WON BY THE PEOPLE.

Judge Osborn Decides the City Charter Test Case.

IT GOES TO THE SUPREME COURT

A Convict Raises a Hard Question—Third Trial Ordered in Mrs. Kohne's Case—Law for Rieff.

Judge Osborn has overruled the demurrer of the city to the writ of mandate obtained by W. H. Reeves, compelling the council to show cause why an election of freeholders to frame a new charter should not be called in accordance with a petition filed by 25 per cent. of the qualified voters of the city. The decision in fact holds that the law of 1895 under which the petition was made is constitutional, and although the city has taken five days within which to file an answer, it is probable that the matter will go direct to the supreme court for a final ruling.

Judge Osborn stated in his decision that the point made by Corporation Counsel Scott that the constitution provided a means for amending the charter, and that one way excluded all others, was good, provided it applied to the present case. If the constitution named the only way to amend the charter, then any law with contrary provisions would clearly be unconstitutional. Previous to the law of 1895 the city council might propose amendments for the people to vote on, but under the law in question, if 25 per cent. of the voters desired action on the charter, the council was compelled to bow to their wishes.

Continuing, Judge Osborn said: "The law of 1895 does not conflict with the previous provisions, but provides an additional means by which the charter may be amended. This law provides a way by which proposed amendments may be placed before the people for ratification. The spirit of the constitution is to give cities of the first class self government and the law of 1895 does not take that power away. It provides a means for dealing with a council that might not care to accede to the wishes of the people. The old provision for amending is still in effect, but if the council never saw fit to prepare an amendment the charter could never be amended. How would this give the people self-government? This is answered by the law of 1895."

WANTS CREDIT FOR TIME IN JAIL.

A Convict Brings Up a Difficult Question for Judge Humes.

A peculiar question arose yesterday in relation to time allowance for criminals and the proper method of placing the facts in an authentic manner before the warden of the penitentiary. It was raised by a letter sent to Judge Humes by Geo. Johnson, who is in the penitentiary for five years on the charge of burglary.

George Johnson was convicted before Judge Humes October 7, 1891, and subsequent proceedings delayed the sentence until December 22, 1891. On appeal being taken, the supreme court sustained the lower court and Johnson was sent to the penitentiary at Walla Walla September 3, 1892.

In his letter he stated that, if Judge Humes would allow him credit for the eight months and ten days he was under sentence and pending an appeal, it would be of material interest to him, and he would like an order setting forth the facts that the court had credited him with the time allowance.

Judge Humes turned the letter over to County Clerk Gordon yesterday afternoon, with the request to see what he could do about placing the matter in a legal way before the warden of the penitentiary. Judge Humes believes he has no power to issue any such order as Johnson requests, but also thinks that if a man is convicted in the superior court, and remains in jail pending appeal, which, in this case, was decided against the prisoner, he should be allowed that time on his sentence.

The law of 1893, in relation to appeals, states that an appeal by a defendant in a criminal action shall stay the execution of the judgment of conviction. In case the defendant has been convicted of a felony, and has been unable to furnish the bail bond required by law pending an appeal, the time during which the defendant remains in jail shall be deducted from the term for which he was sentenced to the penitentiary, if judgment against him be affirmed. It is provided in the code that an appeal by a defendant in a criminal action shall stay the execution of judgment of conviction. If a defendant who has been imprisoned during the pendency of an appeal, shall be again convicted upon a new trial ordered by the supreme court, the period of his former imprisonment shall be deducted by the superior court from the period of imprisonment to be fixed on the last verdict of conviction.

Judge Humes takes the position that a sentence is a sentence, and even if a specific law was passed in 1893 on the subject, the whole tenor of the statutes is in favor of giving a prisoner allowance for time passed in the county jail. There are no specific provisions on the point in the code, and without a liberal construction it would be hard for a prisoner to get this allowance for time previous to the passage of the law in 1893. It is still an open question how the proper records, to warrant the warden of the penitentiary in crediting Johnson with eight months and ten days, will be placed before him.

THIS DECISION MAY CATCH RIEFF.

Supreme Court Interprets Law as to Larceny by False Personation.

The decision of the supreme court on which the prosecution relies for the conviction of R. G. Rieff, that a person falsely representing himself to be another and thereby securing goods was guilty of larceny, was received at the courthouse yesterday. The case arose as follows:

Delveney V. White and a man named Smith were charged with larceny by receiving a sewing machine from an Indian named Sam Steve, representing themselves as third parties who should have received the machine. When the case went before Judge Humes a demurrer was interposed to the complaint on the ground that the facts and circumstances alleged in the complaint did not constitute the crime of larceny. The information had been drawn up under that section of the criminal code which provides that every person who shall falsely represent or personate another and in such assumed character shall receive any money or other property whatever intended to be delivered to the party personated with intent to convert the same to his own use shall be deemed guilty of larceny. It was contended by the defense that the words "or other property" meant property of the same class as money, a position maintained through the doctrine that a general following of a specific term is limited to the same class as the specific unless the specific exhausts the class. Judge Humes sustained the demurrer, and released the prisoners on their personal recognizances. An appeal was taken by the state and presented ex parte, White and Smith not securing counsel to represent their case.

