FRIDAY MORNING/

THE TORONTO WORLD

Company Found Guilty But Servant Convicted

Court of Appeal in 2 Cent Fare viction the following grounds were Case Quashes Conviction of Manager Hays on Ground That Corporation Not Individual Has Committed Offence.

urged before us. (1) That if there could be a conviction under these acts it was of the company and not of Mr. Hays, and (2) The company alone could be pun-ished; that here was no mens rea (3) That the defendant was a resi-dent of Montreal and the magistrate

Judgment was given in the court of had no jurisdiction; appeal yesterday quashing the con-(4) That there was no disobedience of the act of the parliament of Canviction of Chas. M. Hays, general ada or of any legislature in Canada; (5) That if there was offence section manager of the Grand Trunk, for refusal to give a two-cent-a-mile pas-294 of the Railway Act of 1903 fixed the penalty from \$20 to \$5000; and secsenger service, The decision, however,

tion 138 of code did not apply; (6) That section 3 of 16 V., C. 37, as not diminish the merits of the The law still stands, altho dis-rided by the G.T.R. Company, as very findings of their lordships, quashed Col. Denison's decision, makes manifest. Then states hat the prosecution should subject to the approval of the board of railway commissioners, which has the first instance have been instipeen done in the present case.

ed against the Grand Trunk Rail-Punishment of Directors. as a corporation and not 'As to the first' of these objections way Co. as a corporation who they no doubt the law formerly was that declare in effect is merely one of the servants, and one, of the judges officers and directors might be pun-ished for the offences of their compoints out that the panies or corporations. The authority quoted for this was a dictum of Lord punishment of the Grand the assumption that the on the assumption that the said: "A corporation is not matter s on which, basis the original he said: "A corporation is not matter able, but the particular members of able, but the particular members of it are." The latest case of which I it are." The latest case of which I d would only be a matter of legal procedure.

ce Meredith says: "The 1834-Rex v. Medley, 6 C. & P. 292. case presents upon its face the extra-ordinary and ilogical problem: The company and the company only have In that case the directors of an incorporated gas company were indict-ed and convicted of a nuisance comand guilty and yet the indimitted by the servants of the com-pany without their knowledge conbeen to the individual only was vidual and the individual only was convicted. There is obviously no pow-er to this conviction of one for the offences of another. If the company offences of another. If the company offences of another is the company offences of another is the company vidual and the individual only was have committed a crime the company should be prosecuted, and on due proof of it convicted and punished. applicable to corporations, and part-ly because the fact of a corporation A servant is not answerable for the crimes of his master. He is answer-able only for those to which he has being an entity distinct from the in-dividual corporators, was formerly not been proved to have been a party. been proved to have been a party. It is not needful to say what would It is not needful to say what would the police ations. In England it is still the law magistrate's finding had been that the that a corporation cannot be proserefendant had done those things cuted at the sessions. which had been proved the company

In this country the Dominion Act of 1883, 46 V., C. 34, removing all diffi-Justice Osler, concurred in by the culties as to the prosecution of corchief justice, writes that "the conporations by laying down a special procedure and providing that a corviction was open to a great many objections, most of which I should say objections, most of which I should say objections, most of which I should say are fatal to it, but only one or two of the most obvious need be noticed. The defendant is second vice-president and general manager of the G.T.R. and general manager of the G.T.R. that Hays committed the defendant is second vice-president and general manager of the G.T.R. that is that Hays committed that is that is that is that is that it should no long-distinct in any court in which an indictment was found and that it should no long-distinct in any court in which an indictment was found and that it should no long-distinct in any court in which an indictment was found and that it should no long-distinct in any court in which an indictment in any court in which an indictment was found and that it should no long-distinct in a superior court to compel the corporation to plead to it. the offence while the findings are that the company did: so. In the absence These provisions now form sections 916 to 920 of the criminal code, 1906.

of more clear statutory enactment the defendant cannot be punished for the Corporations Amenable. It has long been held that an indictment would lie against a corpor-

default of his company. There is no authority to prosecute defendant under section 138. The obli-cation, if there be one, is the company obligation and the company and not their dificial, however important and the dificial, however important and their dificial, however important and commanding the position which he oc-empise, is the only one to be prose-cuted, if a prosecution will lie, for its breach. So far as section 133 of crim-inal code can be invocked for that purpose that a corporation could not under that section be punished by imrisonment-would not warrant the tled law that a corporation may be mprisonment of one of its servants." presecuted for crimes not only of omission, but elso of commission, ex-The Objections Against Conviction. Justice Maclaren's finding reads: cept such as from their nature can-Against the validity of the conalty provided. Thus a corporation cannot be indicted for manslaughter. (criminal code, section 958). "every 'one" in section I think that 128 of the code is within section 3 (t), the interpretation clause of the code, which says that the expressions "per-"owner" and any other expresson.' sions of the same kind include His Majesty and all public bodies, bodies corporate; etc. The maximum pen-alty for the violation of section 138 is one year's imprisonment, so that by section 958 of the code a fine may be imposed in licu thereof. It would appear therefore that if the company

A recent monthly bulletin of the Indiana State Board of Health, containing disease and death statistics, states that tonsilitis, bronchitis, pneumonia and influenza were the most prevalent diseases, with pneumonia and influenza heading the list.

