R. S. LOW PLACED UNDER ARREST

Said to Be in Serious Financial Difficulties

AMOUNT LARGE

Dr. L. A. Currey, K. C., Acting for Parties in St. John and Boston—Arrest Took Place in Sewell Street — Bail Surrendered — Prisoner Agent for Hassam Paving Company.

Saturday, Dec. 31.

Robert S. Low, local agent for the Hassam Paving Company, was arrested yesterday in a house in Sewell street, ostensibly for debts aggregating, it is understood, about $3,000. Dr. L. A. Currey, K. C., who is acting for parties in Boston and St. John, said last night that he did not feel at liberty to say just what would come out of it, but he intimated that more serious charges might be brought against the prisoner. It is understood that when Mr. Low came to this city first to begin work on a contract for the Hassam people, he owed money in Fredericton and that A. R. C. Clark, his local partner, went his bail. The surrender of this bail by Mr. Clark is said to be one of the causes of the arrest.

It is known that on Thursday night Dr. Currey, accompanied by a member of the board of aldermen, who is said to be a creditor, was watching the late train on the supposition that Mr. Low might try to get out of the city. They were disappointed, however, as he did not put in an appearance and during the day yesterday various constables were looking for him all over the town. He, his wife and child board in the Clifton House but, it is asserted, he did not go near there on Thursday night and he was not arrested till between 12 and 1 o'clock yesterday in the house in Sewell street. Dr. Currey said that after Mr. Low had been lodged in jail he made an unsuccessful attempt to obtain his liberty on bail. The claims against him, the lawyer added, were embodied in three writs of capias for money lent by people in Boston and St. John. He intimated, however, that more serious charges might be brought later.

When Mr. Clark was asked about the matter last night he expressed surprise to hear of the arrest. He stated there had been no personal loans between himself and Mr. Low. He declared that all the matters relating to their partnership had been satisfactorily arranged the first of the month when he and Mr. Low had gone to the head office of the company together.

Since coming to the city about a year ago, Mr. Low has been known as the agent of the Hassam Company. He brought his wife and child here from Sydney last summer and since then he has been boarding, latterly at the Clifton House. It is known that he had a property at Sydney but this was advertised for sale some months ago in the papers there. It is said he also owned some property in Glace Bay, but it is not known whether this has been disposed of or not. It is understood that Recorder Baxter is acting for Mr. Clark, Recorder Baxter is acting for Mr. Clark, Dr. L. A. Currey is for the other parties in this city and Boston.

Monday, Jan. 2.

Robert S. Low was released from jail Saturday evening by the order of Sheriff Ritchie. W. E. Raymond and Ald. John W. Vanwart entered into bail bonds for him. The amount of these is not known, but it is understood that in such cases the bail is fixed at double the amount of the judgments issued.

Burton L. Gerow, who represents Mr. Low, was in Moncton last night and will not be back in the city till Tuesday morning.

Dr. L. A. Currey, K.C., who is acting for creditors, when communicated with last night said that this did not mean that proceedings were ended against Mr. Low. He intimated that he was simply waiting for some affidavits to issue writs in other cases. He had heard of others which might be expected to issue shortly. He had seen one paper in which Albert Gregory of Fredericton, was the plaintiff. It is said there are quite a number of creditors in the city, among whom is Ald. McGoldrick. The amount of his claim is given as $200.

A recipe for sugar cookies is as follows: Four even teacupfuls of flour, one even teaspoonful of soda, two even teaspoonfuls of cream of tartar, one heaping coffeecupful of butter, two teacupfuls of sugar and milk enough to make a pastry. Mix the flour, soda, cream of tartar and butter and rub together. Put in the sugar, break in two eggs, add a little vanilla and the milk. Roll out, cut and bake.

Thanking Our Customers for Their Liberal Patronage During Nineteen Hundred and Ten, and Wishing You All

A HAPPY AND PROSPEROUS NEW YEAR

Francis & Vaughan

19 King Street

The Semi-Weekly Telegraph and The News

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NEWFOUNDLAND WILL GO IT ALONE

Canadian Union Not Thought Of

Sir Edward Morris, at Boston, Says People Fear It

Premier Says Ancient Colony Would Be Willing for a Fair Reciprocity With the United States—Anticipates No Trouble With Gloucester Fishermen.

