The Chestertown Transcript.

VOL. XLII—NO. 20. CHESTERTOWN, MARYLAND, SATURDAY, DECEMBER 6, 1902. $1.00 PER ANNUM.

NO 4327.

REPORT OF THE CONDITION OF THE

SECOND NATIONAL BANK

AT CHESTERTOWN,

in the State of Maryland, at the close of business November 25, 1902.

RESOURCES.

Loans and discounts	$396,470.01
Overdrafts, secured and unsecured	290 14
U. S. Bonds to secure circulation	12,500.00
Stocks, securities, etc	22,338.20
Banking-house, furniture and fixtures	13,500.00
Due from National Banks, (not Reserve Agents)	4,148.48
Due from approved reserve agents	41,116.78
Internal revenue stamps	27.91
Checks and other cash items	1,416.17
Notes of other National Banks	2,040.00
Fractional paper currency, nickels and cents	53.19
Specie and legal-tender notes	14,659.50
Redemption fund with U. S. Treasurer (5 per cent. of circulation)	625.00
Total	$509,185.38

LIABILITIES.

Capital stock paid in	$50,000.00
Surplus fund	12,000.00
Undivided profits, less expenses and taxes paid	11,738 30
National Bank Notes outstanding	12,500.00
Individual deposits subject to check	415,277.02
Certified checks	7,670.06
Total	$ 509,185.38

State of Maryland, County of Kent, ss: I, W. B. Copper, Cashier of the above-named bank, do solemnly swear that the above statement is true to the best of my knowledge and belief.

W. B. COPPER, Cashier.

Subscribed and sworn to before me this 29th day of November, 1902.

CHARLES ESTES, Notary Public.

Correct—Attest

GARRETT FOXWELL,
WILBUR W. HUBBARD,
JAMES A. PEARCE,
Directors.

THE

Second National Bank

of Chestertown, Md.

Capital, Surplus and Liabilities of Stockholders, $120,000.

Directors:

JAMES A. PEARCE, Chestertown, Md.
W. W. HUBBARD, " "
GARRETT FOXWELL, Blacks, "
WM F. HUEY, Massey, "
H. H. BARROLL, Chestertown, "
D. T. HURLOCK, Church Hill, "
T. B. DURDING, Rock Hall, "
H. W. VICKERS, Chestertown, "
W. B. COPPER, "

OLDEST. STRONGEST.

HON. CHARLES T. WESCOTT, PRES.
RICHARD D. HYNSON, V. PRES.
WM. WALTER CHAPMAN, CASHIER.

Capital 60,000. Surplus 30,000

—THE—

Chestertown National Bank

CHESTERTOWN, MD.

WE PAY

4 PER CENT.

on all savings when left on deposit one calendar month.

DIRECTORS:

Charles T. Westcott, Richard D. Hynson,
Marion deK. Smith, Alday Clements,
Samuel Vannort, James S. Harris,
Franklin H. Harper, James W. Chapman,
Edwin S. Valliant.

Assets to Secure Depositors.

Capital paid in	$60,000
Liability of share-holders	60,000
Surplus	12,000
Undivided Profits	20,070
Total of	$152.070

GETTOULSING

Toulson's Sarsaparilla,

PRICE 75 Cents Per BOTTLE.

—FOR SALE AT—

Toulson's Drug Store.

The Largest Assortment

—OF—

LAMPS,

TEA SETS, DINNER SETS,

And Chamber Sets

are now on exhibition at Westcott & Dodd's. Their prices lower than the lowest.

WESTCOTT & DODD.

ROSE HILL NURSERY.

CHESTERTOWN, MD.

Certificate of Nursery Inspection, No. 37.

TO WHOM IT MAY CONCERN:

THIS IS TO CERTIFY, That on the 10, 11 and 12 days of November, 1902, we examined the Nursery Stock of John Bell growing in his nurseries at Chestertown, county of Kent, State of Maryland, in accordance with the laws of Maryland, 1898, Chapter 289, Section 58, and that said nurseries and premises are apparently free, so far as can be determined by inspection, from the San Jose Scale, Peach Yellows, Pear Blight and other dangerously injurious insect pests and plant diseases. This certificate is invalid after August 1, 1903, and does not include nursery stock not grown within this State, unless such stock is previously covered by certificate and accepted by the State Entomologist and State Pathologist.