MAKES 214 CHILDREN

ORPHANS IN ONE MONTH

CONSUMPTION IN INDIANA

The ravages of consumption continued as in previous months. The total deaths from this disease were 129 males and 184 females. The total number of orphans caused by tuberculosis for the month was 214.

At this season of the year lung trouble should be carefully guarded against, and every precaution taken to prevent the development of incipient affections. There is great danger in neglecting an ordinary cough or cold. A simple remedy prescribed by an eminent authority on lung trouble is said to give immediate relief to an ordinary cough and to break up a cold in twenty-four hours. This remedy can be prepared by anyone in their own home, the ingredients being of a simple nature and easily procurable at small cost from any good prescription drug-gist. Mix a half ounce Virgin Oil of Pine (Pure) with two ounces of Glycerine and a half pint of good Whiskey. Shake well and use in teaspoonful doses every four hours.

Virgin Oil of Pine (Pure) is put up, for dispensing only, in halfounce vials, each vial securely sealed in a round wooden case with an engraved wrapper, showing the name-Virgin Oil of Pine (Pure), prepared only by Leach Chemical Co., Windsor, Ont-plainly printed thereon. The oils sold in bulk and the many rank imitations of Virgin Oil of Pine (Pure) put out under similar name and style of package are not only ineffective for the purpose, but are often dangerous. It is always well to remember that the object of an imitator is to deceive. There is no known substitute for Virgin Oil of Pine (Pure).

England. He is the responsible head us ton to-to become the servant of in Canada, I should say. He is oc-casionally in the City of Toronto in he declared. reference to railway business, I have no doubt." This evidence falls far

no doubt." This evidence falls far eral that he might be absolutely cer-short of making him out either a principal or an aider or abettor or ac- and would be more so as essory in the offences charged, it on. Hon. Mr. Giraham endorsed what offence there be. the premier said. Not Proven.

At Canadian Club. The authorities go to show that in order to hold the defendant liable un-The general then drove to the Cen-tral Prison with Mr. Hanna, and reder such provisions as those in most states above cited, active participaturned down town in time to meet the Canadian Club at McConkey's. Mark tion in the commission of the offence H. Irish occupied the chair, must be proved against him. Mere right sat Gen. Booth, Goldwin Smith. acquiescence is not sufficient (Rex v. Hendrie 11, A.L.R., 202). For aught Dr. J. S. Willison, Chester D. Massey and Canon Cody; on his left Hon Mr. Hanna, Commissioner Coombs, Hon. that appears in this case it may be that the defendant may be personally Robert Jaffray, Col. Higgins and Mr. in favor of the company running third class carriages for a fare of a penny Morrow.

The chairman made a speech of ina-mile, and may even have tried to troduction, telling the audience stories of the eccentricities of the Durham County_Salvationists in his boyish induce the board to do so. This point being conclusive of the present case to conside days. The general remembered the speech and created great amusement the other objections to the conviction The question reserved for us by the by the way in which he laughingly scored the president for his remarks. police magistrate should be answered

Cored the president for him and remarks. One mayor of an English city, he said, who presided for him and warn-ed the audience in advance that he didn't approve of all the sayings and doings of the Army, finished up by giv-ing him a floo note. However, many people had benefited by their strange people had benefited by their strange vagaries and peculiar methods. One of the greatest officials in London re-cently explained his exceptional cour-tesy to an Army officer by saying that



Copper-Colored Spots, ters, in the Mouth, Hair rmanent cures of wors Capital \$500,000. 100 335 BASONIC TRUTIL

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weeks now idding your "good-bye."

Bay St.

Launches

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ure Gonorrhos. t. Stricture, ste. No Two bottles cure re on every bottle-te who have tried il will not be disap-ttle. Sole agency, ur, ELM STREET,

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nly had done."

ith the C.A.A.U. ill not be decided meeting of the beld next month.

LF CLUB

Olub Will Be

of the High Park he-King Edward, their links having lots, to disband, ealized to go tothe Weston Con-

were appointed to of the club's es-sr., C. N. Ramon had been passand already \$10, bscriptions. cided where the orted that an op-land near Port

was appointed: Atkinson ne Flaws, J. A. Boys' Athletic

night in Perthbe present.