Canadian Press.

Boston, Jan. 5.—Sir Edward Morris, premier of Newfoundland, who was entertained at the chamber of commerce today, said that he anticipated no trouble with the Gloucester fishermen. Regarding trade relations between Newfoundland and the United States the premier said:

"If reciprocity between the United States and Newfoundland comes within the realm of reasonable diplomacy, my country will participate. Newfoundland has three or four items to offer the United States, the value of which is not to be disregarded. The first is an enormous catch of cod fish, the distribution of which through the inland states of this union would help materially, in my opinion, to solve the question of the high cost of living.

"At the present time the United States stands first in the list of countries from which Newfoundland obtains her imports."

Sir Edward smiled when asked if Newfoundland was likely to unite with Canada and remarked that this is less likely than ever. "The question," he said, "has never been a plank in the platform of any party in the island for forty years. In Newfoundland the idea is not at all an agreeable one to the people and the fishermen think that confederation would be disastrous to them. Canada would have little to offer them, by way of inducement that would prove of any lasting advantage to the country or to the people, and as Newfoundland's prosperity increases there is a correspondingly equal reduction in the possibilities of any such political departure."

GAYNOR'S ASSAILANT TO APPEAL CONVICTION

Will Contend He Had "No Intent to Kill" Edwards, for Which Crime He Was Sentenced.

New York, Jan. 5.—Counsel for James J. Gallagher will appeal from the verdict found against him yesterday on which he was sentenced to twelve years in jail for shooting Commissioner of Street Cleaning Edwards "with intent to kill." Commissioner Edwards pounced on Gallagher just after the latter had shot Mayor Gaynor and in shielding the mayor, from another shot, was wounded himself in the arm.

The point will be made that although Gallagher may have shot "with intent to kill," he did not intend to kill Commissioner Edwards, as is specifically charged in the indictment.

Gallagher has never been indicted for his attempt on the life of Mayor Gaynor. The prosecutor's office decided to wait for a year and a day to make sure that Mayor Gaynor was out of danger.

WRECKERS SALVING CARGO OF ALLAN LINER WRECKED IN 1860

Halifax, N.S., Jan. 5—Wreckers are bringing up iron that they are salving from the steamer Hungarian of the Allan line, lost in the year 1860 on the coast of Nova Scotia. A cargo of this iron was brought to Halifax today. Years ago a large quantity of iron was salved from the Hungarian, but it did not pay in the long run and work ceased. The price of scrap iron now makes the operation profitable.

FOUND ANOTHER BODY IN WRECKED SYDNEY COLLIERY

Sydney Mines, N. S., Jan. 5—Searchers in the mine of the Nova Scotia Company who worked hard all day for the bodies of Purchass and Ferguson were rewarded tonight by finding the body of Purchass. The colliery plant is not so much damaged as was supposed yesterday. The bodies of four of the victims were forwarded to Newfoundland by tonight's steamer.

WILL VOTE AGAIN ON PROHIBITION

Governor Plaisted, of Maine, Advocates Its Resubmission

LAW NOT ENFORCED

Declares It's Useless to Attempt to Legislate People Good—Says People Are Temperate and Moral Suasion Is the Way to Make Them More So.

Augusta, Me., Jan. 5.—(Special)—Governor Plaisted, in his inaugural address to the legislature today dealt with the prohibition question as follows:

The Democratic party also promised to submit to popular vote the question of constitutional prohibition. It is difficult to approach the consideration of this important question without encountering prejudice and blind fanaticism. It is your duty to consider it fairly, having in view present conditions and the welfare of the state.

The issue presented to the citizens of this state and which has been given a prominent place in political campaigns for the past twenty years, has not been between the supporters of prohibition and other methods for the regulation of the sale of liquors, nor between the friends of temperance and those who believe that an indulgence in the use of intoxicating liquors is one of the natural rights of man, which should not be abridged by legislation, but simply whether the constitutional amendment prohibiting the manufacture and sale of intoxicating liquors should be submitted to popular vote by a resolution of the legislature.