A. L. QUAINTANCE, State Entomologist.
J. B. S NORTON, State Pathologist.

n22-3t College Park Nov. 13, 1902

CLOTHES

Make the Man.

ONLY so far as appearance goes, but appearances in the present day mean much. A man dressed tastily in a well-fitting and stylish suit feels a peculiar consciousness of pride within him that is pleasing and elevating.

Let Us MAKE YOUR SUIT

or Overcoat

this winter. You will be well-fitted, consequently pleased.

A BEAUTIFUL ARRAY OF LATEST FABRICS TO SELECT FROM.

Dyeing, Cleaning

and Pressing!

☞ Alterations of Every Description Made.

John R. Rollison,

Ladies' and Gent's Tailor,

Chestertown, Md.

Second Door Below Savings Bank.

THE

Kent County Savings BANK

WILL PAY

4 Per Cent. Interest

on all Savings, and Special Deposits remaining one calendar month or longer.

There is Only One Savings Bank in Kent County.

and this very bank has paid

$29,781.95 in Interest

to its Depositors.

The Savings Bank

was the first bank in Kent county ever known to pay interest on deposits.

We invite the bankingpublic to call on us or write to us.

Respectfully,

JOHN K. ALDRIDGE, President.
WILLIAM F. RUSSELL, Cashier.

To the Members and Friends of the Methodist Episcopal Church at Galena and Locust Grove.

Please bear in mind that the collection envelopes for the Conference Claimants Fund are now due and should be handed in as soon as possible. We are anxious to close this collection not later than December 21st. Please put your offering in the envelope, write your name on the outside and drop in the collection plate at any regular church service or hand to either of the undersigned at any time Let all give something and not later than Dec. 21st.

Be sure and put your name on the envelope, as we keep a record and after the above date we shall call upon those who are delinquent.

S. P. SHIPMAN,
A. P. PRETTYMAN, Pastors

d6 1t

LOTS FOR SALE.

I have a few more choice lots for sale in Betterton. Invest now if you are wise. With new steam boats and trolley line which are in sight, no land can be purchased later on. Lots sold for cash or on time.

A. H. SUPLEE, Betterton. Md.

d9 4t

BANK NOTICE.

Notice is hereby given to the stockholders of the SECOND NATIONAL BANK OF CHESTERTOWN, Maryland, that their regular ANNUAL MEETING for the election of Nine Directors for the ensuing year, will be held at their banking house, in Chestertown, on Tuesday, January 13, 1903, between the hours of 10 A. M. and 2 P. M.

d6-5t W. B. Copper, Cashier.

RUNNING MARE FOR SALE.

THOROUGHBRED RUNNING MARE, Seven years old.

JAMES C. CALHOUN, Sassafras. Kent Co., Md.

*d6-1t.

SCHOOL NOTICE.

THE new school house in Chestertown will be used for school purposes on and after Monday, December 8th. The teachers and scholars will meet at the old school building Monday morning promply at 8.30 and from thence march to the new building.

The public is very cordially invited to visit and inspect the building any time during the first week of its occupancy. After that, at any time when school is not in session.

JOS. PETERSON, Sec. and Examiner. W. FRANK HINES, President.

d6-1t

FOR SALE.

HORSES, COWS, CALVES, BUCK LAMBS, and TIMOTHY HAY. Also LARGE HOLSTIEN BULL, also a few choice BERKSHIRE BROOD SOWS, soon to farrow.

JAS. A. JONES, "Caulk's Field" farm, P. O. address, R. F. D. No. 2, Chestertown, Md.

n29-3t.

LANKFORD MILLS.

We have a full supply of MILL FEED, BRAN, SHIP-STUFF, FLOUR and FEED. This mill has a full equipment of the finest machiner. See or write to

GEORGE BRICE, Chestertown, or
J. W. BEAUCHAMP, Lankford Mills.

n29-3t

DOG LOST.

A POINTER DOG with black body and black and white speckled breast and legs. Answers to the name of Dixie. Last seen at Washington College, on November 15.

