

JOHN DAY WILL GO UP FOR TRIAL

MAGISTRATE HOLDS PRIMA FACIE CASE IS MADE OUT

Charge Against Richards is Withdrawn—Other Charges Are Not Pressed

(From Wednesday's Daily.)

During arguments for admission of evidence against John Day... Magistrate Jay was led to interrupt with the remark that the only evidence against Day was that he told Bullock he was going to bring some goods to the Victoria Machinery depot...

The prosecution having brought its case to a close an hour later, Stuart Henderson addressed the magistrate and said that from the tenor of his worship's remarks...

In addition to Bullock the prosecution called five witnesses to close the case against Day. These were William Etheridge and George Honshaw...

Bullock was recalled to the witness stand to say there were no other candles purchased at the machinery depot while he was there as storekeeper...

George Henshaw had seen candles-boxes marked H. M. S. Sherry at H. M. S. Algerine, and H. M. S. Egeria among the Victoria Machinery depot stores...

Constable O and Detective Carlow swore to the execution of the search warrant on April 6 and the recovery of paint and candles under Bullock's direction...

Witness Etheridge had seen candles similar to those produced in court put in sacks after April 1 at the machinery depot.

Charles J. Savage testified that the invoice produced by Day had been paid. He never saw the goods mentioned in it, but it was passed by the storekeeper Bullock and paid by cheque for \$177 in September last.

On April 29 he took two cheques from the Victoria Machinery depot and one from John Day each for \$1,000, the collector of customs. He received Day's cheque from Day.

The case against Oliver Richards, an employee of the Victoria Machinery Depot, arising out of the customs seizure of goods there, was withdrawn by the prosecution as soon as Day was committed, Mr. Alkman announcing that the prosecution had not sufficient evidence to warrant a hearing of the case.

Mr. Alkman announced further that the remaining charges against C. J. V. Spratt and William Houston would be withdrawn for the present, as the crown had obtained commitments against both, and the prosecutions were not intended to be vindictive, but in the interests of justice.

Magistrate Jay, having heard H. D. Helmcken, K. C., and Stuart Henderson for accused, and Stuart Henderson for the prosecution by Hon. C. E. Pooley, K. C., said his responsibility lay in deciding if a case had been established that should be sent for trial. It was not necessary for him to see the evidence was sufficient for a conviction. There was no doubt that in September last year Day had delivered a stock of paint and candles to the Victoria Machinery Depot, and that he had been paid for them. It had been objected there was no evidence of theft. There was no evidence that the specific goods in court were stolen, but there was evidence from Commander Vivian that about the time Day sold the consignment there had been paint stolen from the navy yard and one man had been sent to jail in connection with that theft. It was objected that there was no evidence of knowledge on Day's part, but it was not necessary for him to decide that.

The fact of Day's knowledge may be proved circumstantially, said the magistrate, "by showing the goods were bought under their value. There was circumstantial evidence that stores had been seized by the customs and Day had felt bound to put up bond. There was also the fact that the goods were sold considerably below the English cost price and without the consideration of the freight and duty charges."

Mr. Henderson—There is no duty on these goods.

Mr. Alkman—Then why did Day pay \$1000 to the customs?

Mr. Jay, continuing, said he thought it was only for him to see if there was sufficient evidence to commit the accused, and at that stage he thought there was.

Counsel intimated there would be no evidence in the lower court for the de-

fence and the formal commitment was made, with permission to arrange bail before a judge this afternoon.

DEPENDS SUNDAY BASEBALL

Sacramento, Cal., June 28.—Prefacing his sermon with a recitation of "Casey at the Bat," Rev. Franklin Baker pastor of the First Unitarian church, Sunday night spoke to a crowded house in defence of Sunday baseball, declaring that the \$15,000,000 spent for baseball last season was better expended than the same sum in foreign missions and that the game is "America's mental shower bath."

Declaring that the worship of one day instead of seven, "belongs even now to the theological junk pile," Dr. Baker called attention to the large salaries paid to league players and the enormous sums annually by the American people in witnessing their chief source of amusement.