The supreme court says that it is aware of no rule or principle of statutory construction which would exclude a sewing machine from the meaning of the words "other property whatever." Continuing, the decision says: "All rules of construction are but aids to determine the legislative intent, and the primary rule is that the intention of the legislature is to be found in the ordinary and usual meaning of the words used in the statute. The legislature has said that 'every person who shall falsely represent or personate another and in such assumed character shall receive any money or other property whatever * * * shall be deemed guilty of larceny.' When it used the word 'money' it not only designated a class or genus of property, but included therein every kind or species of that class, and therefore the words 'other property' cannot be said to refer to property of the same class. The judgment is reversed and remanded for further proceedings."

TO BE TRIED A THIRD TIME.

Litigation Still Drips Through Mrs. Kohne's Leaky Roof.

The decision of the supreme court in that famous case where Mrs. Annie Kohne obtained $2,740 once and on a second trial $2,250 damages against Jane White for breach of contract in failing to mend a leaky roof, was received by County Clerk Gordon yesterday. The supreme court admits that Mrs. Kohne suffered great damages, but as evidence prejudicial to Mrs. White's case was admitted the decision of the jury is reversed and a new trial ordered.

Mrs. Kohne leased a house from Mrs. White with a proviso that the latter should make substantial repairs and the tenant make all repairs to be made by reason of neglect and ordinary use of the building. Mrs. Kohne occupied the building from September 1, 1889, to January 1, 1891, but claimed that on January 1, 1890, the roof became leaky and rain flooded the house. Mrs. White refused to make repairs, a damage suit followed, two trials were had, at which verdicts for Mrs. Kohne of $2,740 and $2,250 were rendered. But evidence was admitted regarding a payment of $735 by Mrs. Kohne for rent, depreciation of furniture and loss through decreased rental value of rooms. Mrs. Kohne claimed as damages all these items, while Mrs. White claimed she should only pay the difference in value due to lack of repairs. The supreme court finds that Mrs. Kohne was clearly entitled to damages and was loth to reverse the judgment, but finds that this testimony prejudiced Mrs. White's case and should not have been admitted. Therefore it orders a new trial.

SUES FOR HIS COMMISSION.

Jones Claims He Negotiated Sale of the Gordon Hardware Block.

Daniel Jones, the well-known real estate dealer, commenced a damage suit in the superior court late last evening against Hannah B. Dingley to recover $2,500 compensation in the sale of the building occupied by the Gordon Hardware Company. In conjunction with the suit he garnished R. C. McCormick, on the ground that he had money that belonged to Mrs. Dingley.

In his complaint Jones sets forth that he is a real estate dealer or broker and that he obtained a purchaser for the property at the price of $52,500, and that according to the agreement he was to have all the money in excess of $50,000. He claims that Mrs. Dingley ignored this agreement and sold the premises direct and has refused to give him his just compensation. He thinks that he has been damaged to the extent of $2,500 and asks that the court give judgment for that amount together with attorney's fees.

One Receivership Comes to an End.

W. J. Grambs, receiver of the Rainier Avenue Electric Railway Company, filed his final report yesterday in the superior court, and asked to be discharged, having turned over the property to F. H. Osgood. He stated that he had on hand $168.35 in cash, the surplus of receipts over disbursements. There came into his hands as receiver $15,226.01 of which he disbursed $15,057.67. Receiver's certificates were issued to the amount of $1,639.33, which were ordered paid by the court, together with interest up to August 17, 1895. Mr. Grambs says that in accordance with an order of the court given yesterday he made and executed to the Security Savings bank a quit claim deed to the south third-acre in lot 3 and the north one acre in lot 4, in Dunlap's plat, and to the Chase National bank of New York a quit claim deed to the east half of the west half of lot 12, Lake Dell addition. No charge has been made, according to the report, for his salary or for compensation of his attorneys, except $250 for the latter.

An Old Washington Southern Debt.

An entry of judgment by default was obtained in Judge Langley's court yesterday by Balfour, Guthrie & Co. against J. R. McDonald, the well-known railroad man, who is either at Detroit or Chicago, A. H. Anderson and the Washington Southern railway for $3,000, due on a promissory note. The plaintiffs claimed that the Washington Southern Railway Company executed the note May 7, 1894, to McDonald and Anderson, who in turn indorsed to Balfour, Guthrie & Co. The note was presented to R. R. Spencer May 7, 1895, he then being president of the railroad company, but payment was refused. McDonald and Anderson were then served with notices, but they likewise did not pay. Judgment was given by default.