Kenora. Brandon tied to-t Winnipeg in a all. This entities before the latter nes Saturday and

S' UNION.

g of a Useful ting of the Toinion was held A. rooms last esiding. There ations amliated

etary-treasurer, deficit of less hletic commit-

ring increased was discussed long this line represente are: James L

C J Atkinson, vice-preside dent; James L xecutive con liss McIntosh, lick, W B Ged-Cay, Dr. W F Faylor Statten A, chairman; venue School: ors' Club; Geo Boys' Club; Boys' Institute s' Club; Taylor C A; F Dent, Will Reddock.

Quarrington, Boys' Club: Success Club: F Shaw, All P Heakes, seo

Uh!xx!?--?!!x!! have been prosecuted even under the older law.

If Ix -- ! -- Cranky and ? ! x -- ! Because

Stuart's Dyspepsia Tablets around

with you wherever you go and take

them after meals. Then only will you realize what it is to enjoy a meal and

what perfect digestion means. Your

whole body and your mind will feel the effects; your vim will increase,, you

bring you success and then more suc-

Your face will bring you dol-

There are many people who can see in England or in this country, with-hole. For them there is nothing in or director of a compary how the addressed the sheaker's throne. Where he addressed the sheaker's hole. For them there is nothing in this world but calamity. Their great-est trouble is to have to eat three by the company except as an aider, times a day. The stomach is in retimes a day. The stomach is in re-bellion, and this is immediately shown of any provision of our law under in a man's face. A man to be suc-cessful must have sunshine inside. The which this could be done, except when he has actually aided or abetted in world already has too many dyspepsia world already has too many dyspepsia faces that breathe disaster and gloom. selled or procured its commission. Stomach trouble is the most com-Such is also the law in the United mon cause of discontent, sour face, States.

recklessness, disgust and lack of am-As the act of 1852 imposes the duty of running these third-class carriages secret of many a failure. Anyone can and carrying third-class passengers lave a good stomach, a strong stomfor a penny-a-mile upon the G.T.R. Co. alone, the defendant can only be ach, a stomach that can take care of anything and everything that is put into it, no matter whether it is a very the latter section 61 of the code (now bad stomach or not. Stuart's Dyspepsia Tablets do this

section 69 of the code of 1903), which reads as follows: "Every one is a party to, and guilty of, an offence who (a) actually commits it, or (b) very thing. One ingredient of these little tablets digests 3000 grains of food, and no matter how bad your dyspepsia or indigestion, they will didoes or omits an act for the purpose of aiding any person to commit the gest everything in your stomach, thoroffence, or (c) counsels or procures oughly and completely, and better and more quickly than a good strong heal-thy stomach can do it. Stuart's Dysany person to commit the offence." There is no offence either on the pepsia Tablets will quickly cure loss of appetite, brash, irritation, burning part of the company or of the de-fendant in running the trains which tions, loss of vim and energy, bad fully run a hundred or more passenAudiences Within Few Hours Yesterday Afternoon.

AT LEGISLATURE

The wonderful versatility of General Booth was illustrated yesterday by passed on Niagara of Misery.

not be committed by a corporation the variety of his meetings. It was such as treason, murder, perjury and the like, and also except as to those crimes' for which imprisonment or J. P. Whitney had moved a 30-minute of my Saviour came down to me, and of my Savio corporal punishment is the only pen- adjournment, and introduced the mem- helped me to throw myself body and bers of the legislature to Gen. Booth, soul to stem this great Niagara of misin an informal reception on the floor of ery and keep these thousands of people as the punishment may be imprison-ment for life (criminal code, section the house that, two miles away, in the the general. 236), and a fine cannot be substituted chapel of the Central Prison, Warden The 15.000 officers who are now being Dr. Gilmour, addressing nearly 450 male set apart, supported and trained for leadership, had been nearly all taken

it becomes unnecessary

in the negative.

Dr. Gilmour, addressing nearly 100 mate prisoners, said, "Boys, we have with us one who is a good friend of yours-Gen. Booth." "Gen. Booth," continued the warden, "has been invited to many places of honor on his visit, which he maces of honor on his visit, which he has had to decline, but when we sent him our invitation to come and see us, he did not decline," Instantly a storm of hand-clapping broke out, has been guilty of a breach of these statutes there is no obstacle in the way of its prosecution and punishment

especially as the alleged offence is one of non-feasurce or omission and crease the number of law-keepers in Ontario. The house was adjourned for one for which a corporation could three-quarters of an hour at 3.35, and a vote of thanks, which was seconded upon being conducted to the floor, R. by J. S. Willison, At the Prison, R. Gamey was the first of the members

He had as a youth had some political leanings himself, he said. His hear! made him a politician and his religion made him one, but his politics began and yourselves, and worst of all, you're ended with plans that commended thmselves to his boyish thoughts for amending the condition of the people of his town. He thought God had given them the opportunity to make one of the most remarkable expericents which over came to any legislature, and to mould and fashion as well for the pre-sent as for the superstructure of the

future the people of this young mation. "I think I see what God is leading

What to Eat and

Two Important Questions Answered Easily After Reading. This.