I believe that a majority of the voters of our state have registered a desire that this be done and in view of the importance which it has had in the public mind for many years and the further fact that a resolution has been so often before the legislature, action now which will place this question before the people of Maine that their will may be determined, cannot be considered as hasty or ill advised.

Everywhere in this country the tendency of legislation is toward frequent and free registration of the people's will, so that the enactment of laws may be made by them or those enacted by the legislature may be rejected.

That a great social question which is receiving the best thought of statesmen, moralists and philosophers should be hidden in the depths of a state constitution and the people denied the right, after repeated demands, to consider or discuss it, is not in accordance with the awakened spirit of popular government.

Recent legislation has made it possible to ascertain the will of the people of this state at a special election, when no party contests for control of government and no claims of rival candidates can detract from the consideration of this important question and I cannot believe that the legislature will longer refuse the just demand for the exercise of the right.

The People and the Law.

All laws depend for their efficiency upon public sentiment and the measure by which any law can be fairly tested is the support it receives from the people. In a government such as ours, where the people are the source of all power, and consequently of all law, no legislation which is not in accord with the views of the majority can produce beneficent results. It will become inoperative in a greater or less degree as public sentiment may vary in its support.

If laws, however wholesome in the abstract, are enacted which do not have behind them the propelling force of public sentiment they cease to be wholesome when applied to existing conditions. A law not enforced is worse than no law, because it tends to bring all laws in disrespect and thus break down the public morals.

If a small part of the energy which has been expended in our state in an attempt to lessen the evils of intemperance by law had been directed to the creation of a strong public sentiment against intemperance a greater advance would have been made. Instead of relying upon the good judgment and intelligence of our fellow citizens, and their desire to make the most of life and its opportunities we have pursued the false course of relying upon law.

The people of Maine are and always have been a temperate people. I believe we have shared in the general uplift of the human race consequent upon the greater mastery of man over himself and the greater demand in all walks of life for men of clear brains as well as honest hearts; just as I also believe that today is better than was yesterday and that tomorrow will be better than today. More could have been accomplished by an honest effort to get our fellow man to regulate himself by forces from within than by trying to regulate him by forces from without.

Sturgis Law Repudiated.

This attempt at regulation by law reached its culmination in this state in the enactment six years ago of a statute which created a special commission to be appointed by the governor and charged with the duty of enforcing the prohibitory liquor law in those sections of the state where in its opinion it was not being enforced by the local authorities.

OTTAWA MINISTERS OFF TO WASHINGTON

Important Matters to Be Discussed

Reciprocity Negotiations to Be Resumed Monday, and Fair Treaty is Confidently Expected — Fisheries and Other Topics Also to Be Dealt With.

Special to The Telegraph.

Ottawa, Jan. 5—A formidable party of Canadian ministers and officials left for Washington this afternoon on vitally important diplomatic missions affecting the relations of Canada and the United States in respect to trade, fisheries, navigation and other interests.

The party consisted of Hon. Messrs. Fielding, Paterson and Brodeur, Sir Alan Aylesworth, Wm. Russell, tariff expert of the finance department; Herbert V. Rooke, supervisor of customs, and R. H. Veity, private secretary to the minister of finance. Lady Aylesworth accompanied the minister of justice and Mrs. Fielding and Miss Edith Fielding accompanied Mr. Fielding.

The trade negotiators go to Washington in the confident expectation of reaching an agreement with President Taft and Secretary Knox that will be mutually beneficial to both countries in respect to removing unnecessary tariff barriers to the freer exchange of natural products, and possibly also of a limited list of manufactured products which each country can profitably purchase from the other, and the admission of which at a lower rate of duty, in some cases, and duty free in other cases, would not seriously injure any large industry in Canada, now relying on tariff protection.

Have Shown Their Hands.

The general scope of the contemplated agreement was pretty well outlined at the preliminary conference here last November and each side has now a pretty clear and frank understanding as to the limits within which agreement is possible. The negotiators will be able to get down at once to the discussion of details on Monday in Washington.