Bought a Lot in an Unborn City.

M. L. Cavanaugh and his wife, of South Seattle, are defendants in a suit brought in the superior court yesterday by John L. Marsh on a $500 bond given to guarantee the conveyance to Marsh of a lot in Duwamish City. The bond as set out in the complaint is dated August 8, 1892, and acknowledges receipt of $250 from Marsh for a lot to be selected by him as soon as the plat of Duwamish City should be filed. The plaintiff calls attention to the length of time which has elapsed since he paid the consideration, and says that Cavanaugh and wife have so far failed to file the plat for record or to fulfill the conditions of the bond, although often requested to do so, and he accordingly asks judgment for $500.

Wants Mr. Baker to Pay Up.

Rebecca S. Latty, wife of Alexander S. Latty, who died some time ago, commenced suit in the superior court yesterday against Edward J. Baker to recover possession of the premises at 602 Eighth street. She claims that about two years ago her husband leased the property to Mr. Baker for an indefinite time at $10 a month. According to the lease, which was oral, there was due and unpaid August 1, 1895, $170. A demand was made August 24 for the money or the restitution of the premises. Mr. Baker, according to the complaint, still holds possession and neglects to pay the rent. Mrs. Latty wants $50 damages in addition to the full amount of rent.

Laurie Picked His Own Attorney.

Douglas McCombie and William Laurie, charged with grand larceny, were arraigned before Judge Humes yesterday morning and pleaded not guilty. R. R. George, who was assigned by the court to defend Laurie, stated that he had discovered that Edward Hawkins had been looking after Mr. Laurie's interests, and would prefer that a substitution of Hawkins' name be made. The judge granted the request. John Hughes, charged with burglary, pleaded not guilty.

New Suits Filed.

The following new suits were filed with County Clerk Gordon in the superior court yesterday:

Rebecca S. Latty, individually, and as administratrix of will of Alexander S. Latty, vs. Edward J. Baker—$50 damages for detention of premises, and $175 back rent.

Ethel Calvert MacLaren vs. Fred L. Stinson et al.—Foreclosure of $8,391.20 mortgage.

Cecil C. Evers, trustee, vs. Fred L. Stinson et al.—To declare trust deed first lien on premises.

Washington National Building, Loan & Investment Association vs. Levi Shappie et al.—$800 promissory note and to sell stock.

Daniel Jones vs. Hannah B. Dingley—$2,500 damages.

American Savings & Loan Association vs. A. P. Randall et al.—$2,073.60 loan on stock, and to foreclose mortgage.

Puget Sound National bank vs. Z. J. Hatch—$300, promissory note.

Allen & Powell vs. Harkness & Hibbard et al.—$548.60, promissory note, and to foreclose mortgage.

Boston National bank vs. William H. Llewellyn et al.—$7,950, promissory note, $250 attorney's fee, and to sell collateral security.

Balfour, Guthrie & Co. vs. Washington Southern Railway Co.—$3,000, promissory note.

John L. Marsh vs. M. L. Cavanaugh—Suit on bond for a deed.

J. W. Filkins vs. Frank L. Culin—$637.96 on promissory notes and to foreclose mortgage.

Court and County Notes.

Z. J. Hatch allowed the Puget Sound National bank to obtain judgment by default against him yesterday in Judge Langley's court for $316 on a promissory note, and $15 attorney's fees.

Subpoenas were issued yesterday for T. J. Scanlon, W. H. Taylor, Moritz Kiester, James A. Greene and John Kelly in the case of the state vs. Frank Kennedy, charged with assault and battery.

Default of plaintiffs was made yesterday in the cases of H. E. Holmes vs. James Winston Baker et al; Louis Schwabacher et al. vs. William Lewis; K. Gottstein vs. John Ham et al.; Seattle National bank vs. D. T. Denny et al.

County Clerk Gordon received a letter yesterday afternoon from prominent people in Portland asking if Marie Kasprick ever obtained a divorce from Fred Kasprick in this county. The records were searched, but no trace of the Kaspricks were found.

Judge Hanford was applied to for a writ of habeas corpus in behalf of Fukui Moto, the Japanese woman recently arrested on a warrant charging her with having been brought into the United States for immoral purposes. Judge Hanford ordered the writ issued, but as the requisite fees were not forthcoming, it was not served.

Mantels...

GRATES AND TILING.

Z. C. MILES CO., Inc. Yesler Ave., Between Front St. and Railroad Ave. T. F. DAVIDSON, Receiver.

HOLMES' SENTENCE ENDED

His Sufferings Relieved by a Power Higher than the State.