A suitable reward will be paid for information leading to his recovery.

A. B. BURRIS, Chestertown, Md.

n22-3t

GUERNSEY HEIFERS FOR SALE.

I have 10 FINE GUERNSEY HEIFERS for sale. They are from one to two years old, and some are with calf by thoroughbred Guernsey bull. These heifers are all out of choice cows. I alsohave a 9 months-old Guernsey Bull for sale. This stock can be seen at my place near Chestertown at any time.

WALTER T. MORRIS, Chestertown, Md.

n22-3t

ESTRAY.

Estrayed from the McCauley Farm on or about October 1, 1902, One FAT ROAN YEARLING HEIFER. Was last seen in the neighborhood of Dr Black's farm, near Locust Grove. Any information will be thankfully received.

n22-3t. JAS. L. CALDWELL.

TO LOAN ON MORTGAGES.

I have trust funds to Loan on Mortgages at 5½ per cent., $500, $600, $800, $1000, $1500, $2000, $2400, $2500, $3000, $4000, $5000, $7000 and $10,000. Some of these sums can be placed for 5 years

HOPE H. BARROLL, Attorney-at-Law, Chestertown, Md.

BALED HAY FOR SALE

I keep BALED HAY constantly on hand for sale at Lambson's Station.

n15 tf. L. R. VANSANT.

TOWN TAXES.

Corporation taxes for 1902 are due and prompt settlement is requested. All Taxes not paid by January 1, 1903, interest will be charged from September 1, 1902.

M. WILBER THOMAS, Collector.

n15-tf.

TRESPASS NOTICE.

All persons are warned against trespassing with dog, gun or otherwise on the premises of the following, without the written consent of owner or tenant:

S. R. HURLOCK,
HENRY SMITH,
H. H. KLINEFELTER,
JOSHUA HENDRIX,
CAPT. PENN JESTER,
H. P. SKIPPER,
JOHN F. COPPER,
W. T. WRIGHT,
JAMES T. ANTHONY,
WILLIAM BENTON,
W. H. FIELDS, JR.,
C. F. WALKER,
ALBERT STORY,
DANIEL McKEE,
E. H. KLINEFELTER,
SAMUEL L. WRIGHT,
JOHN C. SMITH,
JOHN G. SCHAUBER,
ARCHEY FIELDS,
DANIEL POTTS,
HARRY M. McELWEE,
T. J. BLACKISTON,
W. IRVING WALKER

n8-tf

YORK STATE CALVES FOR SALE.

The undersigned will sell at private sale

55 Head York State Calves

These calves have been carefully selected and are fine stock.

JOHN H. CLENDANIEL, Kennedyville, Md.

TAKEN FROM THE JURY.

The $100,000 Damage Case of McKenzie versus the Jacob Tome Institute came to a Sudden End.—A Suit of Unusual Interest.

WILL BRING NEW SUIT IN UNITED STATES CIRCUIT COURT.

In the case of McKenzie versus the Jacob Tome Institute, upon the conclusion of the plaintiff's testimony on Thursday, the defendants offered a prayer to take the case from the jury. Argument upon this was continued until nearly 11 o'clock on Thursday night.

Upon the assembling of the court yesterday Chief Judge Pearce read an opinion sustaining the contention of the defendant upon the ground that there was not a sufficient memoranda in writing under the Statute of Frauds.

After the decision there was some legal sparring on the pleadings, various pleadings being withdrawn. The counsel for the plaintiff requested the court to give them time for consultation. The request being granted, they retired to the library. In a few minutes they returned and took a judgment of *non pros*, which in effect is a dismissal of the case.

It is understood that Dr. McKenzie will at once bring a new suit in the United States Circuit Court. His counsel was unable to get important witnesses at this trial, and yesterday stated that the case would be vigorously pressed.

THE PROCEEDINGS.

The case of Dr. J. C. McKenzie, claiming $100,000 for breach of contract against the Jacob Tome Institute, of Port Deposit, was taken up at a special term of the Circuit court for Kent county, on Monday morning, Judges James A. Pearce and Edwin H. Brown on the bench.

The case was not called until after the coming of the noon train, awaiting the arrival of attorney's and the parties to the suit.