No definite statement as to the probable items of freer exchange was made by either Messrs. Fielding or Paterson prior to their departure, and naturally all details will be guarded with the closest secrecy until the agreement is ready to be placed before parliament for ratification. It is known, however, that while the Canadian ministers have not plenipotentiary powers to finally conclude any agreement, they have practically the fullest authority from their colleagues to guarantee the carrying out by Canada of any proposals they may agree to with the American negotiators.

The main idea underlying the negotiations from the Canadian standpoint will be the securing of freer access for Canadian natural products, particularly agricultural products, to the American market. It is not expected that there will be any very large measure of reciprocity secured in manufactured products.

May Be Third Conference.

The negotiations at Washington will probably last for ten days or so. It is possible that before a final agreement is reached Messrs. Fielding and Paterson may come back to Ottawa for further consultation in cabinet council here, and the final draft of the treaty may be signed by the representatives of each country at a third conference in the Canadian capital.

Sir Alan Aylesworth and Hon. Mr. Brodeur will spend about a week in Washington. Their primary mission is to confer with the representatives of Newfoundland and the United States relative to the carrying out of the details of The Hague award in regard to the fishery regulations of Canada and Newfoundland in the treaty waters. It is not expected that there will be any difficulty in securing a mutually satisfactory agreement as to the regulations now in force or contemplated.

The minister of marine will also take up with the American authorities several matters affecting the carrying out of the new uniform international fishery regulations and marine and navigation interests in boundary waters. It is understood also that he will make some representations at Washington with a view to securing an understanding with the American government as to mutual action of the States and Canada in preventing any private interests from securing power rights on international streams which might prejudicially affect public or navigation interests of either country. This will apply, especially, to the bill now before the commons relative to the project of the private company which seeks authority to dam the St. Lawrence for power purposes at the Long Sault Rapids.

Finally, Sir Alan Aylesworth will endeavor to secure action by the American government looking to the final settlement of the pecuniary claims of certain Canadian citizens against the United States as referred to in the treaty of two years ago.

DISTINGUISHED CANADIANS ARRIVE IN HALIFAX

Halifax, N. S., Jan. 5—Among the passengers who returned by the steamer Empress of Britain today, were Sir Charles H. Tupper and Lady Tupper on their way back to Vancouver; T. Hamilton Benn, M. P.; Donald Macmaster, M. P.; Prof. Swab Vincent, Winnipeg; Capt. A. R. Jones and Mrs. Jones, of Vancouver. They left by the mail special for Montreal an hour after the arrival of the steamer.

L. W. R. Malloy, "Trooper Malloy," as he was called in the Boer war, where he lost his eyesight in the engagement at Rietfontein, was a passenger on the Royal George.

MARITIME PROVINCE PEOPLE HIS VICTIMS

American Authorities Arrest Wm. W. Wheatley, Former Halifax Man, at Winchester, Mass., on Swindling Charge.

Special to The Telegraph.

Boston, Jan. 5.—United States government officials today took action to stop what they claim a scheme by which farmers, lumber handlers and merchants in the maritime provinces and New England have lost thousands of dollars.

They arrested William W. Wheatley, of Winchester, who, under the name of W. Wheatley & Co., had a desk in a Lawrence blacksmith shop. The authorities allege he has been writing to many people inducing them to ship produce, lumber, etc., in carloads lots, then informing the shippers the shipments were not received in good condition and refusing to pay for them. It is alleged he sold the merchandise. Wheatley formerly lived in Halifax.

WOULD STOP COINAGE OF GOLD

Secretary of the United States Treasury Thinks It a Useless Expense

Would Issue Certificates Against Bullion on Hand, of Which There is $932,000,000 in Uncle Sam's Vaults.

Washington, Jan. 5—Secretary Macveagh's plan to practically stop coinage of gold and permit the treasury to issue gold certificates against gold bullion and foreign gold coin, promises to become law at this session of congress.

Under the present law the mints spend $300,000 to $400,000 a year stamping gold bullion into coin which is then stacked away in vaults, while gold certificates representing it circulate [illegible] $980,000,000 of gold coin in existence in the United States $932,000,000 is stored in the treasury vaults and probably never will be called for in that form. The present law also requires the millions of gold coin which come to this country in payment of foreign trade balances to be recoined in our money, before they can be put into circulation by the medium of certificates. In twenty years it has cost $800,000 to recoin foreign gold in that way.