Dr. Baker is an enthusiastic fan and an ex-ball player, and his discourse lacked none of the modern baseball vernacular. "To the pure all things are pure," and the Old Testament words, "Remember the Sabbath day to keep it holy," were the texts of his sermon.

RUPERT GOES INTO DOCK AT ESQUIMALT

Has Hull Scraped and Painted—Henriette Loading Big Lumber Cargo for North

(From Wednesday's Daily.)

After having her hull scraped and painted, the Grand Trunk Pacific steamer Prince Rupert, Capt. Barney Johnston, will be floated out of the Esquimalt dry-dock this evening. She will then proceed to Nanaimo to bunk up and will return to Seattle to take the northern sailing on Sunday night. She will call here on Monday morning as usual, and will run through to Seattle inaugurating the season's weekly service between this port and the Portland Canal town.

Repairs to the Rupert at Seattle were just completed a few days ago and she came to Esquimalt for painting. For nearly three weeks the Rupert has been in the dock having her boilers repaired, and it is now believed that the seat of all former trouble has been remedied and that the Rupert will be able to continue throughout the summer without any more lie-ups. A large sum has been expended on the steamer and she is now in first-class shape.

With the Prince George she will now run through to Stewart until the travel to the north begins to fall off, when one of the boats will be withdrawn and all attention will be paid to Prince Rupert.

The steamer Henriette is due to arrive here to-night from northern British Columbia ports to load 100,000 feet of lumber for Prince Rupert. The little steamer is having a strenuous time in keeping up to the demands of the route and it is already seen that a larger vessel is needed. As soon as the Prince John reaches here from Scotland the Albert will replace the Henriette and a better service given. The John is expected about the end of next month.

AERIAL FLIGHTS IN FRANCE.

Roubaix, France, June 28.—Great crowds attending the Roubaix exposition were massed in the aerodrome now the exposition grounds to-day to welcome the competitors in the international circuit aviation race. Vedrine was the first to arrive, reaching here at 11:04 o'clock, and winning the honor share of the \$3,000 prize given by the aviation committee of the exposition for the fourth day's flight.

To-day's stage was from Brussels to the aerodrome here. The aviators were sent away from the start at minute intervals from 10 o'clock. Beaumont took the air first and was followed by Wynne, Vidart, Vedrine, Renaux, Gilbert, Kimmerring, Duval, Perlot, and Gernmalen in the order named. Close behind Vedrine at the finish was Garros, who arrived at 11:11 o'clock. He was followed in the order named by Kimmerring, Beaumont, Vidart, Renaux, Gilbert and Wynmalen.

MEMPHIS ROMANCE CAUSES SENSATION

Society Girl Marries Carolinian, Leaving British Columbian Fiance Awaiting Her

Memphis, Tenn., June 27.—The surprise here, when reports spread that the marriage of Miss A. Caldwell to Elmore Lowell Staples, of Wycliffe, B. C., would not take place deepened into a sensation when it was learned that the young woman, for whom a large bridal party had been arranged, had become the wife of another than her fiance.

Miss Caldwell left her home early Monday morning, ostensibly to go shopping. T. B. Caldwell later received a message from his daughter saying she was in Corinth, Miss., and had a few moments before been married to Gilliland Stikeleather, of Asheville, N. C. Mr. Caldwell was shocked and the mother of the bride prostrated.

Efforts to reach and stop Staples en route to Memphis were futile, and when he arrived at the Peabody hotel he was told by Bartlett Tully, who was to have served as best man, that his bride had gone off as the wife of another man.

Stikeleather's family is an aristocratic one in North Carolina, but nothing further is known of him. Miss Caldwell is the daughter of a prominent family in Asheville. Staples is a man of means and culture, and had in waiting for his intended bride a handsome home.



SKIDEGATE CONCERT BAND

The above photograph of the Skidegate Indian Band was brought from the Queen Charlotte Islands by Geo. E. Winkler, of this city, who has just returned from examining some mining property in that district.

This is the band that won the Grand Challenge Cup at Prince Rupert on May 24 last in competition with Indian bands from Port Simpson, Metlakatla, Greenville, Kinloch, Kitkatla and the Naas River.

