

witness has been sick for several days and spoke in a voice hardly louder than a whisper. For the first time since the trial began one of the jur-ors asked the court for permision to speak and then requested that what the witness had just said, "something about \$2,000, be repeated. The jury as well as the crowd leaned far forward to catch every word of the witness' story. Not a sound could be heard other

Not a sound could be heard other than the voice of the district attor-hey and the witness as the vital statements came out, one by one. Bell, or St. Clair, is not talkative, and the district attorney had to go over the ground slowly, asking sometimes a dozen questions to bring out testi-mony covering a meeting; but when Bell says a thing he looks straight in-the eyes of the district attorney and speaks in a sure, convincing manand speaks in a sure, convincing man

MORE COMING.

His story this morning took his hearers to the Antler rooming house, over to the police station; into a Sec-ond hand store, where the alleged bille was paid; and finally down to the depot, where the Scotchmen were shipped to the coast. As he was starting to tell about notifying Sheets that the Scotchmen, as he designated that the Scotchmen, as he designated the two McWhirter brothers, had come brack, an adjournment until 2 o'clack was taken, when his story will be completed. be completed.

BELL TELLS STORY.

William St. Claire, alias Bell, was placed on the stand at 11:20 to tell for the first time his story. St. Claire said his home was at Riverton, Wyo, but his present residence is the coun-by Jail, city. The witness said he-was is the Antler rooming house with Larry O'Brien, Donaldson and Wil-liam Parrent. He was asked to come up at the second of the Larry O'Brien, Donaldson and Wil-lam Parrent. He was asked to come up at the request of O'Brien, who met Parrent and the witness in front of the Dooley block. After considerable talk between Parrent and St. Claire the Dooley block. After considerable talk between Parrent and St. Claire the Dooley block After considerable talk between Parrent and St. Claire the Dooley block After development of the come Bell with the MeWhirters left and marched around town, finally going to the Cui-len, where the McWhirters got their stips After visiting a few saloons they got on a car, got off, visited a few more saloons and then went to the Sanitarium, where they met Parrent. From the Sanitarium the party now swelled by one member Parrent, went to the Federal building mito a drug store, where Bell said the called "25" and talked mith Chief into a drug store, where Bell said he called "75" and talked with Chief Sheets. "I told him I had the Scotchman with me."

"BRING HIM OVER."

"Bring him over," said the chief, his brother's been here, I've heard all out it." "His h

"Then I took McWhirter over to the "The station," continued Bell. "We block station," continued Bell. "We further there about 5 o'clock in the fitemoon, McWhirter and I peached the police station together. Sheets was stunding in the main entrance, we stood in the hallway. I said, 'Are the chief? 'Yes,' he said. This you the chief? 'Yes,' he said the ken of the chief? 'Yes,' he said the sample of the chief to the sample '' answered the chief. "To this man a policemen?' said the southment, pointing to me.

out and then went back. This was about lunch time. I went to the Sani-tarium when I had closed the deal. MET HIM IN CAFE.

"I next met Sheets in the Chesapeake restaurant. I told him that I felt the McWhirters would come back. He said McWhirters would come back. He said he regretted it: that were they to tell their story to some intelligent man they couldn't get back fast enough. 'They would go right to the sheriff,' he said. He seemed greatly worried.

CHANGED \$1,000 FILL.

"I met Sheets a few doors east of the Chesapeake later and he asked me to change a \$1,000 bill for him, I went to the bank on the corner and brought the change in a roll of \$500 and the other half in twenties. "On the 21st of September I talked with Sheets. This was the night the

with Sheets. This was the night the Scotchmen got back-two, three or four days after the lunch at the Chesapeake. I know it was a Monday night as I was going to the show with my wife. I told him the Scotchmen were in town. 'I'm leaving town, good bye,' I said. 'I had seen the Scotchmen just pre-

some one with them whom I didn't recognize.

WILLIAM M'WHIRTER.

William McWhirter's cross-examina-William McWhirter's cross-examina-tion was resumed this morning, with Atty. Wedgwood in the role of question-er. The visit of the younger McWhirter to the police station after the robbery was gone into in detail. William said he went into the desk sergeant's office and told Sergt. Hempel what had hap-road. The two then went into the pened. The two then went into the chief's office. When Sergt. Hempel told Sheets the young man had lost

toid sheets the young man had jost over \$10,600. "My God, how did you happen to have such an amount?" said the chief was McWhitter's statement. Atty, Wedgwood read a transcript taken be-fore Judge Whittaker in which Me-Whitter is quoted as saying "The chief said, 'In the name of God how did you lose such an amount of money?" lose such an amount of money

lose such an amount of money." Atty. Wedgwood wanted this discrep-ancy explained. "I have given you the tenure of the chief's remarks. If I said 'lose' instead of 'have' it was a mistake. Sergt. Hempel told me to tell the chief all about it so I told him just what I had narrated to the sergeant bimself. After some more remarks the what I had harated to the sergeant himself. After some more remarks the 'phone rang and the chief answered it. Upon coming back he turned to the sergeant and asked if anyone knew about the affair. Sergt. Hempel told him there was and I was told by the chief to keep still about it. This was to the sergeant's presence."