At 11:40 o'clock yesterday morning Willie Holmes, the colored boy who was sentenced to death for killing William Russell, and whose sentence was commuted by Gov. McGraw to life imprisonment, died in the hospital ward at the county jail. While the world outside the prison went merrily on, and the people who had business at the courthouse were passing through the halls intent on business, the scene in the death room was far different.

In the early morning it was apparent that Holmes could not live the day out. His eyes were almost set, and he could hardly speak a word. Servius Rutten, the big woodsman from Kitsap county who has been declared guilty of murder by a jury, was incessantly at the little negro's side, and T. E. Schumacher, the barber who was convicted of arson, was also in attendance.

Holmes knew that he had to die. He felt that the cold hand of death was about to close upon him, but he showed no fear. He asked for Jailer Burkman, and told him in a low whisper that he knew he was dying, and wanted him to promise to send a telegram to his mother at McDonald, Washington county, Pa., telling her what had happened. A short time later Melvin G. Winstock, who had charge of Holmes' case when it was in court, was admitted to the cell. Holmes rolled his eyes slightly when spoken to, but failed to recognize him. From that time on the dying man grew worse, and only once did he rally the least. Then he opened his lips and made an apparent effort to speak to Schumacher. It was no use, for his dry, parched lips gave forth no sounds. He fell back, his eyes rolled in his head, and it was apparent his strength was almost gone.

Servius Rutten commenced to break down and insisted on Schumacher's reading from the Bible. It was a Bible that Holmes had given to the big fellow, but Rutten wanted it to be given back to Holmes and placed in the grave with him. Schumacher then commenced to head the "Sermon on the Mount." Rutten sat as still as death, while Holmes slowly passed away.

The transition was so peaceful that Rutten had no idea that the awful moment had come until Schumacher told him as gently as possible that his little colored friend had gone. The big fellow became like a child, and cried until big tears rolled down his cheeks. Faithful as ever, he remained at his post of duty until the body was removed to Bonney & Stewart's undertaking room.

The expense of taking the body to McDonald, Pa., would be so much that the interment will take place in this city. No arrangements for the funeral had been made last evening.

Notice of Adjournment of Administrator's Sale.

Notice is hereby given that the sale of tracts numbered seventy-six (76) to ninety-five (95), advertised to be held at the corner of Sophia and Rainier streets, in the city of Seattle, on Thursday, the 22d day of August, 1895, having been heretofore adjourned by the administrator to August 28th at the same place and hour, has been and is again adjourned to Tuesday, September 3d, at the same place and hour.

Also that the sale of tracts numbered forty-two (42) to seventy-five (75), heretofore advertised to take place at the corner of Willow and Lewis streets, in the city of Seattle on the 23d of August, 1895, at the hour of eleven o'clock a. m., having been adjourned to the 29th of August, at the same place and hour, has been and is now again adjourned to Wednesday, September 4th, at the same place and hour.

For further particulars as to description, attention is called to the notice of sale published in the Seattle Weekly Post-Intelligencer on July 18, 1895, and thereafter to the time of the sale.

The tracts above described are a part of the Sarah B. Yesler Donation Claim.

JAMES D. LOWMAN,
Administrator of the Estate of Sarah B. Yesler, Deceased.

Cre-ta-ta on the Market.

Webb & Co.'s new baking powder, Cre-ta-ta, about which so many favorable reports have been made, has now been placed upon the market. Messrs. Webb & Co. had Cre-ta-ta most thoroughly tested before placing it on sale, and professional cooks have indorsed it as being a wonderfully good powder. The establishment of such an enterprise as this one of Webb & Co. should receive liberal encouragement from buyers. The plant is already an extensive one, and employment is given to a number of hands.

Cre-ta-ta is a perfectly pure baking powder, and will give thorough satisfaction. Housekeepers should give it a trial.

What the Dredgers Have Done.

Some idea of what is being done by the dredgers in filling the tide flats may be gained from the amount of dirt already handled. Up to Monday over 2,000,000 cubic feet of dirt had been pumped through the pipes. When both dredgers get to work their output will be nearly as great as the increasing demand for the celebrated Rainier beer. It keeps the Seattle Brewing and Malting Company plant going to full capacity to fill orders for Rainier beer.

You Think It Is Something Else.

The "why" of the bad feeling is what puzzles you. It is easy to imagine so many causes, when the real one is indigestion. You think it's something else. The cure is Ripans Tabules. A single tabule gives relief. Ask the druggist.

"Pet Cigarettes"

Have always been the favorite among the better class of smokers.

