

Supreme Court.

KING vs. JAMES WHITEFORD MC-NELLY.

The trial of James Whiteford McNelly on a series of charges of larceny of monies, the property of His Majesty the King, and for falsification of accounts, concluded Saturday evening, when a verdict of not guilty of larceny, but guilty of falsification of accounts on four counts was rendered.

There were 24 separate charges, twelve of which were for larceny. The particulars of the remaining counts are that James Whiteford McNelly is charged with falsification of accounts contrary to Falsification of Accounts Act of 1875 in that on May 31st, 1916, he omitted with intent to defraud, to make entry on the counterfoils of receipts of the department to show that certain sums had been paid into His Majesty's exchequer.

The particulars are:—

May 31, 1916—J. C. Hepburn, \$ 93.00
May 31, 1917—J. C. Hepburn, 4,120.00
May 31, 1918—J. C. Hepburn, 3,195.00
May 31, 1921—J. C. Hepburn, 3,195.00
Sept. 9, 1916—R. B. Job, 356.42
Oct. 18, 1917—R. B. Job, 378.84
May 31, 1919—R. B. Job, 349.50
Dec. 2, 1920—Terra Nova Sulphite Co., 1,296.00
June 1, 1921—Terra Nova Sulphite Co., 512.00
April 20, 1922—Terra Nova Sulphite Co., 1,812.00
Feb. 22, 1922—Terra Nova Sulphite Co., 1,812.00
May 31, 1920—J. C. Hepburn, 3,193.00

It was the charges of omitting to enter the Terra Nova Sulphite Co. payments that the prisoner was found guilty.

The examination of the witnesses concluded before 3 p.m.

Mr. Hart, Accountant of the Department, resumed his place on the stand after recess. He said that he had made a search of the office files and found that the Deputy Minister as well as the accused had made deposits at the Bank and almost anybody in the office might make up the deposit slips. The deposits were not made at regular periods.

Mr. D. Carmichael, examined by Mr. Winter, said he was assistant accountant at the Bank of Montreal. He had prepared a list of the deposits made by the department from 1916 to 1919. The list was put in evidence. Cross-examined by Mr. Dunfield, witness said that it would be very difficult even for a Minister to get a department cheque cashed. All such cheques were invariably placed to the credit of the Exchequer Account.

Mr. Dunfield called no witness and was directed by Mr. Justice Kent to go to the jury. He asked the jury to consider the circumstances surrounding the case, the accused did not come before them as an angel, or one with an unblemished reputation, but what ever he may have done, he was always punished. In this case whether found guilty or not guilty, he had lost his job and means of sustenance of his family. They were not to try the case on rumours or stories heard outside, but only on the evidence, as given before them in the Court. He pointed out that the receipts, in evidence did not count for much, as the evidence had showed that it was not necessary for the money to come in, when the receipts were issued. The custom of the Department was to issue receipts formally the day the payment was due and sometimes the receipts were made out days ahead. As to the cheques, Mr. Carmichael had showed that at the Bank cheques payable to the Department could not be cashed by even the Minister himself. They had to be credited to Exchequer account owing to the conditions set out in the Audit Act. The evidence had showed that at times the Deputy Minister of the Department had prepared the deposit slips for the Bank, as well as the accused. There were two charges against the accused, and as for the falsification of accounts, they were not asked to say that Mr. McNelly did any act, but that he omitted to do it, and on this point there was no evidence. The charges extended over a period of eight and a half years, and they were asked to believe that in all that time, Mr. Hart, one of the witnesses, had never made a mistake. The Accountant submitted by Mr. Carmichael is a record of all money handled by every person in the department and if they are submitting on the facts a material evidence against the accused would be in the production of the counterfoils books, and these were not in court. What was here was only hazy circumstantial evidence of what happened. Mr. Dunfield closed his address with an appeal for consideration of the case only on the facts submitted, and on the result would be.

