is shown to
be out of water and the water flows over
the present one, so that the latter cannot
be higher than the former. Mr. Present's
evidence is conclusive that the water is
not backing on his property, and certain-
ly he is an interested party. When Mr.
Hood complained that his land had been
damaged by the water which was neces-
sary to carry on the industries which Mr.
Gow with his public spirit, had establish-
ed, Mr. Gow was willing to refer the mat-
ter to arbitration and either purchase
Mr. Hood's property—as he had a legal
right to do—or to settle the dispute in
regard to the alleged damage. If the
verdict is given against Mr. Gow he will
be a ruined man because his works will
be a ruined man because his works will