Now is the time to visit Yellowstone Park. A specially conducted excursion will leave Seattle September 2 in special Pullman cars in charge of Dr. Roland D. Grant, of Portland. Only a limited number will be allowed to join the party. The lowest rate yet named will cover tickets for this party only. For full information apply to I. A. Nadeau, general agent Northern Pacific railroad, corner Front street and Yesler avenue.

In order to raise money at once I will make a limited number of cabinets at $1 per dozen. All negatives made by La Roche, 709 Second street.

Tomorrow night there will be another band concert in front of the Post-Intelligencer business offices.

Last week of opera. Madison park.

DOWN WITH A CRASH.

Came the Madison Street Coal Elevator and Car.

MURPHY'S FORTUNATE ESCAPE.

When the Collapse Came It Sent Him Through a Hole in the Wharf, Thus Saving His Skull.

An accident happened yesterday morning to the Seattle Coal and Iron Company's car elevator at the Madison street bunkers, by which a loaded car fell with the elevator platform a distance of thirty feet, throwing Matthew Murphy headlong through a hole in the wharf to the water, painfully injuring him, and causing John Clark and Fred Woodrow to jump for their lives.

The car on the platform of the hydraulic elevator had nearly reached the landing above, and on top of the coal Fred Woodrow was standing. John Clark and Mathew Murphy were both standing at the east edge of the platform as the elevation was being made. The cause of the accident is not known, but Agent F. A. Bell is of the opinion that one of the weights caught on a screwhead or some other obstruction in its track. This would cause the loaded platform to cant upward at the opposite end, and by this the large center cylinder was thrown from its base and broken.

As soon as the car began falling, Woodrow jumped to the landing, making it safely, Clark leaped safely to the top of the long perpendicular box which encloses the weights and caught with his hands, only getting one hand scraped slightly.

Murphy's Lucky Dive.

Murphy tried to do the same, but missing his object, went head downward toward the wharf, but by a happy chance instead of striking, fell through a hole three feet wide, passing between two heavy timbers and plunging into the water below. He was rescued by two men in a rowboat after fifteen minutes' effort.

The patrol wagon conveyed Murphy to Providence hospital, where his injuries were attended to by Dr. Rufus H. Smith, the company's physician. A small bone in the left shoulder was broken and this, beside a general shaking up, was the only injury. Murphy was seen at the hospital during the afternoon and told the following story of the accident:

He Tells How He Tumbled.

"We had just started up on the first trip with one of the large cars loaded with possibly sixteen tons of coal, and when up four or five feet the elevator quivered and about a second after I felt the car move slightly to the north. Woodrow said 'Something is up,' and jumped on top of the car. By this time we were a little over two-thirds up. The car then tipped badly to the north and enabled Woodrow to jump to the top. I grabbed hold of the east side of the hoist and Clark the west, and almost immediately the crash came. I held on for a second and then fell. From that time on I remembered nothing but hitting the water. The men said I held on to a pile for a minute or so, but dropped back into the water, where I floundered until the boat picked me up.

"My shoulder is very painful and I must have swallowed a gallon of that dirty water. I don't see how I escaped being killed, but I guess it wasn't my turn."

Repairing the Damage.

A force of men removed the coal from the car in the afternoon and succeeded in getting it safely on the track with little damage. It is impossible to estimate the loss to the elevator until the cylinder is taken apart at the joints. The other portions of the apparatus are not so expensive. The repairs will be completed by a week.

Fortunately for the company, the bunkers were well filled with coal and there is plenty to last until the repairs have been completed.

TRYING TO GET EVEN WITH WELLS

The Amorous Minstrel Has His Captor Arrested With Some Difficulty.

Joe Cartwright, the "footlight favorite," arrested on Tuesday by Detective Wells and discharged the next day on a writ of habeas corpus, swore out a complaint before Justice McElwain yesterday morning charging Wells with assault and battery. Wells was allowed to go on his recognizance and will be heard at 10 o'clock next Wednesday.

Before Cartwright swore to the complaint he and his lawyers had made a vain attempt to get Prosecuting Attorney Hastie to issue a warrant, but failed on Cartwright's own statement of the case. Deputy Morris asked them if they had any witnesses and was told they had several. He then told the three to go with him to the witnesses and secure their version of the affair. One of the attorneys immediately had business elsewhere and the other did not care to go, but went after a little persuasion from Mr. Morris. The witnesses were found and each said he had seen Wells taking Cartwright toward headquarters and that his head was bleeding, but did not see Wells hit him. These statements, together with Cartwright's, satisfied Mr. Morris that Wells did his duty in striking Cartwright for refusing to go when told, and he refused to issue a complaint.

CAUGHT AFTER LONG CHASE.

Hagan Takes Bud Cox Back to Snohomish, Ragged and Weary.

