



Evening Telegram

W. J. HERDER, Proprietor
C. T. JAMES, Editor

TUESDAY, November 5, 1918.

German Hypocrisy.

Mysterious are the workings of the German mind, but there is no mystery about the outward and visible actions of that depraved nation. From Hans the peasant to Wilhelm the Kaiser there is nothing from which to choose. Crude as they are from every pore of their being, and the many clumsy attempts made to shift responsibility for the present war only serve to further betray the lack of truth, which in Germany is considered a virtue and esteemed as a Divine attribute. But apart from what others may think, the German, with an energy worthy of a better cause, steadily pursues his hypocritical course, and ceases not his futile endeavours to prove the justice of his cause to an unbelieving world. Witness the new move, in the appointment of Von Bethmann-Hollweg, scragged Chancellor, and Von Jagow, tattered Foreign Minister, both of whom now form a commission officially charged with the task of classifying certain documents dated July 1914, and of preparing an official document on the events leading to the outbreak of the war. No surprise need be manifested if this precious pair succeeds in bringing out a statement proving to their own satisfaction that Germany has not been engaged in the war at all, or if they should, by that process of reasoning peculiar to the German, endeavour to represent that Germany was driven into a declaration of hostilities at the instance of Switzerland, which territory threatened to invade German territory if war was not made on France and Russia. The world has by this time set a value on all German professions, and in getting fed up with "Geffin" hypocrisy. A country which has permitted a licentious soldiery to commit the crimes perpetrated in Belgium, France, Serbia, Roumania, Lithuania, Armenia and Russia has no standing among civilized nations: neither has it any future, excepting such as the victorious Allies allow it.

The Kaiser's latest message is another example of the most transparent of camouflage. By a stroke of his imperial pen he transfers all authority to the people, whom doubtless his advisers will make the scapegoats for all that German militarism has done. "The Kaiser's office is one of service to the people." Could anything be more rank? Now that the deluge is upon him the cunning Wilhelm turns to his people with promises of a free and happy future. In the making of that future the Allies will have a hand, and neither the Kaiser, his advisers and his people can escape from the awful consequences which their lust for conquest and dominion brought upon the world. It will be noticeable that Wilhelm does not offer a promise to abdicate. His agreement to the Constitutional Amendment carries with it the Kaiser-like flourish of previous declarations, and it is not to be thought for a moment that he has any intention whatever of laying aside the Imperial Crown. Nothing is farther from his thoughts, for Wilhelm would see Germany drenched in blood ere he resigned or laid down the imper-

al prerogatives. The megalomaniac of Europe is not likely to voluntarily surrender his regal privileges. A revolution in Germany might possibly bring it about, but nothing short of the complete occupation of his Capital by the Allies and their decree of banishment, subject to his compulsory abdication will have the effect of removing the imperial diadem from the brow of the bloodstained Emperor of Germany.

No plaints or protestations; no shifting of responsibility; no claims for a future place in the sun, must be heeded by them who will eventually dictate terms to guilty Germany. By her profanation of everything sacred she has placed herself outside the pale, and humanity may well join in chanting a Jubilate of thankfulness when the menace of Attila's heirs of destruction has been removed forever from the earth.

VICTORY BONDS FREE.

We have added to our great list of Prizes to be given away free in December of this year, Two Fifty Dollar Victory Bonds. Men, Boys and Youths who buy Buddy Boots have a chance for one of these Bonds. They pay 6 1/2 per cent. interest.

Buy Buddy Boots and get a Victory Bond. See that your dealer gives you no other brand. Have your dealer register your name or send to us.

Buddy Boots are a great wearing boot. More Buddy Boots sold in Newfoundland than any other brand.

List of Prize Winners will be published in this paper first week in December.

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Gunpowder Plot

A conspiracy to blow up both Houses of Parliament on November 5th, 1605, when the King was present at the opening of the session, is commemorated by the annual searching of the vaults of the Houses of Parliament at the seasonal openings: by November 5th procession of boys carrying a scarecrow figure representing Guy Fawkes, which is eventually burned in a great bonfire. In the outskirts of Newfoundland great preparations are made by the boys for the celebration of this anniversary and piles of tar barrels, boughs and other combustible material are erected on the hill tops, and fired as evening closes. The more ingenious set up a figure of Guy Fawkes in the centre of the bonfire, his throne being a small keg containing gunpowder, which, upon the fire reaching it, explodes, blowing the effigy to bits.

Ask your dealer for MENTHOLATUM. If he has not got it, ask J. B. MITCHELL, Agent. oct31.81.eod

"Empire" Verse.