chief to keep still about it. This was in the sergeant's presence." When checked up to the word by Atty, Wedgwood on his testimony this morning and that of a number of months ago, Mr. McWhirter said his perception is clearer now.' These dis-crepancies bore upon statements made as to just what the three parties said.

DENIES CONVERSATION.

"Didn't Sergt. Hempel suggest that bu had better stay over for a day or and hadn't he better try to get their

er said he could not. When the attor-bey insisted Mr. McWhirter retorted: "You will have to do better. You have an impediment of speech which I can't understand; you have a thick way of talking." Later he said with a smile. "And I am dense, you know."

> STIFF CROSS-EXAMINATION. The witness was under cross-exami-nation for an hour during which time he built up his testimony in answer-ing questions intended to weaken it. County Attorney Hanson had charge of

the redirect examination. This lasted but a few minutes and gained admis-sion of considerable evidence taken before Justice Bishop for the prosecu-

tion. Attorney Wedgwood in re-cross read from the Whittaker transcript to get the witness's final word upon the this point; as to whether Sheets suggested to Raleigh, to take the boys out and see what he could do for them, or whether Raleigh made the suggestion. In the case now in progress McWhir-ter said Raleigh made the suggestion. He stood on this, saying he jumped to the conclusion that Raleigh would not act without orders from the chief. The witness was excused, with the under-standing he may be recalled. CASE SHAPPES ITSELF.

CASE SHAPES ITSELF.

Three important witnesses have tes-tified in detail as to the poker game and subsequent events. The evidence has been corroborative and has withstood the most persistent efforts to break or

weaken Alexander McWhirter told how he and his brother were enticed into room 4 of the Antler hotel and gradually led 4 of the Antler hotel and gradually led into a game of "hokey pokey" in which Alexander McWhirter lost \$2,000 to "Dr." Jim Donaldson. This was fol-lowed by the atrival of Parrent and Bell. Parrent posing as a polloeman. took \$5,000 away from the elder Mc-Whirter, giving a receipt signed. "A. Hemingway;" and saying the money could be obtained in the police station. Later the scene was the chief's of-fice in the station where Bell, the two McWhirters and George Sheets had a conference.

conference. This was the substance of the story told by Alexander McWhitter Tuesday told by Alexander McWhitter Tuesday and repeated during cross-examination yesterday morning.

DONALDSON'S STORY.

"Dr." Jim Donaldson, under sentence of 10 years for complicity in the Mc-Whirter robbery was the second wit-ness for the state yosterday. Donald-son seeks to professes to know nothing of the hold-up after the poker game and claims he won the \$2,000 in what he believed an honest game. He told of frequent conversations with George Sheets in which the cut of the "haul" was discussed. So far as legal knowlwas discussed. So far as legal knowl-edge is concerned, the "doctor" could not say that he had ever seen any money paid Sheets, nor knew anything of anyone giving the chief money. WAS STATE'S DAY.

William McWhirter, the younger of the two Scotchmen, was a third wit-ness and he corroborated his brother's testimony in toto. Yesterday was the state's day. Don-

so and hadn't he better try to get their tickets extended?" "It's a fabrication! There was no such conversation on this subject." While Atty. Wedgwood was asking one long question, William McWhirter

Grover Cleveland Exercised Clemency For Bacon Convicted of Violation

(Special to the "News.")