Sheriff James Hagan, of Snohomish, passed through the city yesterday with Burglar "Bud" Cox, whom he captured Tuesday in Southern Oregon after a ceaseless chase which began with Cox's escape a few days ago.

A short time since Hagan with Cox, whom he arrested at Mount Vernon, had just arrived on the train at the Snohomish depot, when the wily burglar descended the car steps suddenly and broke through the crowd. The sheriff fired two shots above the crowd, but Cox made his escape to the woods.

Hagan, hot on his trail, has followed him ever since until the capture. As he was transferred to the Lake Shore train yesterday he showed much of the signs of hardship. His clothes were badly rent and worn, and the uppers of his shoes were nearly gone, being secured to his feet by strings. He wore a very good hat, which he pulled tightly over his eyes, but seemed constantly watching for another chance to run. To prevent this, besides putting him in irons, Sheriff Hagan kept his eye on him all the way. The sheriff, too, showed many signs of fatigue.

The Suit Against Coblentz's Bondsmen

County Attorney Ormsbee, of Walla Walla, recently received a letter from Attorney General Jones instructing him to commence suit for the state against the bondsmen of the late Warden Coblentz, of the penitentiary, to recover for his shortage. There seems to be a difference of opinion in this matter, for Mr. Ormsbee wrote to the attorney general and told him, in his opinion, that it was not his place, under the statutes, to commence this suit, and if it was the duty of any county attorney it should be Pierce county's attorney. The law says that the county attorney of Walla Walla shall act for the directors in matters coming directly through them, but in this case the state should bring the suit, and not the directors representing the institution.

A German torpedo boat capsized Wednesday in the North sea and thirteen persons were drowned.

THE VENDETTA CASE.

Hearing of the McCanns for Killing Cicero.

A QUESTION OF JURISDICTION.

Defense Wanted the Avondale Justice to Hear the Case — Evidence of Old Man McCann's Threats.

The preliminary examination of Michael, John and James McCann, charged with killing Joseph Cicero at Avondale on August 20, began yesterday afternoon before Justice McElwain and will probably continue through today. John McCann, who fired the fatal shot, and his father, Michael, who is charged with being an accessory, were present, and nervously watched every action of the eye witnesses and lost not a word. James McCann could not be present on account of his injured arm.

From the very outset it was evident that the defense intends to make a very stubborn fight to save the necks of the accused. James Hamilton Lewis and S. H. Piles have been retained on behalf of the McCanns, and will be assisted by W. H. White. Prosecuting Attorney Hastie and Deputy W. H. Morris are handling the case for the state, and are making an able fight. Their witnesses yesterday gave strong testimony, and try as hard as he would, Lewis could not shake them from their main story.

Justice McElwain, after calling the case on, asked if all the witnesses and defendants were present. All were present but James McCann. Mr. White said he was too ill to attend. Mr. Hastie said he thought he was well enough to attend, and asked that he be brought into court. Mr. White jumped up and said, "Mr. Hastie, if you will go up to the jail I think you will find that what I say is true. He is not well enough to be present."

The court decided to go on with the case without him and called for the first witness. At this point Mr. Lewis asked the indulgence of the court to make a few remarks. He said it was admitted that the killing took place in Avondale, which is out of the city limits, and therefore objected to the court proceeding with the case, as it was out of its jurisdiction. He cited the state law in defense of his objection, and said the counsel for defense would certainly enter an objection against the proceeding should it be held. Mr. Hastie said that was an old question and had often been decided. He maintained that a justice outside the precinct in which the killing was done could bind a prisoner over as well as the resident justice. The motion was overruled.

Mr. Lewis then asked that the witnesses, except the one testifying, be made to go into another room. Mr. Hastie objected, saying that this was not a trial, and there was nothing in the statutes compelling them to go out of the room. The motion was sustained, and the witnesses placed in charge of Constable Van Horn.

Coroner Askam and Dr. Neville testified to the condition of the body and the character of the wounds. The testimony of C. W. Hutchinson and Abner Davis was about the same as that given at the coroner's inquest, and was not shaken materially by the cross-examining of Mr. Lewis.

The state introduced some strong testimony in the persons of Frank Sale and wife. Sale testified that on the day of the shooting Michael McCann came to his (Sale's) house, and told him that Joe Cicero was doing all he could to defeat his son John's election to the position of road supervisor, and that he had a good mind to have Jim McCann knock his brains out, if it cost him his ranch. Sale said to McCann:

"You don't know what you are saying. Don't you know you will destroy two families and leave those three little children orphans." McCann replied: "I know there is a jail there for us."

Mrs. Sale told substantially the same story.

The state claims to have still more damaging testimony, which will be introduced this morning against the older McCann.

HAVE SEEN GREAT TIMBER.

Wisconsin Lumbermen Return Today With High Opinions of Seattle.