The prize in the United Empire Magazine competition for an Empire verse for incorporation into the National Anthem, has been awarded to Capt. Walter Inge, G.H. Q., France, for the following:—

Wide o'er the linking seas,
Polar and tropic breeze,
Our sons shall bring,
Brothers of each domain,
Bound but by Freedom's chain,
Shout as your sire's again,—
"God save the King."

For Sore Throat, Hoarseness, etc., a good supply of Throat Pastilles and Lozenges at STAFFORD'S.—oct14.t

Inoculation.

As will be seen by reference to an official notice in our advertising columns, the Public Health Authorities have received a supply of vaccine from Toronto, which will be supplied to all doctors making application for same. As prevention is better than cure, we suggest that all persons who are more or less exposed to the infection, should take precautionary measures, the first of which is to undergo inoculation.

HERRING NETS.

We have on hand over 260 Herring Nets, mostly 2 1-2 and 2 3-8 Mesh, Also to arrive in a few days some 30 and 35 ran, 2 5-8 and 2 3-4 Mesh.

Robert Templeton.

In the Central District Court.

Sergeant Furlong vs. The Star Candy Manufacturing Co., Ltd.

This is a prosecution taken upon the complaint of Edward Furlong, Police Sergeant, against the Star Candy Manufacturing Company Limited, for a breach of Section 5 of the Intoxicating Liquors Prohibition Act, 1916, on the 26th of September last. The section is as follows:—

"If anyone has in his possession any 'intoxicating liquors' at any place in 'the Colony' after the first day of January, 1917, manufactured or imported in or into the Colony after the first day of January, 1917, except in accordance with the provisions of Sections 27 of the Prohibition (Penalties) Act, 1916, he shall be liable to a penalty, &c."

The Defendant is a Company Limited, incorporated under the "Companies Act." The Company's office and premises are situate on Duckworth Street in St. John's, and Arthur Hiltz is Managing Director in charge of the premises.

The principal business of this Company is the manufacturing of Confectionary, and amongst other objects, to carry on the business of Warehousemen.

Arthur Hiltz, who was called as a witness for the Prosecution, swore: On the evening of the 26th of September last, he took in upon the Company's premises a package given him in charge by one Simon Levitz, who stated he had no room to store it on his own premises. The package arrived during business hours and was hoisted by Hiltz, assisted by the Company's servants, using the Company's tackle, on to the factory flat.

He visited the factory again that evening between eight and nine o'clock. The package which Hiltz took possession of was placed by him on the factory flat. It was a kerosene oil barrel, and when afterwards opened by him, was found to contain a keg with stuffing around it.

He broached the keg and found it contained rum, a portion of which he drank and he afterwards fell asleep on a counter. In this condition he was found by the Complainant early on the morning of the 26th of September last.

Edward Flynn, a witness for the Prosecution swore between nine and ten o'clock on the night previous, he went to the Star Candy Factory with Hiltz. He was a friend of Hiltz's. Hiltz gave him a few drinks from a bottle that was on a counter.

Shortly before Flynn left, he saw a keg containing liquor in the Company's storeroom. It had been taken there by Hiltz. He put some of the liquor from the keg into a bucket and from the bucket he filled two glass jars. Hiltz at this time was asleep. Flynn left the factory bringing the jars with him, and was arrested by Sergeant Furlong, the Complainant, on New Gower Street. Flynn went back to the Star Candy Factory, seized the keg of rum and had it taken to the Police Station.

Simon Levitz, a witness for the Prosecution, stated, he asked Hiltz, the Manager of the Star Candy Factory, to store a barrel of liquor in his storeroom. The barrel contained a keg of rum. He did not remember exactly the date when he sent the package. He sent it from his place on Water Street where he had it stored. He had the liquor in his possession before prohibition came in force. He did not remember who he had purchased it from. He had put the keg of rum in the oil barrel so that it could not be known there was rum in it—no hide it. He had some barrels on Franklyn's wharf, but this keg had not been in one of these barrels. He had recently been convicted of a breach of the Intoxicating Liquors Prohibition Act.

Sergeant Furlong was called and proved the arid who had in his possession two jars of rum and afterwards seized the keg of rum at the Company's factory.

On behalf of the defence, two witnesses were called, Frederick Moore, President, and Thomas Soper, Vice-President of the Defendant Company. They swore they had no knowledge of any kind of rum being used in the manufacturing business of the Company. They had no knowledge whatever of the sending of this barrel by Levitz to the Star Candy Factory, or the taking possession of it by Hiltz, or of the storing of it by him upon the Company's premises. Mr. Moore first heard of the transaction at Carbonara.

