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WINNIPEG, WEDNESDAY, OCTOBER 5, 1938

Want Ads. — Pages 17-18-19

No. 237

# The Winnipeg Tribune

A TASTY TREAT FOR THE FAMILY  
"KITCHEN PROVED"  
CAKES  
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BRYCE BAKERIES LTD.  
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## Brabant Warrant Refusal Is Upheld

Chief Justice Says Matter Was  
Within Magistrate's Discretion

CHIEF Justice McPherson today refused to grant a mandamus compelling Magistrate A. C. Campbell to issue a warrant for the arrest of Miss Elaine L. Brabant, former office manager for Anderson, Green Co., Ltd., now residing in Toronto.

Charges of fraud were made against Miss Brabant by Harry Leachman, former customer of the defunct brokerage firm. His lordship held that the matter was entirely within the discretion of the magistrate and that he could not be compelled to issue a warrant.

P. C. Locke outlined proceedings in the case up to date. Harry Leachman, Aug. 3, had an information before Magistrate Campbell charging Miss Brabant with obtaining money by false pretenses.

### Does Not Appear

A summons was issued, returned Sept. 14, but on that date the accused did not appear. The case was remanded until Sept. 21. When the accused did not appear then Magistrate Campbell refused to issue a warrant unless the expense of bringing Miss Brabant from Toronto was paid.

Mr. Locke argued that the matter of expense should be left to the attorney-general. On Sept. 23 an order granting leave to move was issued. The warrant was granted by Mr. Justice Taylor. Papers were served on the attorney-general and Magistrate Campbell.

"I submit," said Mr. Locke, "that a summons having been issued and disobeyed, the magistrate should have issued a warrant for Miss Brabant's arrest."

### Critiques Ruling

"Under the note the word 'indictment' includes an information. The court may issue a warrant in cases of failing action for the public good the word 'may' takes the force of 'shall'."

"Process of law having commenced by issue of a summons, it was the duty of the magistrate to issue a warrant so that the purpose of the law could be carried out. It was no part of the magistrate's duty to require the payment of a sum of money."

He apparently thought this was not the case where the province was the party. The magistrate was of opinion to issue a warrant and in fact did so. Once the summons was issued the magistrate assumed jurisdiction and a summons was disobeyed it was his duty to issue a warrant.

His decision to ask Leachman to bear the expense is not law, not justice. The decision to ask Leachman to bear the expense is not law, not justice.

### Magistrate's Case

H. A. Bergman, K.C., representing Magistrate Campbell, said: "It is well-settled law that on application for mandamus the King bench has no power to interfere with the exercise of the inferior court to exercise a jurisdiction which it has not exercised."

The King bench has no power to order an inferior court to exercise a jurisdiction which it has not exercised. The King bench has no power to order an inferior court to exercise a jurisdiction which it has not exercised.

Mr. Bergman relied on technical grounds for his argument. He said that the application for mandamus was not properly framed. He said that the application for mandamus was not properly framed.

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### Both Claim Wins

(By The Associated Press) SHANGHAI, Oct. 5.—Japanese and Chinese both claimed victory today, the former reporting that a furious attack which won them 100,000 Chinese soldiers of Japanese troops had turned the left flank of the Chinese army.

Chinese said they had defeated Japanese troops pushing through the Japanese lines. Chinese said they had defeated Japanese troops pushing through the Japanese lines.

### Chicken Shooters Wait

Season Opening Friday  
Government Asks Co-operation of All  
In Protection of Chukar Partridge

SPOILSMEN today were awaiting the zero hour to invade the stubble fields for the four-day season of chicken shooting which starts at sunrise Friday.

Shooting will be legal on Friday and Saturday, when the season will be interrupted by the intervening Sunday, and will continue Monday and Tuesday next week. The dates were fixed a month ago on the recommendation of the Manitoba Game Commission.

The open season is for prairie chicken, rules against the game bird, but not chukar partridge. The game bird is asked cooperation to protect them and in case they are accidentally shot, it is requested that they be taken from their legs and returned to the department at the Legislative building.

### Bag Limits

Coveys have been released in six districts of the province. The birds were first set free. Releases were made in the area between Gimli and the Assiniboine River, at Rock Lake, Trepanburg, Two Creeks on the Assiniboine River near Hand Lake, at Delta, and in the area between the Assiniboine and the Red River.

The birds are easily distinguishable from their look on their legs. All the birds released by the game department were banded for identification. Game licenses have been available at 200 points in the province.

### Loyalists Halt Drive

(By The Associated Press) HENDAY, France, Oct. 5.—Loyalists claimed today to have captured 100 German prisoners. The drive was halted today. The drive was halted today.

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### Yom Kippur Fighting

Kills 9 in Palestine  
(By The Associated Press) JERUSALEM, Oct. 5.—Yom Kippur, the day of atonement, was marked today by the killing of nine persons in clashes in various parts of Palestine. Seven Arabs were killed in a clash with police and troops near Tel Aviv.

The fighting was the result of a clash between Arabs and Jews. The fighting was the result of a clash between Arabs and Jews.

### Portage Jail Breaker

Faces Quebec Charge  
(By The Associated Press) MONTREAL, Oct. 5.—A man who broke out of the Portage la Poudre jail Sept. 12 and was recaptured at St. John's, Nfld., today faces a charge of breaking out of the Portage la Poudre jail.

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