Secretary Macveagh's idea is to issue certificates against the gold bullion and against the foreign coin itself, as is now done by England, Germany and France. He points out that the enormous cost of coinage practically will be abolished and the gold for export will be held in convenient form.

MONTREAL RECORDER CREATES A SENSATION

Declares it is No Use for Him to Sentence Disorderly Persons as They Are Released Five Minutes Afterwards

Canadian Press.

Montreal, Jan. 5—A mild sensation has been caused by some remarks made by Recorder Dupuis in sentencing a prisoner in his court this morning. The woman was accused of keeping a disorderly house:

"This woman apparently defies the court and is laughing at it," said the recorder, "but I do not blame her. I will see the attorney general and endeavor to have an enquette to get to the bottom of this matter, because I cannot make up my mind that there is not something wrong. I do not believe that a man like Mr. Sicotte would do the work he is doing just for the pleasure of doing it. It is perfectly useless for me to sentence this woman to jail because in five minutes from now Mr. Sicotte would give her liberty. The administration of justice by this court is nothing more or less than a joke since Mr. Sicotte has taken upon himself to do away with the judgments of this court."

Mr. Sicotte was amazed when told of the recorder's remarks. As clerk of the Court of King's Bench, he explained, he received notices of appeals entered by this woman in accordance with the law and exacted security from them as the law demands. It was true that some of these women after being convicted in the recorder's court and entering an appeal had left the city, but the city was rid of them and this was a good thing. He declared that he intended seeing what Recorder Dupuis meant by his remarks.

LAURIER ADDRESSES QUEBEC WOMEN'S CANADIAN CLUB

Quebec, Jan. 5—Sir Wilfrid Laurier was the guest of the Women's Canadian Club of Quebec this afternoon at the Chateau Frontenac, when he delivered a most interesting address upon the early days of the settlers in Canada. The attendance at the meeting was a record one and the room of the Chateau was overcrowded by those who were anxious to hear the address of the Canadian prime minister.

HEROIC PRIESTS LOST THEIR LIVES TO SAVE CHARGES

One Dead and the Other Dying as the Result of Granby College Fire.

Granby, Que., Jan. 5.—The town is in mourning today for brothers Daniels, Superior and Louciere, assistant superior, who met their fate in the fire at St. Joseph's College last night. The institution was completely destroyed. Thirty-three students and twenty-nine brothers were in the building at the time of the outbreak.

It was while leading their charges to safety that the heroic priests lost their lives. Brother Louciere was seen standing in an upper window framed in smoke and flames, after all the other occupants had left the building, but almost instantly toppled back into the seething furnace to his doom.

Father Daniels jumped from a third story window, landing with a crash on the frozen ground. He had remained behind to ascertain if all the boys were out of the building, and his escape by the stairway was cut off by the flames. There was no way for him to escape being burned to death but to jump. He was picked up unconscious and carried to the home of a physician, where, it is said, there is no hope for his recovery.

The loss is estimated at $75,000 with insurance of $30,000. The flames swept the building with such rapidity that most of the occupants had no time to dress and escaped in their thin night garments. The night was bitterly cold, so that younger pupils and older instructors more particularly suffered greatly until help arrived and they were given shelter with neighbors.

Inside of two hours from the time the outbreak was discovered nothing remained of the building but a heap of smoking bricks and timbers.

CHATHAM WOMAN HAS THE SMALLPOX

Wife of Boarding-House Keeper the Victim--- Ferryville Man Fractures One of His Legs.

Chatham, N. B., Jan. 5—(Special)—A case of smallpox developed here today, the wife of a boarding house keeper named Savoy being the victim. It is not known how she caught the disease but it is surmised she took it from some member of a lumber crew, many of whom make their quarters at the house when traveling from one camp to another. The authorities have taken every step to have the case isolated and the house has been quarantined and the other inmates are being carefully watched.

