

POINT OF LAW UPSETS CHARGE OF UTTERING

An important point of law introduced by Mr. C. B. Gibson brought an uttering case to an abrupt end in the Criminal Court this afternoon, when the jury at the Judge's direction, acquitted the accused.

The point has interesting repercussions in its bearing upon hospital tax legislation and it is likely to be the medium of argument before the Court of Criminal Appeal.

The case before the Court was that in which Samuel Harold Grant was charged with having on or about September 29, 1937, at Perth, knowingly uttered as and for valid and uncanceled stamps, four hospital fund stamps, which had already been used.

Defended by Mr. Gibson, with him Mr. H. A. Solomon (instructed by Mr. M. Crawcour), Grant pleaded not guilty.

JURY LEAVES

At the outset the jury were directed to leave the Court while Mr. Gibson submitted argument as to the manner in which the Crown should open its case, but his main point was submitted shortly before the lunch-hour adjournment, when Mr. Gibson and the Crown Prosecutor (Mr. S. H. Good), together with Mr. Justice Dwyer, figured in an interesting three-cornered argument as to the strictly legal interpretation of uttering in relation to the hospital tax Act.

The jury were again absent.

At its conclusion his Honor

allowed Mr. Good opportunity to consider authorities quoted by Mr. Gibson and adjourned proceedings until the afternoon.

To constitute uttering, Mr. Gibson argued, there must be voluntary publication, and it had never been pretended the stamp was valid and uncanceled. If there were uttering there was no voluntary intention that it should be acted upon, and certainly the stamp was not uttered as valid and uncanceled.

Among other points Mr. Good submitted that there was undoubtedly an attempt to induce the inspector to "act upon" or believe something which was not true.

His Honor ruled that the evidence did not support the indictment. Prima facie there was evi-

dence on which a penal charge could be laid, but he did not think it was a charge of the present type.

His difficulty was not lessened by the fact that apparently there was nothing in the Hospital Fund Act regarding the cancellation of stamps at all, nor was there any duty so far as he could find or responsibility on the taxpayer to cancel stamps under the general law relating to the use of

general law relating to the use of stamps. He accepted the statement that there were no regulations dealing with the matter.

His Honor subsequently remarked that the Crown was not precluded from taking action on another basis. In the meantime the matter could be referred to the Court of Criminal Appeal.

Grant was found not guilty, and on a second charge was remanded on bail to the March sessions.

The Crown case as narrated by Mr. Good was that the charge related to four hospital fund stamps of 3d denomination. On September 28 last, he said, an inspector called upon Grant at the West End Ladies' Outfitters, Hay-street, and met Grant as manager. Books were examined and discussed.

The inspector, not being completely satisfied, went to the Taxation Department and obtained certain information.

A MISTAKE

Next day he returned to Grant and asked for his own wages book.

It was suggested by the Crown with reference to a certain stamp that it was of the 1931 issue and had been re-used.

Grant was questioned about the matter and said that it must have been due to pressure of business. To a detective subsequently he said it must have been the result of careless writing.

The four stamps in question were yellow, Mr. Good said, and it would be shown in evidence that that color had gone out of print in 1932, and none were issued by the State Treasury after June, 1933, when an orange color was in circulation.