Most of the Wisconsin lumbermen who have been spending several weeks looking into the lumber resources of the Northwest came in on the Rosalie from Victoria yesterday, and the whole party will probably leave for home tonight carrying away the most favorable opinion of Seattle. H. H. Foster, one of the party, said yesterday at the Hotel Northern:

"We leave for home carrying the most agreeable impressions of our visit. We have looked right carefully over a large area of timber lands. It is impossible to tell what may be the outcome of our inspection. We did not come as a syndicate, and whatever each of us may conclude to do will be for himself. Of course we find the whole situation here very different from that at home. The size and quality of the timber, the method of working it out, the foreign market, all these present striking points of difference, and go to make up a complicated problem which it will require much thought and calculation to solve correctly.

"I need hardly say that we have been impressed with the vast resources of the Northwest, and with the great achievements of Seattle. We appreciate highly the many courtesies and acts of hospitality that have been extended to us."

A GUN IN THE SHOE BOX.

Its Presence There an Unexplained Mystery to the Salesmen.

"Who put the gun in the box?" is the question that is agitating L. A. Treen, the well-known shoe dealer and his clerks. The gun referred to is a cheap bulldog revolver and it was found in a box containing a pair of men's shoes, by J. C. Mankowski. On August 15 a gentleman went into the store and asked to be fitted to a pair of shoes. Mr. Mankowski walked over to a side shelf and picking out a box that he thought would suit his customer brought it over to him. The box seemed rather heavy, but he paid no especial attention to it until he took out one of the shoes, and there, staring him in the face, was the ugly-looking revolver. He took it out to make sure it was a Tom Blanck-Yerbury gun, and then handed it to Mr. Treen. Nothing was talked of in the store the balance of the day but the incident, and after many theories had been advanced as to how the gun got in the box, it was finally decided that some one living out of town had bought a pair of shoes that did not fit, and in bringing them back to the city placed the gun in the box, intending to take it out when the store was reached, and either forgot it or was afraid to be seen with it.

PET Cigarettes

are again on sale by all progressive dealers.

Best Family Medicine

"I have taken Ayer's Pills for many years, and always derived the best results from their use. For stomach and liver troubles, and for the cure of headache,

AYER'S Cathartic Pills

cannot be equaled. When my friends ask me what is the best remedy for disorders of the stomach, liver, or bowels, my invariable answer is Ayer's Pills."—Mrs. MAY JOHNSON, New York City.

Highest Awards at World's Fair.

GREAT SALMON RUN DOWN SOUND

Sharks in Friday Harbor Nets—A Derelict Gill Net Found.

J. H. West, owner of the steamer Edna, which has been carrying the mail between Anacortes and Friday Harbor in place of the Buckeye, and has just returned here, says that the salmon catch at the Friday Harbor cannery is very large. "Fully fourteen feet of salmon were in the trap at one time," said he, "and they are the most excellent for canning purposes. At one time I saw three sharks in the trap. One was dead, another had just a little life, and the third was very lively. They eat salmon in great quantities."

A salmon gill net which had been lost by some unknown fisherman recently, was found by becoming entangled in the wheel of the Edna. There was nothing to show where it came from except the mark "R. & K," and the fish inside were so much decomposed that Mr. West thinks it may have drifted many miles. He is of the opinion that no boat had been lost in a tide riff, but the net was found in a passage where such a thing might happen. He left it with Mr. Newhall at Friday Harbor.

The Edna will engage in the towing and jobbing business and is now at Myers' cannery.

Last of the Mountain Climbers Home.

Rush McCargar has returned from a trip on his wheel to Mount Rainier. He rode to Longmire's, and then climbed to Major Ingraham's camp at Camp of the Clouds at Paradise Park. From there he went to Camp Muir on the Cowlitz cleaver, at an altitude of about 10,000 feet. He found the wind so high that it would almost lift him off his feet, and the cold is growing so intense as to make the danger of frostbite great. All the mountain climbers have left, and Paradise valley is deserted except by Capt. Skinner and his assistant at Ingraham's camp.

Firemen Entertain Their Chief.

The Seattle members of the Brotherhood of Locomotive Firemen gave a banquet to Vice Grand Master Charles W. Maier Wednesday evening in the grill room of the Butler. The arrangements were all of a generous order, and made up a graceful act of hospitality to the visiting officer.

BREVITIES.

A permit was taken out yesterday by Charles Rice to build a two-story frame residence on Kilbourne avenue, lot 13, block 14, Denny & Hoyt's addition, to cost $1,200.

The Chamber of Commerce immigration bureau committee will meet today for the purpose of taking final steps to complete Seattle's part of the fund for the establishment of the state bureau in Chicago.