The cup was awarded them for their rendition of the "Bridal Rose Overture" by Lavelle.

Each bandman was presented with an engraved silver medal in commemoration of the occasion and the conductor, A. Solomon, received a gold medal. He is a former Victorian, well known to many musicians of this city. The success of the band was largely due to his able and conscientious training.

The bandmen's suits are dark green with gold trimmings, and their smart appearance on parade was much commented on at Prince Rupert.

RECIPROCITY DEBATE IN U. S. SENATE

Iowa Senator Offers Amendments to Agriculture Provisions of the Bill

Washington, D. C., June 28.—With a continuation of the debate on the Canadian reciprocity bill, the speech of Senator Cummins of Iowa was the fixed event of the Senate to-day. Senator Borah of Idaho, whose speech was interrupted by the storm that swept over the capital yesterday and caused a quick adjournment of the Senate because the proceedings could not be heard, expected to continue his remarks if Mr. Cummins yielded the floor during the afternoon.

The session was figured as an anti-reciprocity day from the Republican insurgent's standpoint. It was expected also that Senator Owen's speech on the commission form of government would be delivered if the opportunity offered.

Referring to the Canadian bill as "the drama now in progress in the Senate of the United States," Senator Cummins offered important amendments to the agricultural provisions of the reciprocity measure.

Senator Cummins's amendments proposed to admit free from Canada both raw and manufactured agricultural products, including fresh meats, canned meats, barley, malt, steel, iron, woolen goods, cotton goods, silk and leather goods. The amendments apply only on the American side of the line.

Senator Cummins said it was apparent Republicans and Democrats favoring the bill had determined to drop the repeated statement that the president would accept no amendments to the Canadian agreement. "I make no comment on this situation," said he, "save that it seems to be an abdication of the duties of the Senate and an abandonment of its responsibility."

Senator Bristow of Kansas, insurgent Republican, declared that President Taft does not represent the majority of the Republican party on the reciprocity bill. "He does not represent the majority of Republicans in the House or in the Senate," said he, "and I do not believe he represents a majority of Republicans of the country."

CHILD DROWNED.

RECORD NUMBER OF CABIN PASSENGERS

The Olympic Carries 2,205 Persons on First Trip From New York

New York, June 28.—The largest number of cabin passengers that ever left this port on a single ship boarded the White Star liner Olympic to-day to sail for England. The Olympic, the largest steamship afloat, starts the second half of her maiden trip, with 2,205 passengers in her three cabins, besides sixty maids and valets.

This followed the reading by the clerk of the announcement by Clarence Darrow, J. H. Harmon, Joseph Scott and Leconte Davis, attorneys for the McNamara brothers, that they would not permit Mrs. McManigal to go to the grand jury room again except by direct order of the court. The prosecution also alleged that the defense refused to permit McManigal, the alleged confessed conspirator, to see his children, despite his frequent requests.

WHI Institute Proceedings.

Los Angeles, Cal., June 28.—(Later) Attaches of the district attorney's office announced that every attempt would be made to institute contempt proceedings to-day against Mrs. McManigal unless she experienced a sudden change of front and evinced a willingness to answer questions before the grand jury.

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The bank clearings for the week ending Tuesday were \$2,538,000.

HOUSES FALL INTO HARBOR

Los Angeles, Cal., June 28.—Eleven houses in San Pedro toppled into the harbor last night, and another building, a large apartment house, is momentarily in danger of doing the same thing. Through the operation of a government dredger in sucking away the silt from the bank, the foundations under the houses became weakened and all of the inhabitants moved out last night. Soon after the buildings began to settle and one by one toppled over into the ocean. Most of

RUN DOWN BY TRAIN

Seattle, Wash., June 28.—While making his way towards the city on the Northern Pacific tracks, George Brokovic, a Russian laborer, of Vancouver, B. C., was struck by passenger train No. 21 and instantly killed at the Vanassett crossing. The body was taken to the Noyo morgue at Georgetown, and a search of the victim's clothes revealed the identity and the fact that he was a member of the Industrial Workers of the World, branch No. 23, of Vancouver, B. C.