Of Banking Laws-

Washington, D. C., Feb. 20 .- Mr. Roote of Butte, Mont., is here in the interest of R. B. Shepard of Salt Lake, who is under sentence for violation of the postal laws. It appears from state ments made that Shepard was a law-yer in Salt Lake; that he was known as one of the most prominent collect-ors of rare books in the west. Some years ago he decided to go into business as a book. seller. The postofice inspector, evi-dently desiring to lay a tran for bin dently desiring to lay a trap for him, wrote from Denver asking Shepard where he could obtain certain pooks of where he could obtain certain books of an crotic character. Shepard relied that might be procured in Paris. This, it appears, was a violation of the law. Shepard was indicted, tried, convicted and sentenced to a term in the peni-tentiary. The higher court declined to reverse the judgment of the trial court and now Mr. Roote is here to urge the president to errat a nardon

president to grant a pardon. Roote is fortilied in his appeal by letters from jurors who rendered the verdict, the judge who pronounced senverdict, the judge who pronounced sen-tence and scores of the best citizens of Salt Lake. Senator Borah, who has known Shepard for many years, said today that he will do all in his power, because he believes Shepard is abso-lutely innocent of any intentional wrong doing. There is a precedent for a pardon before the convicted man be-gins his term of imprisonment, and it is peculiar that it is another Salt Lake case which affords the precedent. It is that of Bacon, who was pardoned by President Cleveland, after conviction for a technical violation of the banking or a technical violation of the banking laws.

FLEET NEAR COLLAO

Battleships Sighted This Morn-

ing-Admiral Evans Gives

Command to Thomas

charge of the vessels.

sels.

were crowded with passengers

who are cager to witness the arrival of the American war ves-



Andover, Mass., Feb. 20.—The will of Vernum Lincoln, just probated, leaves \$500 to the treasurer of the town of Andover in trust for the purpose of providing prizes for the annual old fashioned spelling matches. It is pro-vided that the matches shall take place in a public hall here, the contest-ants being between 10 and 18 years old, the old-fashioned method of "choosing up" to be used. Prizes of \$10, \$6 and \$4 are to be awarded yearly to the three who are last to be "spelled down." Andover, Mass., Feb. 20 .- The will of

CONDUCTOR'S HEROIC ACT.

Butte, Mont., Feb. 19.—A special from Missoula to the Miner says: Five railroad men, who were over-ome by gas last night in the Mullan tunnel, narrowly escaped death by as-phyxiation, and one of them is not yet at of danger. An excentionally beavy at of danger. An exceptionally heavy train, drawn by an engine and a helper, stalled last night in the middle of the numel. Conductor Dishmon was in the caboose, and realizing that something was wrong, he climbed over to-ward the engine and found both crews unconscious. The train by this time was backing down the steep time was backing down the stee grade of the mountain and gaining mo

nentum every instant. Dishmon ap-blied the air and succeeded in stopping he train a short distance from Bloss-ourg. He secured assistance and efourg. irts to revive the men were under

Detroit, Feb. 19.—S. G. Goldberg, of he firm of Goldberg Bros., operating a true department store today, announcthat through a conspiracy among rian of the 250 employes of the es-blishment, the firm has been robbed between \$25,000 and \$30,000 worth merchandise during the past five

be Given to Council,

will be ready for the city council meet-ing Monday evening. This is the re-part to be submitted in response to the resolution of Councilman L. E. Hall. The law required the filing of this re-port the first week in February. The change that is being made in the sys-tem of keeping the city's accounts. He says the report will make a better manetal showing for the city than had been anticipated. He was wor-ted last fail at the way the money was coung. In his own words "it made his need swim." Now, however, he says the administration is all right —on a sound mancial basis.

election the Union Pacific and the Rall-road Securities company will vote the stock they own and control for the re-election of three of the present direc-tors, each of whom has served the Ill-nois Central acceptably for many years and for a fourth director, in place of Mr. Fish, a competent man, who is not in any way connected with the Union Pacific. No act prejudicial to the Illiin any way connected with the Union Pacific. No act prejudicial to the Illi-nois Central or to its stockholders, is shown to have been done unless the mere fact that the Union Pacific and the Railroad Securities company own 29 per cent of the stock of the Illinois Central be considered to be so. Since the retirement of Mr. Fish from the presidency the policy of the company has been the same, and its executive officers, with one exception, caused by death, have remained the same from that day to this. The relations between the Union Pacific and the Illinois Central are now what they were when Mr. Fish was in power and assisted in shaping, and consented to such rela-tions. Nor is any change intended, if the affidavits of well known and re-putable men may be considered as true. The bill, however, charges many things which may happen to the detriment of the Illinois Central and its stockhold ers if the Union Pacific and the Rail-road Seucrities company be permitted to vote at such meetings, but no facts are alleged or proved which even tend to bring about such results. THE COURT'S PROVINCE.

THE COURT'S PROVINCE.