Mr. Emerson for the Crown, felt the responsibility that rested on the shoulders of the Crown, and was glad that it would be shared by the jury. All cases of this sort have a tinge of sadness, but these things should be considered by the accused before the act was committed, if he was guilty. The charges against the accused were not communicative, but alternative, they must not consider two charges only, but twelve. The accused was not charged with stealing the cheques in evidence, but with money to the equivalent of these cheques, and be-

cause no entry was made for the cheques, Mr. McNelly was charged with falsification of accounts. Mr. Hart had stated that all money received by the Department for Crown lands is accounted for on pink slips to which are attached counterfoils, and on these all particulars appear.

The counterfoils in question were not available, but if documents are lost, it is not proof of the innocence of the accused. Mr. Hart had stated that all counterfoils filed in were accounted for, and it would be curious if Mr. Hart had made the same mistake three or four times. In the case of the Hepburn cheques of \$3,000, to be correct \$6,000 should be accounted for, and Crown states that money was taken from the cash and the cheques put in to account for it. He is not charged with taking the cheques, but money to their value, either before or after the cheques were received. It was not possible for the Crown to examine the mind of the accused in these transactions, but it is beyond the bounds of possibility that the acts were not done deliberately. Mr. Emerson briefly reviewed the evidence as it applied to the charge, and asked for a consideration of these facts, as they had been proven.

Mr. Justice Kent then summed up the case, which he said had been dealt with in all the brevity possible. The charges must be considered only on the evidence that had come before the Court. The charges contained in all 24 counts and each of these must be considered separately. The accused was not charged with taking cheques, but in evidence, but was charged with stealing money to their value. It was, however, the duty of the Crown to prove beyond all reasonable doubt, that the charges were sustained. As to the falsification of accounts, the Crown states that it was part of the scheme for obtaining money. Accidental or careless omission is not a criminal offence, it must be done deliberately or fraudulently.

To omit wilfully to make any entry is an offence, and in this case it must be remembered that the whole system of book-keeping depended on making these entries in the counterfoils.

To omit to make these entries was an offence on the part of whoever was responsible and the jury must be satisfied that it was the duty of the accused to make these entries, and secondly that he omitted to do so. The accused had given no explanation in evidence as to the receipts put in, and he had the right to do so. The evidence was reviewed and the jury were instructed to consider separately every charge.

At 4.35 the jury retired and returned to court at 5.55 bringing in a verdict as above.

The prisoner being asked if he had anything to say as to why sentence should not be imposed, Mr. Dunfield, on his behalf, argued that the verdict ought to be set aside and the verdict of not guilty entered, upon the grounds that the charge is falsification with intent to defraud. As the only ground on which it had been shown that the prisoner could have been guilty of such intention was larceny as charged in the other counts and as the jury had negative-ly found him not guilty of larceny, the charge could not reasonably find a verdict as they did, there being no evidence of intent to defraud in any other way. As it was a complicated question and a little difficult to argue, Counsel asked for an adjournment in order to consider it. Judge Kent thought the case should go on; but Mr. Winter, for the prosecution, stated that the point came quite new to him, and joined in the request for time. The case was thereupon adjourned until 2.30 on Wednesday. In the meantime accused was granted the same bail.

Personal

The Young Adams Theatrical Company, who have a very successful tour weeks at the Casino Theatre, left yesterday's express for Grand Falls, where they intend to play during the week. Later they will continue on to Sydney, C.B., and other points in the Maritime Provinces.

Sir Joseph Outerbridge left by the Rosalind, en route to Bermuda, where he intends to spend the winter.

Autograph Albums

We have a dainty new line of these now showing in assorted Leathers all with nicely decorated covers lettered in gold and with gilt edges and tinted leaves. These come in a large variety of sizes and are selling at prices from 55c. to \$6.50.

SEE THEM AT
BYRNE'S
Bookstore

Stock Market News

NEW YORK, Nov. 17.
(Furnished by Johnston and Ward,
Board of Trade Bldg., Water St.)

TO-DAY'S NEW YORK OPENING.