SOUTH PARK SCHOOL WINS MUSICAL SHIELD

Lieutenant-Governor's Trophy Secured by Ten Points Over Last Year's Holders

As previously mentioned in the Times the Lieutenant-Governor's shield, the trophy for the annual musical competitions in the city schools, was won by South Park. Last year it was held by the North Ward school.

The judges of the competition were Gleason Hicks and J. G. Brown. They stated in their report to Chairman Geo. Jay that special mention should be made of the singing of the Kingston street school, which received second place. This is one of the smaller schools of the city, and the pupils are all of tender age, in spite of which they won second place against such opponents as North Ward and the Central schools.

The judges also add that the singing of the pupils of the South Park school was a real treat, the quality of tone and the pronunciation would do credit to any choral society. For each of these points the school received full marks. No school received full marks for attack, which is a difficulty with experienced singers and requires the most constant care on the part of teachers and conductors.

The singing of all the schools was of a high order and reflects great credit on H. J. Pollard, the instructor and conductor. The effects of his work will be manifested more fully in years to come. The decisions of the judges were unanimous in every case.

Marks were awarded on the following basis: Tone, 40; attack, 20; attention, 20; and pronunciation, 20. The results follow:

George Jay school—Tone, 35; attack, 15; attention, 20; pronunciation, 15. Total marks, 85.

Girls' Central school—Tone, 25; attack, 15; attention, 10; pronunciation, 15. Total marks, 65.

Boys' Central school—Tone, 20; attack, 10; attention, 15; pronunciation, 10. Total marks, 55.

Spring Ridge and Rock Bay schools did not enter the competition.

MASQUERADED AS BOY.

Woman Has Posed as Her Husband's Brother for Seven Years.

LONG BEACH, CAL., JUNE 28.—Mrs. Roy Ballou is no longer a "boy," after seven years of posing as her husband's brother, during which time she worked as a boy on Ballou's crabfish crew.

Mrs. Ballou was taken into police headquarters and told her story. She said she was being followed by a man she thought was a detective, and she decided to end her duplicity.

While a girl in a convent, her heavy bushy hair proved difficult for her to handle, and she had it cut off. It was then she decided that she would make a better boy than a girl, and she began to dress up and make short trips to the islands. It was on one of these trips that she met Ballou and they were married.

Once she was put ashore off Point Loma as a dynamite suspect operating against the Theosophists' institution there, but was released, when Dr. Alexander W. Foster was a member of the American Medical Association has to perform.

Long Beach, Cal., June 28.—Thousands of visiting physicians and their wives filled the auditorium Thursday when retiring President William H. Welch called the meeting of the American Medical Association to order.

The feature of the general meeting was the address of Dr. John B. Murphy, of Chicago, the incoming president. Dr. Murphy dwelt at length upon the responsibility of the American public to patronize quacks and freak methods of healing, and declared that the legitimate medical profession was itself to blame.

Health has received more attention than dress up and make short trips to the islands. It was on one of these trips that she met Ballou and they were married.

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SUPPOSED MURDERED MAN IS ALIVE

Disappeared Six Years Ago—Police Receive Note Which Clears Up Mystery

San Diego, Cal., June 28.—District Attorney H. B. Utley has taken the sworn deposition of David W. Church, who was at Lower California, when Dr. Alexander W. Foster and two other Americans were shot by a band of Mexican scouts from Ensenada. Church states that he was located in a grocery store. The mystery surrounding the alleged murder of the "Theosophists" institution there, but was released, when Dr. Alexander W. Foster was a member of the American Medical Association has to perform.

Sherbrooke, Ont., June 28.—C. G. Weymouth, supposed to have been murdered over six years ago, has been located in a grocery store. The mystery surrounding the alleged murder of the "Theosophists" institution there, but was released, when Dr. Alexander W. Foster was a member of the American Medical Association has to perform.