Isaac Craig, of Ferryville, near here, while loading logs this afternoon had the misfortune to have one of them roll against his leg, pinning it against the stump of a tree and fracturing it between the knee and the foot.

MANY INDICTED FOR MURDER IN LOS ANGELES TIMES DYNAMITING

Names Will Not Be Made Public Till After Arrests Have Been Made.

Los Angeles, Calif., Jan. 5—The grand jury in the Los Angeles Times explosion case returned twenty-two indictments late today. All of the indictments charge murder in connection with that crime. It is not likely that the names of any of the indicted will be made public until after arrests have been made. It is believed a large number of San Franciscans have been indicted.

MAGISTRATE SENDS THEM UP FOR TRIAL

DENIES MONOPOLY ON THE ATLANTIC

Steamship Official Makes Light of "Trust-Busting" Suit

CALLS IT "FRIENDLY"

Says Action is Taken to Determine the Legality of Some Other Methods, But Prosecutor Says Government Means Business.

Canadian Press.

New York, Jan. 5—In a reply to the complaint filed yesterday by the federal government against thirteen of the principal trans-Atlantic steamship lines and twelve of their officers, Vice-president P. A. S. Franklin of the International Mercantile Marine Company, one of the defendants, intimated that the suit was a friendly one, in the nature of an act in equity, and brought to determine what rights the companies had in co-operating to regulate their business.

"The suit speaks for itself," said District Attorney Wise tonight, when shown Mr. Franklin's statement, "and was brought by the government in all seriousness to obtain the relief asked for in the petition."

Mr. Franklin's statement follows, in part:

"Last spring the government began an investigation. The lines informed the United States attorney that if any of the practices were illegal, they were perfectly willing to discontinue the same. The matter, we believe, was referred to the attorney general and it being thought that there was doubt as to the legality of certain ways in which the steamship lines were doing business, it was determined to bring an equity action which would raise the whole question of the legality of the practices and we understand this suit is the result.

Denies Monopoly.

"Of course as to the legal and technical points involved, we are not sufficiently familiar with the law to pass upon these. But looking at the matter as practical business men, it seems to us that ocean carriers can never have a monopoly of their business, because the ocean is free, and any person with capital can enter into the business with ease. The railroad has a comparative monopoly of the territory it serves, while in the case of ocean carriers all the territory is competitive.

"The steerage business is a very peculiar one, and must be handled by the united action of all the lines in order that serious abuses may not enter into it and in order to properly protect the interests of the immigrant. Passengers for ocean steamers come from parts of the country far removed from the port of embarkation, and the steamship lines must have thousands of agents all over the various countries. These agents, of course cannot be paid salaries, but have to be remunerated by the means of commissions. In the competition for business, many of the agents were splitting their commissions and so some of the passengers were getting a rebate or in other words, there was the same discrimination in the steamship business as there was in the railroad business before the interstate commerce law was passed.

"The lines have felt and still feel that all they have been doing and that is being done, is entirely legal and is in reality for the best interests of the steerage passengers, but if it is determined in this suit that any of the practices are in violation of the law in any way they shall be only too glad to cease such practices."

WOULD SAVE CANADA'S FORESTS FOR CANADIANS

Hon. Mr. Sifton Against Any Reciprocity That Would Deplete Natural Resources.

London, Ont., Jan. 5—Speaking tonight at the Canadian Club banquet Hon. Clifford Sifton said that the conservation commission was opposed to any reciprocity which would give away Canada's forests. "They would last the United States but seven years," he said.

"We must not forget that natural resources are the means of livelihood for a great majority of our country's people. Therefore it is no fad this process of conservation and saving, for the nations that have fallen have been those which exhausted their natural resources. Egypt is an example of that. It was once the granary of the world, then it became a desert, but British energy is again reclaiming it."

Montreal Winter Sports Abandoned.

Montreal, Jan. 5—The "week of winter sports" it was proposed to hold here in February, was called off at a meeting of the committee this morning. The reasons given are that while the railways finally consented to help the plan along, they took too long to make up their minds, while the city council refused to contribute and citizens were backward in coming forward with financial assistance.

