

Mackay District Court.

WEDNESDAY, November 12.

THE November sittings of the Mackay Northern District Court began last Wednesday, in the Court House, before His Honor Judge Hely. Mr. Daly, Crown Prosecutor, was also present. After the jurymen had answered to their names, and His Honor having taken his seat on the Bench, Mr. F. H. Smith, on behalf of the Court, rose and congratulated Judge Hely upon his restoration to good health, and the great pleasure it afforded the Bar and others connected with the Court to see him presiding on the Bench again. His Honor returned his sincere thanks to Mr. Smith for his kind sentiments.

CRIMINAL JURISDICTION.

Robert Rixon was charged with the larceny of a saddle on the 1st of August last, at Nebo, the property of George Beresford. Mr. F. H. Smith appeared for the prisoner. The Crown Prosecutor applied for the case to be adjourned until the next sittings of the Court, owing to the illness of a witness at Nebo, which was granted. Mr. Smith said that after reading through the depositions he thought His Honor might discharge the prisoner to appear again when called to do so upon his own recognizances, as he had already been in jail since the 25th of August last. His Honor granted the request, and the prisoner entered into his own recognizance of bail for £80, to appear at the next Court when the date was fixed, of which he would receive due notice.

Joseph Bell, alias Beard, was charged with having, on the 21st of June last, unlawfully, and by false pretences, signed, and delivered a cheque to R. H. Talbot, amounting to £6 5s., drawn upon the A. J. Stock Bank, Charters Towers, purporting to be a good and valid order for the payment of £6 5s. owing to R. H. Talbot, but in which Bank the prisoner had no funds and no account, and well knowing the said pretences were false.

The prisoner, who was undefended, pleaded not guilty, and the jury was sworn in. Mr. Daly having opened the case and addressed the jury, Senior-

case and addressed the jury, Senior-Sergeant D. Graham, R. H. Talbot, W. Ivers and C. W. Evans gave evidence, from which it appeared that the prisoner gave R. H. Talbot the cheque for £6 5s. as payment of an account. The cheque was paid into the A. J. Stock Bank, Mackay, by R. H. Talbot and placed to his credit. The cheque was, however, returned dishonoured from Charters Towers, and latterly given to Senior Sergeant Graham by R. H. Talbot. The prisoner put several questions to the witness, R. H. Talbot, and addressed the Jury in defence, arguing that he expected an agent on Charters Towers to pay a sum of money into his account there, which had not been done, and insisted that he did not intend to defraud Mr. Talbot. His Honor in summing up addressed the Jury and thought there was a clear case of false pretence against the prisoner. The Jury returned a verdict of guilty, and the prisoner was sentenced to eight months imprisonment in Brisbane jail.

Michael Petanga, a French refugee, and Francis Ryea (on bail) were charged with the larceny of a cheque and other monies, on the 13th of September last, from the office of George Smith, River-street, Mackay.

Mr. F. H. Smith appeared for the prisoners, who both pleaded not guilty. Mr. C. W. Maclean was sworn in as interpreter.

Mr. Daly, in addressing the jury, said the prisoners were charged with breaking and entering into the premises of G. Smith, and did feloniously steal, take and carry away a banker's cheque valued at £2 8s. 2d., £1 in gold and 30s. in silver the property of G. Smith. The charge of housebreaking was abandoned. The evidence of Senior-Sergeant D. Graham, J. Maclaren, Fernandez and R. H. Talbot was taken. It appears that on or about the 13th of September the above cheque and certain monies were in an unlocked drawer in Mr. Smith's office, and on the morning of the 14th the cheque and monies were found stolen. No trace of the robber could be found, and the matter was left in the hands of the police. On the 3rd of October last the lost cheque was presented to Fernandez, cook on board the steamer Yarella, by the prisoner Francis Ryea, for the purpose of purchasing some goods

Yaralla, by the prisoner Francis Ryea, for the purpose of purchasing some cases of fruit for the latter in Brisbane. The cook did not take cheques, as a rule, and he asked Ryea to write his name on the back of the cheque, which he refused to do, but did so on another piece of paper. Fernandez then took the cheque over to Mr. Talbot, Hotel-keeper, to get it changed before the steamer sailed. Mr. Talbot upon looking at the cheque discovered it was the one stolen from Mr. G. Smith, and the matter was reported to Senior

Sergeant Graham who arrested Ryea, and then Petanga, as the latter gave the cheque to Ryea, a mate of his in the fruit business. The prisoner's (Petanga) defence was that he found the cheque in the Olympic Theatre, and he afterwards handed it to Ryea. Mr. Daly contended that the prisoners, though aliens, were guilty of larceny by finding, and as honest men should not have appropriated the cheque to their own use, but done their best to find the right owner of the cheque. The one found and the other received, and unlawfully tried to pay away the cheque before the departure of the steamer Yaralla without trying to discover the lawful owner of the property, and Ryea was guilty of felonious intent. Mr. Smith contended that there was nothing inconsistent in Petanga's story in finding the cheque, and before the prisoners could be found guilty, proof of felonious intent was necessary, which had not been proved. Ryea had given an honest account of how he came by the cheque, and in presenting it to Fernandez, it was to buy fruit with in Brisbane, in the usual way of business, and he did not attempt to conceal it. His Honor—said it was a question for the Jury to decide whether the cheque was found or not. The law was if a party found a cheque or other property, and appropriated it for his own use to the exclusion of the owner, it was larceny. The jury were to consider the evidence, but it was a difficult task to arrive at a conclusion as to the "intent" of the prisoner Ryea in appropriating the cheque for his own use. The Jury having retired for some time, returned into Court with a verdict of not guilty

into Court with a verdict of not guilty against both the prisoners.

Michael Petanga was then charged with having, on the 25th of September last, stolen two shirts, one towel, two handkerchiefs and two pairs of socks, from a clothes line, the property of Joseph Myers, Mackay. The prisoner pleaded not guilty, and was defended by Mr. Smith. The Jury—after hearing the evidence in the case, and the address of the Crown Prosecutor, Counsel for the prisoner, and His Honor—returned a verdict of guilty on the first count, and not guilty on the second count. His Honor sentenced Petanga, who is an Italian and an escapee from New Caledonia, to 14 months imprisonment with hard labour, in Brisbane Jail.

This closed the Criminal cases before the Court.

THURSDAY, November 13.

CIVIL JURISDICTION.

Before His Honor Judge Hely, and a Jury of four.

Macdonald v. Wales—part heard.—Claim of £85 for work and labour done upon the property of the defendant, and money lent by the plaintiff during a period of four years past. The matter was that of contract and account. The defendant pleaded not indebted. Mr. Daly appeared for the plaintiff, and Mr. Smith for the defendant. Mr. Smith said that the items of account claimed were included in a previous decision of the court, before Judge Power. Mr. Daly made an able argument for the plaintiff. The case occupied the Court for some time, and was not of much public importance. After Counsels and His Honor's address, the Jury retired for a short time and returned a verdict for the plaintiff for £27 17s. 2d. with costs upon the lower scale.

There being no other civil cases before the court, His Honor thanked the Jury for their attendance and the sittings closed.