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APPEAL IS HEARD IN FALKNER CASE

Also Alleged That Finding of Jury Was Contrary to the Facts of the Case

JURISDICTION OF THE ATTORNEY-GENERAL

A special sitting of the court of appeal was held to-day to consider the appeal of G. L. Falkner against the recent decision of the Assizes which sentenced him to seven years' imprisonment. H. A. Maclean, K. C., appeared for the prisoner appellant, and L. W. R. Moore represented the Crown.

Mr. Maclean had several arguments to advance in support of his application for a new trial. He contended that the bill of indictment had not been properly laid in being ordered by the acting attorney-general, Hon. W. R. Ross; that the bill was a radical departure from the commitment; that the acting attorney-general's instructions had been issued to "counsel for the crown" without specifying which of the two counsel acting for the crown at the recent assizes; and furthermore, that the finding of the jury was contrary to the facts. Preferring the bill of indictment by the acting attorney-general cut the prisoner out of the right to question the regularity of the preliminary proceedings, he contended.

Perhaps the most interesting point raised by Mr. Maclean on the public point of view was in regard to the jurisdiction of the acting attorney-general. The Criminal Code says that the attorney-general, solicitor-general, or quasi-judicial function so far as a bill of indictment, and Mr. Maclean argued, and submitted authorities in support of his argument, that there could be no delegation of this judicial, or quasi-judicial, function so far as the attorney-general was concerned. He quoted a recent Supreme Court of Canada judgment, arising out of the preferring of a bill by the deputy attorney-general, of Saskatchewan, in which case their lordships laid down that this is "a function which the attorney-general must personally discharge, and which he cannot delegate."

Justice Maclean recalled the appeal case of Rex v. Nar Singh, in which he had held that "the police magistrate of Vancouver" is that person and no other; that he is persona designata, and there could be no substitution for him.

The crown relied upon the clause in the Interpretation Act which extends the powers of a minister of the crown to do any act which is necessary for him, and also his deputy.

In reply to this argument Mr. Maclean argued that it did not apply to the Criminal Code.

The appeal is still at hearing.

MURDER SUSPECTED.

Body of Old Man Found Buried—Authorities Searching For Former Employee.

Vancouver, Wash., June 28.—The body of Robert Barhyde, a bachelor aged about 60 years, has been found buried near the foot of Bell's mountain, 25 miles from Vancouver.

The home of the old man was burned to the ground on June 1. Sheriff Cressap and Constable Knapton were called to the scene and are positive that the old man was murdered. The authorities will make an effort to locate a young man named C. W. Hammond, who worked at Barhyde's and who disappeared on the day of the fire.

The condition of Barhyde's body indicates that death occurred about a month ago. Barhyde was reputed well to do, and was commonly supposed to have always had a large amount of money on his premises. When Hammond left the ranch he drove away with Barhyde's election.

ALLEGED ELECTION FRAUDS.

Overseer Voliva and Supporters Indicted.

Waukegan, Ills., June 28.—Overseer Wilbur Glen Voliva and 180 other officers and members of the Christian Catholic church have been indicted at Zion City, charged with perpetrating election frauds at Zion City elections April 6 and 8, involving in part control of the church founded by the late Alexander Dowie. It is said that Voliva and his co-workers in the election brought members of the church from all parts of the country, including San Francisco, Portland, Oregon, and other cities to vote.

SEEKING INFORMATION.

Washington, D. C., June 28.—As a sequel to the decision of the Cunningham Alaskan coal land claims, Senator Poindexter of Washington, yesterday introduced a resolution which was immediately passed calling upon the President for available information as to the alleged effort of the Controller Railroad Company to monopolize the waterfront of Controller bay in Alaska.

The bay is the natural outlet of the rich Behring river coal fields.

JEWELRY SMUGGLING.

New York, June 28.—Customs officials are seeking to-day for evidence that would lead to light every phase of the Jefferson and Hamilton jewelry smuggling case, where ramifications are now said to involve a prominent New York financial man, the New York Times, and the best of the father of the scheme whereby the goods valued at nearly \$2,000,000 were smuggled into this country. Two and possibly more customs officers are said to be in the plot.

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