W. B. Curtis has been elected traffic manager of the Southern Pacific company to succeed Richard Gray, and will begin his duties on September 1. He has been for years in the employ of the Central and Southern Pacific companies.

Fire at Hooge, North Brobant, Holland, Thursday, destroyed forty-three houses. Fifty families are homeless. There was no loss of life.

Hercules Belonged to No Club.

But a club belonged to Hercules. You will never be able to wield a club in as lively a manner as that ultra-muscular chappie, but you may recover physical energy through the use of Hostetter's Stomach Bitters, if you will take that thorough tonic with regularity and persistence, not spasmodically—by fits and starts. Begin at once if vigor is failing you, for debility is the certain parent of disease, so that delay is dangerous. Digestion, the function through the perfect discharge of which vigor is renewed, is insured by the Bitters. So are appetite, sleep and nerve quietude. For constipation, malaria, rheumatism, kidney and bladder trouble and biliousness the Bitters is unqualifiedly the best remedy extant. The restorative effects of a wineglassful three times every day will soon make themselves manifest. Fortify the system and grow strong.

ELECTROTPYING

STEREOTYPING

The only foundry in the Northwest. Engraving in all its branches. Modern machinery, skilled workmen, prompt delivery, lowest prices. We make a specialty of Printers' Commercial Work, Book and Embossing Plates, Box Brands, Soap Labels and Stamps. Advertising Cuts, etc., etc. Estimates furnished.

AMERICAN TYPE FOUNDERS' CO., Palmer & Rey Branch, Electrotypers and Stereotypers, Portland, Oregon.

Artists' Violin Strings

Are unsurpassed. We have just received another shipment of these strings from Germany. Everybody uses them.

WINTER & HARPER,
Burke Block, 903 Second St.

University Opens September 2.

We have the complete list of Books and Supplies.
Largest stock and variety.

LOWMAN & HANFORD,
Stationery & Printing Co.,
616 Front St., Pioneer Place.

The New Hats

FOR THE FALL SEASON ARE ON SALE TODAY.

The Styles

ARE CORRECT AND ARE VERY ATTRACTIVE.

The Price

IS $4.00 PER ONE.

Our Hats

ARE MADE TO ORDER FOR US AND BEAR OUR OWN NAME AND TRADE-MARK, A GUARANTEE OF QUALITY AND STYLE.

CHEASTY'S

S. W. Cor. Second and James Sts.

MODERN HATTERS.

This extraordinary Revivifier is the most wonderful discovery of the age. It has been endorsed by the leading scientific men of Europe and America. Hudyan is purely vegetable. Hudyan stops Premature Discharge in 20 days. Cures LOST MANHOOD

Constipation, Dizziness, Falling Sensations, Nervous twitching of the eyes and other parts. Strengthens, invigorates and tones the entire system. Hudyan cures Debility, Nervousness, Emissions, and develops and restores weak organs. Pains in the back, losses by day or night stopped quickly. Over 2,000 private endorsements.

Premature means impotency in the first stage. It is a symptom of seminal weakness and barrenness. It can be stopped in 20 days by the use of Hudyan.

The new discovery was made by the Specialists of the old famous Hudson Medical Institute. It is the strongest vitalizer made. It is very powerful, but harmless. Sold for $1.00 a package or 6 packages for $5.00 (plain sealed boxes). Written guarantee given for a cure. If you buy six boxes and are not entirely cured, six more will be sent to you free of all charges.

Send for circulars and testimonials. Address HUDSON MEDICAL INSTITUTE, Junction Stockton, Market and Ellis Streets, San Francisco, Cal.

THE RAINIER-GRAND HOTEL

DeL. HARBAUGH, Prop.

The Only Strictly First-Class Hotel in Seattle

Located on Front St., Between Madison and Marion.

AMUSEMENTS.

Grand Annual Labor Day Ball

—AT—

LESCHI PARK PAVILION

Monday Evening, Sept. 2.

Music by First Regiment Orchestra.

GRAND MARCH AT 9 O'CLOCK.

Valuable door prizes for ladies and gentlemen.

Extra cars will run until close of ball.

Tickets, 50c. Ladies free.

Sunday and Labor Day

EXCURSION!

2-DAYS' OUTING-2

Down the Straits to Port Angeles on the Handsome Steamer : : : : : : : : : :

George E. Starr

Fare, Round Trip, **$1.50.**

Round trip tickets, including meals and stateroom, also the grand ball on Monday night, $2.

Boat leaves Arlington dock Sunday at 2 p. m.

Tickets and staterooms secured at the Northern hotel.

FRED L. PRESBREY, Manager.

Any tendency of a cold toward pneumonia is prevented by Chamberlain's Cough Remedy. A 50 cent bottle of it will cure your cold.

Children Cry for Pitcher's Castoria.