Am. Smelters 84 1/2
Baldwin 123 1/2
Anaconda 39 1/2
C.P.R. 152 1/2
Cuba Cane 14 1/2
Fleischmanns 82
Great Northern 24 1/2
Miss Kansas Texas 49 1/2
Kennecott 165 1/2
Kelly 42 1/2
Marine Ptd. 38 1/2
Marland 53 1/2
Pan Am. B. 89
Rubber 17 1/2
Sinclair 101 1/2
Sou. Pac. 40
Studebaker 8 1/2
Sub. Boat 67 1/2
Tob. Products 146 1/2
Union 114 1/2
U. S. Steel 114 1/2

GENERAL MOTORS.

Profits Third Quarter Ahead of Last Year and Second Quarter this Year
Balance for New Common Stock Third Quarter \$1.68 Per Share—\$70,000,000 Cash Holdings.
Boston—General Motors Corp. reports for quarter ended Sept. 30th, 1924, net income of \$10,349,423 after depreciation, interest, federal taxes, etc., equivalent after preferred and debenture dividends to \$1.63 a share earned on 5,179,919 shares of common stock. This compares with \$7,666,034, which, computed on basis of new shares, was equal to \$1.15 a share in preceding quarter, and \$9,480,962 or \$1.50 a share in third quarter, and \$9,480,962 or \$1.50 a share in third quarter of 1923.

Statement as usual reflects earnings of Fisher Body Corp. and General Motors Acceptance Corp. only to the extent of dividends received. If General Motors Corp. equity in undivided profits of these two companies were included, amount earned on common stock for quarter would be increased to \$9,423,408, equivalent to \$1.31 a share.
Net income for first nine months of 1924 totaled \$37,416,413, equal to \$6.18 a share on new common, comparing with \$31,068,583 or \$5.90 a share on the new share basis in the same period of 1923.

Stockholders of Sept. 19 last were given right to exchange their stock into new no par common shares, valued on the books at \$50 a share, on basis of one share of old for each four shares of old no par common.

Only \$3.75 purchases a pair of Boots fitted with Rubbers, at SMALLWOOD'S.—nov15.1t

Star Movie To-Day



A searching portrayal of truth in the lives of an ultra fashionable New York society set—a picture of strong drama and rare beauty. The stirring story of a woman, pure and sweet, whose husband deserted her in a rage of unreasoning jealousy whose baby was torn from her arms, who in the agony of her grief cried out:

"There is nothing worth while left in life for me. Life has cheated me! Life is a cheat! You are a cheat! I'll be a cheat! We'll all be cheats together! But—in purity of her heart she could not—and finally life made amends with wondrous love."

A beautiful romance of a woman saved from folly by a great love. "A First National Picture."

New shipment High Test Gasoline at SILVERLOCK'S—45c. gallon.—nov15.4t,s,m,w,f

The Motorists Advantages

Yesterday while the city was experiencing the forerunner of the storm which broke with such fury last night, Briggs and one surrounding country were enjoying summer weather. Motorists who were over the road topped to boil the kettle on the barrens in the middle of the day and lay around thoroughly enjoying the glorious sunshine, and not a cloud blurred their horizon until they reached Holyrood on the return journey.

Schr. Jubilee has arrived from Labrador with a load of fish to Peters & Sons.

The Old Colony Club

Saturday afternoon last the second of a series of four addresses dealing with different forms of public welfare was given.