Every nutritive element of the best of age. He met a Salvationist and memory and dyspepsia and indigestion in their very worst forms. No other little tablets in the world can do so much. You should carry riages." The offence charged is a pure case of non-feasance. In order to make out a case against the defen-Thus it is the cleanest, richest, most wholesome breakfast food in the world. dant it was necessary for the prose-cution to show that he aided or abet-The steaming of the wheat gelatinizes its starch, and the malt extract, rich in diastase, a digestive agent, con-sion will escort him to the station. ted the commission of the offence or counselled or procured it. So far is verts the starch into maltose, or malt

will be more satisfied with what the three findings of the police magissugar. Maltose is great food, and the weakworld does, you will think happier and trate is against the company alone, est stomach digests and assimilates it without effort. For many years phybe happier and your face will be one the defendant is not even mentioned of supreme contentment. That will or alluded to in a single one of them. The complainant does not even refer to him in his examination in chief percentage of maltose. Malta-Vita paid four annual fees to the society is lars. Try it. It will cost you just 50c and all he says in cross examination for a package of these wonderful is "Defending lives in Montreal, I becontains from eight to ten per cent, entitled to a vote. of maltose.

Stuart's Dyspepsia Tablets, at any lieve, and is general manager and When Malta-Vita comes from the 3 to 7 p.m., at 11 1-2 West Richmond-vice-president of the G.T.R." All that ovens it contains only one per cent. of street, and one in the university gymdrug store on earth. Send us your name and address to-day the only other witness says about him the only other witness says about him the only other witness says about him and we will at once send you by mail a sample package, free. Address F. A. Stuart Co., & Stuart Building, Mar-the board of directors, who reside in

they had rescued for him a business "General" Addressed Three Varied manager whose .. value to him was priceless.

priceless. There was one class of people who knew the poor classes, and exploited them, using their poverty in order to bleed them. There was another class who walked among them and threw a donar to them as they would a bone to a dog a new "talky-"and to a dog, a nice "talky-talky," and

"I sometimes think-I hope I am not from being swept over the brink,'

methods of the army's emigration and,

colonization work. "I am starting small holdings in of hand-clapping broke out, It was an unusual interlude in the proceedings of the leg-islature which enabled the law makers of the province to be-come acquainted with the Salvationist, Gen. Booth made a scapital impres-sion, as he told of his efforts to in-crease the number of law-keepons in again to help someone eise." At the close Hon. Mr. Hanna moved

The humanitarian principles of the

general were best exemplified at the Central Prison. "I like to be with you, because I know you are all down on your luck." he said to the men. "You are wrong in your drougstances, you are wrong in your circumstances, you are wrong with the authorities, you are wrong in wrong with God.

"You're wrong with God-so was I once. I was a wild reckiess lad be-fore I gave my heart to God.

uear ones, who weep for you and pray for the time to come when you walk the street with your head up high and your eyes lifted up to heaven.

"It's no use puzzling over how you got in here. If you fell in the water and were drowning, all you'd think of is how to get out. It doesn't matter now how you were born into the world

When to Eat When to a the total and the world be a man who had been a

desperate criminal. He had spent 40 years in prison and had 300 stripes. His father had trained him to steal. His last sentence was for 14 years, and when he came out he was 60 years

white wheat is found in Malta-Vita, This food, famous for health. is whole wheat, first thoroughly cleaned, then steamed, then mixed with finest malt for 17 years and at his death thousands extract, then baked in absolute purity, followed him to the grave. The general urged the men to follow that man's

example. Gen. Booth leaves for Montreal at 10

"OLD LIT" ELECTIONS.

Great excitement will prevail around sicians of high standing have prescribed of officers of the University College Litmalt extracts, which contain a large chary Soclety. Every graduate who has

Council shall be held, the said Council pro-poses to pass a bylaw to open a street run-ning westerly from Indian-road, to be known as College-street. The proposed bylaw and plan showing the land to be affected may be seen at my office in the City Hall,

W. A. LITTLEJOHN, City Clerk.

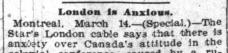
DOUBLE FUNERAL TO-DAY.

The remains of the Misses Littlefield, who were asphyxiated, arrived last night from Buffalo and were taken Huhphrey's undertaking to R. D. rooms, 321 Yonge-street.

The funeral will take place from there at 2 p.m. to-day to Mount Plea-sant, Rev. W. H. Vance officiating.

City Hall, Toronto, Feb. 22nd, 1907.

grant judgment for nervous shock, so plaintiff gets the \$250 only.



A down-town booth will be open from

The other 99 per cent. is nasium in the evening.