The following jury was taken from the regular panel: Alday Clements, foreman; William Wagner, Harry Davis, Joseph S. Clark, James E. Hurlock, Israel F. Walbert, J. Romie Byron, John McKee, Jr., John M. Comegys, Anthony H. Johnson, William Hepbron and D. J. Hall.

Mr. Wirt made the opening statement for the plaintiff, and said that it was the longest statement he had ever presented in a case. Mr. Wirt emphasized the preeminent ability of Dr. McKinzie as an educator and developer of educational institutions. He at the same time served notice that the plaintiff expected to show that Dr. McKenzie's dismissal from the Tome Institute was the result of intrigue and extremely questionable methods in the management of the handsomely endowed institution. Startling disclosures were unmistakably outlined in the course of the trial. Mr. Poe, on the other hand, stated that the defense expected to show that Dr. McKenzie was not the stupendous success in developing educational schemes as is claimed for him—in fact that he was practically dismissed from the Lawrenceville school and a discredited man before he went to the Tome Institute.

The minutes of the Institute were fully overhauled and extensively read from.

Dr. McKenzie took the witness stand at about noon on Wednesday and identified letters written to the trustees of the Tome Institute before and after his employment as director.

Mr. Poe wished to put in evidence the checks of payment of Dr. McKenzie's salary which bore his endorsement. This was strenuously objected to by Mr. Constable, who insisted that the suit was not for salary but for a breach of contract, and that the payment of salary was admitted. The court overruled this objection and the checks were placed before the jury.

Samuel C. Rowland, of Baltimore, until last year a trustee of the Institute, and a member of the committee who negotiated with Dr. McKenzie and investigated his work, was next on the stand and verified in every particular Dr. McKenzie's statements.

It was seen from the first that the defense was depending largely upon the application of the Statute of Frauds to the case to finally dispose of it. The opportune moment came at noon on Thursday and Mr. Poe threw the bomb which he had reserved for the final death of the big case. Every inch of the field was obstinately fought for.

After a recess for supper the great legal battle was resumed and continued until a few minutes before eleven o'clock. The crucial moment had arrived and it was a life and death struggle,—and the contest was worthy the handsome stake which was being played for.

THE COURT'S DECISION.

The court room was well filled yesterday morning when court called, in spite of the storm. Without any delay Chief Judge Pearce read the following decision, which ruled the case out of court by taking it from the jury.

"In the view which we have taken of this case, after as full consideration as possible, within the time at our command, we do not think it is necessary for us to notice the very interesting arguments either upon the effect of the by-law of the defendant requiring an annual election of the director of the Tome institute, or of the admission of parol testimony to show what was the actual contract between the parties to this suit, and our inquiry will be directed solely to the effect of the statute of frauds upon the contract proved in this case by the plaintiff's testimony.

"On June 19th, 1899, a resolution was passed by the board, authorizing the committee on director 'to employ Dr. McKenzie as director of the institute, at a salary not exceeding $6 000 per year with use of suitable house, if he is willing to contract.' There was no written acceptance of this employment offered in evidence, but that Dr. McKenzie did accept is plain from the resolution of the board of Sept. 11, 1899, in which Dr. McKenzie was designated as 'our director,' and was requested 'to give the Board of Trustees his plans in full for the development of the institute and its management in connection therewith.' It may be observed here that this was not in express terms an employment for a year or for any definite time. On Oct. 14, '99, the minutes show that Dr. McKenzie submitted a paper relative to the government and plans of the institute, and that this paper was laid over for future consideration. On Oct. 23 and Oct. 27 and on Nov. 27, '99, this paper was further discussed by the board.

"On Dec. 4, '99, the minutes show that Dr. McKenzie submitted a communication to the trustees stating that for reasons known to the individual members of the trustees, he asked to be permitted to resign, the resignation to take effect at the pleasure of the board, but not later than July 1, 1900. It should be observed this was not an actual resignation, but a request to be allowed to resign. On the same day, and in view of this request, Dr. McKenzie was invited to a conference with the trustees, which conference was held the same day, and after Dr. McKenzie's retirement the resolution of Dec. 4, was passed, in which his letter was treated as a resignation, and he was requested 'to withdraw it and take up with the trustees at once, the development of the Institute along the lines presented to the trustees, to which they pledged their hearty and unanimous co-operation.'