Mr. Higgins, K.C., with him Mr. Hunt, B.L., Counsel for the Defendant Company moved for the dismissal of the charge on the following grounds:— The Defendant Company never had this intoxicating liquor in its possession. This liquor, if it was in the possession of any one, was clearly in the possession of Hiltz. He had not the custody of it for the Defendant Company; he did not receive it for the Defendant Company, therefore the Defendant Company had no possession of it.

As to the liability of a Company for the wrongs of its Agent or Director, it is a well known principle of law, in order to make a Company liable for a tort, the Agent of the Company must be acting within the scope of his authority and in the course of his business. In support of these principles, he quoted from Halsbury's Laws of England, Vol. 5, Palmer's Company's Law, 5 Ed. and Smith on Master and Servant, Canadian Ed. 1916.

Mr. Morine, K.C., for the Prosecution, is summing up, said, whilst accepting the evidence of the Directors, and he had no doubt of their bona fides, still that did not dispose of the question involved in this prosecution. This class of case is distinguished from ordinary criminal cases. The mens rea of the Company had nothing at all to do with the charge upon which the Company is being tried. In this case a duty is imposed on the Company by statute and a breach of that duty is a disobedience of the law and the breach of the statute is an offence for which the Company is held responsible.

In support of this conviction, he cited from Halsbury's Laws of England, Vol. 8, 2 Law Reports, K.B.D. 1902, 3 Law Reports, K.B.D. 1913 and also from the Customs Act 1888. Under the facts submitted in evidence by the Prosecution in this case, I have no doubt whatever that Hiltz, seized by Sergeant Furlong on the premises of the Defendant Company, was there in violation of Section 5 of the Intoxicating Liquors Prohibition Act 1916. As to the legal liability of the Company for the act of its managing direc-

tor, in taking possession of this liquor from Levitz and storing it on the Company's premises, I am of opinion he was acting for the Company and within the scope of his authority, and his possession of the liquor, was the Company's possession.

The principle of the law involved in this case is laid down by Justice Channell and affirmed by Justice Darling in the case of "Hennan versus The Southern Counties Dairies Company" reported in Vol. 2, K.B.D. 1902. The dictum of the learned Judge in that case is:—

"By the general principles of criminal law, it is a matter of mere criminal offence, it is essential that there should be something in the nature of mens rea, and, therefore, in ordinary cases a corporation cannot be guilty of a criminal offence, nor can a master be liable criminally for an offence committed by his servant. There are exceptions to this rule in the case of quasi criminal offences, as they may be termed, that is to say, where certain acts are forbidden by law under a penalty, possibly even under a personal penalty, such as imprisonment, at any rate in default of payment of fine; and the reason for this is, that the Legislature has thought it so important to prevent the particular act from being committed that it absolutely forbids it by its servant. This is done the offender is liable to a penalty whether he had any mens rea or not, and whether or not he intended to commit a breach of the law. Where the act is of this character then the master, who, in fact, has done the forbidden thing through his servant, is responsible and is liable to a penalty. The very effect of the Legislature was to forbid the thing absolutely. The same principle applies in the case of a corporation."

The Interpretation Act 1889, Sec. 2, Sub. Sec. 1 enacts:— "In the construction of every enactment relating to an offence punishable on indictment or on summary conviction, the expression 'person' shall, unless the contrary intention appears, include a body corporate."

I find under the facts and the law the Defendant is guilty of a breach of Section 5 of the Intoxicating Liquors Act, 1916. I therefore give judgment against the Defendant Company and impose a fine of \$100.00 and costs. Mr. Morine, K.C., for the Prosecution.

Mr. Higgins, K.C., and Mr. Hunt, B.L., Counsel for Defendant. Dated this 4th day of November, A. D. 1918.

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- Glovetown—41 pairs socks.
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ANNIE HAYWARD, Convener.

Disinfect yourself with MENTHOLATUM.—oct31.81.eod

The British War Pictorial.

We have before us a copy of the latest issue of the British War Pictorial, which now has taken on a new form. Formerly, it was entirely a pictorial magazine, but a corps of writers have been engaged, and this issue contains many articles of variety and much interest. Especially those from the facile pens of Geo. R. Sims, the veteran British Journalist, and F. A. McKenzie, well-known and appreciated here from his writings on the Newfoundland Regiment, are fascinating and absorbing, and will repay perusal. The issue is replete with illustrations by famous illustrators, and the war scenes, reproduced by lithographic process, are resplendent in tone, and vividly portray the war in all its horror and humor, in pictures that can be understood. Among the latter is a thrilling photo of a German submarine crew, surrendering to an American battleship. Both in typographic effect and literary worth, the magazine is one of the best we have seen for some time, and true lovers of literature may rest assured that in it they will find a treasure of delight. The British War Pictorial, which henceforth will be issued monthly, contains 52 pages, sells for 15 cents, and is represented in Canada by Gordon & Gotch, 136 Bay St., Toronto.