"Courts of equity act on facts alleged "Courts of equity act on facts aneged and proved, and not on fears, or sup-posed prophesies. If it were not for the fact that the name of Harriman is a name to conjure with these allegations would not be taken so seriously. There are many things stated in the bill as to the intention of the defendants, which if put in force, or even attemptto the intention of the defendants, which, if put in force, or even attempt-ed to be put in force, would call upon the court to intervene; but a diligent search of the record fails to show that such things exist in any concrete form. The complainants say that if the Union Pacific and the Securities company are permitted to vote at the coming elec-tion, the hold of Mr. Harriman upon and his domination over the Illinois Central will be strengthened and that inally the Illinois Central will be re-duced to a servient position and will be given the lean end of the carrying trade. But they fail to allege and prove

duced to a service position and will be given the lean end of the carrying trade. But they fail to allege and prove facts supporting these allegations. "While Mr. Fish may rightfully de-sire to remain a director of the Illi-nois Central and to that end may use every lawful means in the power of himself and friends, he has no right to that office unless he is legally electto that office unless he is legally elect-ed thereto. Hence, his defeat, if it comes from the lack of valid votes, is no legal injury to the civil or property rights of Fish or those of his fellow complements omplainants,

NOT PUBLIC SERVANTS.

"As private citizens the complain-ants are not keepers of the public con-science, nor are they the conservators of the rights of the public. To sustain this bill, it is not sufficient for them to this bill, it is not sufficient for them to show merely that the act complained of is a public wrong; they must also show that by the doing of such act they will suffer a special injury to their civil or property rights. This election of directors at the coming meeting plainants and no special injury to any of them is proved which calls for the interposition of this court." The court then asserted that the find-

tion upon that subject."

JUDGE BALL'S CONCLUSION.

In concluding his decision Judge Ball

said: "The usual office of a preliminary in-junction is to continue the status quo until the final hearing. To sustain this preliminary injunction and thus to pre-vent the Union Pachfe and the Railroad Securities company from voting their stock at the coming election would be to change the status cup before the stock at the coming election would be to change the status quo before the right of these corporations to own and vote such stock has been fully and finally determined by the court. With these conditions barred out, the meet-ing might result in an entire change in the management of the Illinois Cen-tral. To dissolve the injunction and let the action of the court in regard to the ownership and voting power of this stock await the final hearing means no more than the continuance of the pres-ent management with the change of one director only and he, eight of the director defendants swear, will be an able, competent man, neither controlled allector detendants swear, will be an able, competent man, neither controlled nor connected by or with the Union Pacific The balance of converlence and inconvenience is clearing with the defendants. "I am of the opinion that the Securi-

"I am of the opinion that the Securi-ties company and the Union Pacific have ownership of the shares of the stock they hold in Illinois Central, in-cluding the right to vote that stock at the coming meeting of stockholders, and that such right to vote is not for-bidden by the statutes of this state, or by decisions of our supreme court nor by decisions of our supreme court, nor by the public policy of fillnois. "The motion to dissolve the injunc-tion is allowed."

tion is allowed." The attorneys for Mr. Fish agreed that the opinion of Judge Ball could not be appealed from. "It is a non-appealable order," said Atty. Farrar, between puffs from a black Havana, "the merits of the case must now be tried, a decree entered and then we will be able to take an appeal." appeal

Will you go ahead to try the merits "Yes," replied Atty. Farrar, of the case i "Yes," rep

"As soon as the matter is reached. There are issues raised in this pro-ceeding which can be heard at any time.

time." At the office of Stuyvesant Fish it was said that Mr. Fish would make no comment on the case until he had seen the text of the decision.

SMOOT IS SUCCESSFUL IN INDIAN LEASE MATTER

Washington, D. C., Feb. 20,-Senator Smoot yesterday secured from the senate committee on Indian affairs an agreement to report favorably his amendment to the Indian appropriaamendment to the Indian appropria-tion bill, which is designed to author-ize the secretary of the interior to grant leases for allotted lands in the Uintah and the Uncompaghre Indian reservations which may be irrigable. The bill authorizes the secretary to ratify leases for 20 years instead of three years. It was repected that this authorization would be added to the Indian bill before it left the house, but for some unexplained reason no such action was taken.

Callao, Feb. 20, 7:45 p m .- The American battleship fleet has just been sighted off this port. The latest wireless dispatch from the Connecticut says Rear Admiral Evans is still in poor health and Rear Admiral Charles M. Thomas, commander of the second squadron and third division of the fleet has assumed At an early hour this morning. the street cars coming into Callao

WILL BE READY MONDAY Of City's Financial Condition Will

Audtior Alf Says the Annual Report City Auditor Rudolph Alff gives asurance that the report required of him the statutes and the city ordinances

ill be ready for the city council meet-

VICTIMS OF CONSPIRACY. ******

taken. Eengineer Farrell and his fireman were taken to Helena and it was said today that Farrell's condition is criti-