"Now had Dr. McKenzie in response to this, consented to the proposition of the trustees and withdrawn his communication of December 4th, the status which he held under the indefinite resolution of June 19th, 1899, would have been restored, or without this, had the plaintiff's proof on this point gone no further, and had the defendant then gone into its proof, and set up the contract alleged to have resulted from the resolution of January 15th, 1900, and its acceptance by Dr. McKenzie in his letter of January 19th, we are not prepared to say that there might not have been a question to go to the jury as to whether the contract between the parties was that created by the resolution of June 19, '99, and that of Dec 4th, '99, or that alleged by the defendant to have been created by the resolution of January 15, 1900, and its acceptance by the letter of January 19, 1900. But Dr. McKenzie, for reasons which he regarded as controlling, insisted upon the acceptance of his resignation, and the board on Dec. 11th, '99, accepted it to take effect July 1st, 1900. This action of both parties made Dr. McKenzie's act a resignation, though originally only a request for permission to resign.

"This concurrent action of the parties, we feel constrained to regard as putting an end to all contractual relations between them after July 1, 1900, and leaving them henceforth free, either to decline any contractual relation, or to enter into any new contractual relations proposed by either party.

"Subsequent to the severance of their contractual relations, Dr. McKenzie obtained a release from the New York parties, and being thus free to make a new engagement with the defendant, this fact was communicated to it, whereupon the defendant passed the resolution of January 15, 1899, proposing to Dr. McKenzie an employment by reelection as director 'for the remainder of the present school year and for the next succeeding one,' to which he responded on January 20 accepting the employment 'for the remainder of the current year and for the next succeeding one.' This contract we must regard precisely as if it were the first and only one made between the parties. There is no reference made to the preceding contract, and the use of the word 're-elected,' cannot be regarded as supplying the reference. A re-election implies the same office, but not necessarily the same terms Here the terms were not the same, because under the resolution of June 19 the term was indefinite, while under that of January 15 it was for the balance of the year 1900 and for the succeeding year. The Statute of Frauds forbids any action upon any contract not to be performed within a year, unless in writing, and the contract relied on by the plaintiff is for not less than 10 years, and is not in writing. It cannot be connected with the original contract of June 19th, because that was abrogated by the parties, and a new and independent contract had been substituted for it, inconsistent with the former contract which was indefinite in its duration.

A contract within the statute of frauds cannot be partly in writing and partly in parol. Hence, no parol proof can be resorted to here, either to piece out the contract relied on, or to connect it with any operative paper which, if construed in connection with the contract proved, would rescue it from the statute. Had Dr. McKenzie required the resolution of January 15th to express a contract for not less than 10 years, or had his acceptance been so qualified, and had the board accepted that modification, as it did accept his modification as to salary, he would have stood on as firm ground as to the ten-year tenure, as he did as to salary. But he accepted the tenure limited to 1½ years, and that contract has been fully executed and the consideration fully paid. He cannot be relieved without violating the requirements of the Statute of Frauds.

"In Slinghuff vs. Builders' Supply Co., 89th Md., 562, it was said that a guaranty of the debt of another 'belongs to the class of instruments in reference to which the rule of evidence excluding parol evidence is rigidly enforced,' and in Walter vs. Bloede, 94th Md., 80, where it was sought to distinguish between a contract itself for the sale of goods, fixing a time for delivery, and the performance of the contract as something distinct from the contract, to which the statute has no application, the Court of Appeals held parol evidence was not admissable for that purpose, because the time of delivery is a material element of the contract, and to admit parol testimony to substitute a different time for delivery, would be to admit a contract partly in writing and partly parol, which all the authorities say can not be allowed.