Mrs. Macpherson presided, and Mrs. Hector McNeil read the paper. The address was written by Mrs. Gordon—the originator of the Chelsea Dinners for Nursing Mothers—at the request of Mrs. Hollis Walker, who, amongst others, had assisted Mrs. Gordon in her work. From small events great happenings take place and it was through an account printed in the Times, referring to the success of experimental welfare work in Paris that Mrs. Gordon was inspired. She went to Paris in order to study the movement, which, though a small organization, had already proven the value of pre-natal care, in the form of nourishing dinners for mothers. Mrs. Gordon, impressed and encouraged by what she saw, returned to London and immediately procured a fund with which to organize a small kitchen of her own. This was in 1913, and only five mothers from the very poorest slums (and recommended by district visitors) sat down to the first dinner. Apprecative mothers soon made the dinners popular, and the work became quite extensive. While adhering strictly to its original form in every other way, the work was soon augmented by the addition of a Clinic, as well as other kitchens in different parts of London. At last the value of this pre-natal care became so apparent in the children, that doctors from the other large towns visited London to see the work for themselves. During the war the kitchens were kept going through voluntary contributions, and the Chelsea Dinners for Nursing Mothers only came to an end in 1921, having fully demonstrated the outstanding benefits to be derived through pre-natal care.

At the conclusion of the paper, Mrs. Hiscock spoke of the urgent necessity of spreading knowledge of food values to the needy, so that money might be spent to fullest advantage and economy.

Miss Southcott deplored the fact that while there are hospitals for adults in St. John's, there is no provision for sick infants, and she stressed the need of a children's hospital, or else a ward for children only, in connection with one of our hospitals.

Before the meeting closed, Mrs. Macpherson called for a standing vote of thanks to Mrs. Gordon for her valuable address and to Mrs. Hollis Walker for the kind interest shown to the Club in having procured it. This mark of gratitude met with the hearty accord of all present.

Mrs. V. P. Burke and Mrs. Alan Fraser then served teas.

Rosalind Sails

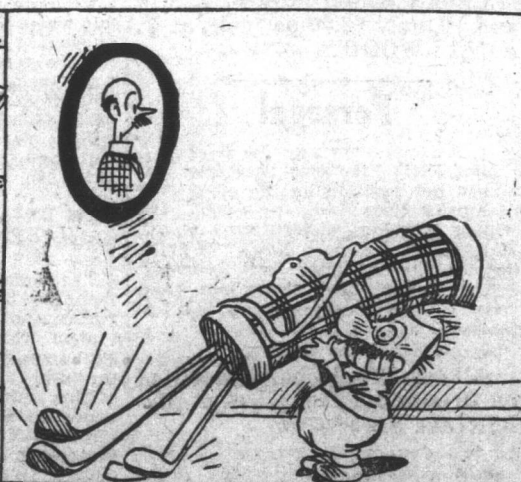
S.S. Rosalind, Capt. Jones, sailed for Halifax and New York at 10 o'clock Saturday night, having been delayed a week in her sailing, owing to the strike. The ship takes a part cargo, consisting principally of fish and oil in casks, and the following additional passengers:—Miss E. Curran, Miss M. Kennel, Mr. Lloyd Washburn, Mr. John Winslow, Mrs. W. Allen, Miss S. Howell, Miss Lena Lock, M. Connolly, Miss A. St. George, Sir Joseph Outerbridge, Mrs. Perry, Miss G. Blandford.

Workman Had Narrow Escape

On Saturday night, just as the working of the Rosalind's outward cargo had been completed, one of the workmen, named Garland, who was helping to put the hatches on No. 3 hold, overbalanced himself and fell into the hold, some fourteen feet below. Some of the men rushed to his assistance and brought him to the deck where Dr. Macpherson was called to his aid, and after a brief examination ordered him to the General Hospital. Yesterday an examination was held at the Hospital but there was nothing to show that he had sustained any injuries of a serious nature. During the afternoon Mr. Garland was discharged from the institution.

Don't forget the Congregational Sale of Work which takes place on November 26th. There will be the following stalls:—Plain Fancy, Handkerchief, Paper Novelties, Candy, Vegetable and Pantry.—nov17.3t,ed

SNOODLES



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Smoked everywhere
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"Anchor your pipe to a good smoke"

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Limited, London, W.C.

Tremendous Farewell

TENDERED YOUNG ADAMS CO.

BIGGEST SEND-OFF EVER KNOWN IN CASINO THEATRE.