Preliminary Hearing Concluded

In Case of Men Charged With Rioting in Streets

Little Evidence of Importance Taken Yesterday, But Lawyers Argued at Length—Magistrate Reviews Law—All But One Out on Bail.

Friday, Jan. 6.

The thirteen young men charged with being implicated in the New Year's eve riots will now have to stand trial. At the close of their preliminary hearing in the police court yesterday afternoon, Magistrate Ritchie said there was sufficient evidence to send all the prisoners up and he accordingly committed them to stand trial at the next sitting of the circuit court, which takes place here next Tuesday and over which Judge McKeown will preside. Bail to the extent of $2,000 was accepted from each prisoner and with the exception of Frank Hays, for whom bail could not be secured until this morning, they were all given their liberty last evening. Yesterday afternoon was taken up mostly with argument by the counsel. Only a few witnesses were examined and their evidence brought out nothing new. The first witness called was James Huey, painter, who said that on Saturday night last he was in the vicinity of King square and saw some trouble with a car. He did not know anyone in the crowd. He remarked to a person, "I think they have held this car up long enough, let it go by." He assisted the conductor in fixing the trolley pole. Witness also saw a part of the trouble in King street, but could not say who was making it.

The magistrate—"Are you the painter?"

Witness—"Yes, sir."

The magistrate—"I have an explanation to offer you. I was reported yesterday as saying 'that looks bad for the painter.' This was incorrect. I remarked in the court yesterday that you were deserving of the highest commendation. So far as the evidence goes outside of Mr. Kelly, you were the only one who offered any assistance."

Earl Penny, aged fifteen, knew witness Alchorn. On Saturday evening he met Alchorn about 11 o'clock in Charlotte street. They both were in King square at the time of the celebration and saw some of the trouble that took place there.

Witness was in Charlotte street when McRobbie's window was broken. Outside of his brother, Charles, he knew no one in the crowd. He was with Alchorn about half an hour. When the fire alarm rang in he was standing near McRobbie's. He saw Alchorn do nothing out of the way.

Fred Driscoll, recalled, named three persons who he remembered seeing in King square on the night of the celebration. They were James McGrath, a man named Brown, an employe of Macaulay Bros., and a city traveler for T. McAvity & Sons, Ltd.

In answer to Edmund Ritchie, witness said he did not see the police making any effort to prevent the holding up of the cars.

Fred Shaw, recalled, told of seeing a car and Macaulay's milk wagon held up in Charlotte street. He also saw McRobbie's window broken and the arc light at the head of King street smashed.

Mr. Mullin.

Daniel Mullin, K. C., said he was in doubt as to the section of the criminal code under which the charge was made against his clients. In answer to this, Mr. Baxter said it was under section 8 which dealt with an unlawful assembly.

Mr. Mullin submitted that an essential ingredient in order to establish an offence under that section would be to point out a common purpose. He did not see that there was any common purpose in this case. Here there was no premeditation. The people were assembled there to cheer the old year out and the new year in. "If there is evidence of a preconcerted design to have a meeting and that meeting gives signs or indications that it is assembled to disturb the peace tumultuously, then there would be an unlawful assembly. There is no evidence here to bear out that." Further he submitted that so far as all the defendants were concerned there was no evidence to show that the crowd was assembled for a common purpose to disturb the peace tumultuously; secondly, that there was no evidence to show that his clients, O'Rourke, Way and McCallum, acted in any way to make them amenable to the charge. Mr. Mullin here cited authorities to show that in the case of a riot persons could not be held liable who had merely assembled and who had taken no part by word or act.

In the case of the onslaught on the street cars, assaulting the police and destroying property, only those who had actually committed the acts were criminally responsible. The only difference between a riot and an unlawful assembly was that in the case of a riot it was the putting into execution tumultuously the common purpose which is in itself sufficient to make an assembly unlawful. If on New Year's eve the assembly was unlawful it must also have been a riot since tumultuous, violent acts were committed. In the case of Way and O'Rourke there was no evidence to show that they committed any violent acts. On the other hand, however, the evidence went to show that they gave the street railway employes assistance. The evidence that they were in Wentworth

(Continued on page 8, sixth column.)