"The plaintiff having elected a trial by jury, we regret greatly that the case cannot be submitted to their decision; the more so because but for the lion in the path, interposed by the Statute of Frauds, some color might possibly be given to the plaintiff's contention as to his tenure during a reasonable period for the development of the Institute under his management; but we are of opinion his own action in accepting the contract of January 15th, 1900, has precluded the submission of the case to the jury. The responsibility of withdrawing from the jury a claim of such magnitude is one we feel deeply, but we cannot shrink from the exercise of the jurisdiction we are given. Happily, if we are in error in our decision, there is a higher court which can review and correct our rulings, and we shall be gratified if an appeal is taken. We will grant the defendant's motions to strike out the testimony taken subject to exception, because if allowed to stand it would only prove or tend to prove a contract prohibited by the Statute of Frauds, and for the same reason will grant the defendant's prayer."

MRS. SHAW WON.

The $5,000 damage case of A. S. Groves versus Mrs. Lydia C. Shaw, moved to the Talbot county court, was decided by the jury in favor of the defendant on Monday. Mrs. Shaw loaned Mr. Groves a sum of money on which he gave her a bill of sale on some property, which he failed to deliver to her, and she swore out before Justice Melvin a warrant charging Groves with obtaining money under false pretenses. Justice Melvin acquitted him and he then sued Mrs. Shaw for false arrest. The case was interesting throughout, and was marked by several unusual incidents, one of them being the going on the witness stand of Judge Brown to deny a statement of Mr. Urie. Major William E. Stewart also added considerable interest to the proceedings by his energetic and searching examination of the witnesses.

OBITUARY.

WILLIAM A. SAPPINGTON.

Mr. William A. Sappington, the veteran among millers of Kent county, died at his Fairlee home, at 6 o'clock on Monday afternoon, aged 73 years. Paralysis and general debility are given as the direct causes of death. Mr. Sappington had been married four times. Mr. J. W. Sappington, of Chestertown, is a son. Interment was made in Chester cemetery at 3 o'clock on Thursday afternoon. Undertaker Ferguson had charge of funeral arrangements.

REV. B. F. BENSON.

Rev. Benjamin F. Benson, D. D., professor of systematic theology at Westminster Theological Seminary, died suddenly at his home in Westminster, at 3.30 o'clock on Sunday afternoon of apoplexy and heart disease, in his 68th year.

Dr. Benson was a prominent clergyman of the Methodist Protestant Church. He was a native of Baltimore county. He entered the ministry forty-five years ago in which he was actively engaged for thirty-eight years, the remaining period having been devoted to the work of education at Western Maryland College and Westminster Theological Seminary. He was pastor of charges at Denton, Easton, Pocomoke City, Crisfield, Towson, Belair and also of churches in Virginia, previous to 1834, and at Belair took a very prominent position in the temperance movement which resulted in the adoption of the prohibitory liquor license law of Harford county.

He was a man of vigorous intellect, an aggressive worker in all undertaking and a positive power in the ministry. Mrs. E. J. Merrick, of Crumpton, is the only daughter of the deceased.

NOBLE T. BIDDLE.

Noble T. Biddle, for many years a leading lawyer of the Elkton bar, died at his home in San Jose, Cal., last week after a brief illness of paralysis. He was a native of Cecil county and resided there until 1881, when he removed to California, where he has since practiced his profession. In politics he was a Democrat and was elected to the office of State's attorney in 1868, defeating Major Henry R. Torbert, of Elkton. He was about 67 years of age, and is survived by a widow and two children—Julian Biddle, of California, and Mrs. Florence Ricketts, widow of Benjamin Ricketts, Jr., of Elkton.

THE AGNES A WRECK.

The Chestertown Vessel Left at the Mercy of Winds and Tides.

The large bugeye, Agnes, belonging to Mr. Wilbur Eliason, Jr., has been abandoned and lies on the Huntingfield bar to be buffeted to pieces by the winds and tides. Wreckers came over from Baltimore on Thursday to see what could be done to save the imperiled boat but on Saturday abandoned her as a hopeless wreck. The hull had bulged and the only thing that can be done is to strip the Agnes of her sails, rigging and anchors and leave her to be broken to pieces as worthless wreckage. The 21 tons of coal cannot be recovered.

Mr. Eliason is peculiarly unfortunate in the loss of his vessel, having owned her only about one month. He purchased the boat from Messrs. Charles S. Smith and John C. Davis for $775 cash, about the 1st of November. Capt. Jack Davis was master.

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