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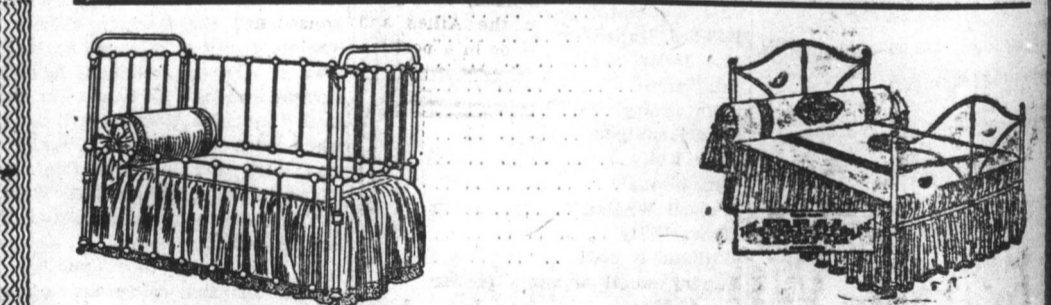
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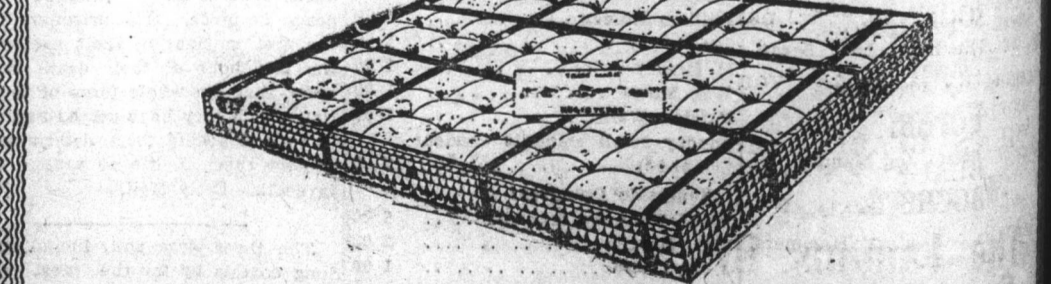
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Don't Say Paper, Say The Evening Telegram

COMPL

TERMS OF ARMISTICE. WASHINGTON, Nov. 4. The terms of the armistice under which the land and sea forces of what was the Austro-Hungarian empire have laid down their arms, were announced to-day simultaneously in Washington and the Allied capitals, they accomplish the complete surrender of the Austro-Hungarian army, and open Austria and Hungary as territory for American and Allied operations against Germany. From the dramatic document, it may be stated, may be gleaned an accurate outline of the conditions bearing completion in the Supreme War Council Versailles, under which Germany may have a cessation of hostilities, the terms of the Austrian armistice with parenthetical explanations of minor errors in cable transmission were announced by the State Department to-day as follows:— Following are the terms of the armistice imposed upon Austria, which went into effect at 3 o'clock to-day:—

- 1.—The immediate cessation of hostilities by land and sea and air.
- 2.—The total demobilization of the Austro-Hungarian army and immediate withdrawal of all Austro-Hungarian forces operating on the front from the North Sea to Switzerland within a narrow zone of the territory, limited in clause three, below. There shall only be maintained an organized military force reduced to pre-war effectives. Half the divisional corps of army artillery and equipment will be collected at points to be indicated by the Allies and United States for delivery to them with all the material as a status in the territories to be evacuated by the Austro-Hungarian forces.
- 3.—The evacuation of all territories occupied by Austria-Hungary since the beginning of the war, and the withdrawal within such periods, as shall be determined by the Commander-in-Chief of the Allied forces on this front of the Austro-Hungarian armies be-

War Review

With Germany's Allies vanquished and forced to accept terms for a cessation of hostilities against them tantamount to abject surrender, the die now to be cast in front of the Hohenzollern dynasty. The inter-Allied conference sitting in Versailles has now up the terms under which Germany may have peace and the indications are that those terms will be no harder than those imposed upon Austria-Hungary, Bulgaria and Turkey. Forsaken by all her champions, Germany the power that had hoped to be able to dominate the world by force is at the threshold of a humiliating defeat by capitulation continuing a struggle which means the ultimate utter defeat. The terms announced by Austria-Hungary, Bulgaria and Turkey have shown all these states

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The Famous Riverside

in Grey, Brown, Heather and Black, and in Navy at 75c. These Yarns make fine socks, so we specially recommend the Riverside make as making a good looking show. CANADIAN SILVER GREY HEAVY at 60c. double knot. CANADIAN KHAKI HEAVY YARN double knot.

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