The biggest audience on record that ever attended a farewell performance, was in evidence at the Casino Theatre on Saturday night when the Young-Adams Company played their final play of the present engagement. The hall was jammed to the doors and many extra chairs had to be brought in to accommodate everyone. Among those present in the audience were Mayor Cook and party.

The play of the evening was that wonderful moral lesson, which so many of us have heard so much about and which is always new, namely "Ten Nights in a Bar-Room." H. Wil-

mot Young as Joe Morgan gave a splendid performance and aroused his audience to the highest pitch of enthusiasm. Marjorie Adams, the popular favourite proved to her audience that not only is she an interpreter of drama and emotion, but is also a very clever comedienne, her characterization of Mehitabel Sartwright caused roars of laughter and thereby delighted a faithful Marguerite Young.

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Everybody knows of the popularity of Rex Ingram productions. You've seen "The Four Horsemen," "Turn To The Right," "Scaramouche" and "Where The Pavement Ends," but tonight you will see the greatest of them all—"The Arab," featuring the world's leading screen stars, Ramon Novarro and Alice Terry, the cast was selected entirely in Europe, and includes some of the most famous of players of the old world: among them, Maxudian, a leading figure on the French stage who toured the United States as leading man for Sarah Bernhardt; Count de Lamur, Italian packed full of thrills, picturesque Romanian beauty; Giuseppe de Campo, son of the Marquis de Campo, and Gerald Robertshaw, long distinguished on the British stage.

"The Arab" is one of the biggest productions of the year. It is a real "Shiek" story, filmed in the desert, packed full of thrills, picturesque locations and daring situations, handled as only Ingram can handle them, and enacted by a brilliant cast. The picture will run at the Nickel for three days. It is suggested that patrons attend early. A special musical score accompanies the picture.

Genuine Weed Chains, 30 x 3/4, Ford size, put on your car for \$5.25 at SILVERLOCK'S.—nov15.4t,s,m,w,f

TO-NIGHT! TO-NIGHT! — Mount Cashel Band Concert, "Gaiety Hall," at 8.30 to-night. Elimination prizes. Admission 25c.—nov17.1t

Express Passengers

The following passengers crossed over to Port aux Basques by S.S. Kyle at 6 a.m. yesterday, and joined the express:—C. Murphy, J. A. Johnston, P. Dean, J. Spengrove, J. A. Goff, Miss M. Thomas, F. Dupuis, A. -E. Le-Roux, H. Wing, C. F. Garner, L. R. Hollett, A. Petrie, A. J. Grubert, N. McDonald, G. Murphy, C. Tupper, N. R. Gear, Mrs. R. Penney and two daughters, Miss A. Bartlett, H. and Mrs. Parmiter, Miss R. Bennett, J. P. Grandy, Dr. F. and Mrs. Hogan and 2 sons, T. Mercer, Miss F. Squires, W. Brace and daughter, R. Matthews, Mrs. E. Dunn, E. and Mrs. Collishaw, A. Dean, H. Pacific, Louis Damael, and H. Dean.

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A Small Shipment of
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Harvey & Co., Ltd.

"The Arab," the Picture of the Season

AT THE NICKEL TO-NIGHT.

Everybody knows of the popularity of Rex Ingram productions. You've seen "The Four Horsemen," "Turn To The Right," "Scaramouche" and "Where The Pavement Ends," but tonight you will see the greatest of them all—"The Arab," featuring the world's leading screen stars, Ramon Novarro and Alice Terry, the cast was selected entirely in Europe, and includes some of the most famous of players of the old world: among them, Maxudian, a leading figure on the French stage who toured the United States as leading man for Sarah Bernhardt; Count de Lamur, Italian packed full of thrills, picturesque Romanian beauty; Giuseppe de Campo, son of the Marquis de Campo, and Gerald Robertshaw, long distinguished on the British stage.

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All sizes.

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65 per cent. of Widows lose their all in five years. A widow generally has no experience in making investments, and is liable—through bad advice to dissipate her whole capital.

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