TRIAL IS PROGRESSING.

Efforts of the State to Convict Mrs. Flora E. Hutchison.

SAID TO BE A VERY CLEVER THIEF.

Statements of Both the Prosecution and Defense in the Jury-Examination of Witnesses.

The trial of Mrs. Flora E. Hutchison, on the charge of housebreaking, is now in full swing, the fair prisoner of talisman having been sober enough to appear to attack the morning. The defendant looked a little better today than she did yesterday, but still has that haggard look on her face and is afflicted with occasional spells of hysterical nervousness. Once or twice she took a glass of water and evidently felt relieved, but the admirabilities of wine wants to Miss Ferguson would evidently be liable.

It is the intention of the defense to put Mrs. Hutchinson on the stand, though whether she will be able to observe the oath is somewhat problematical.

When court adjourned last evening the jury had outside of seven jurors. The other was secured this morning. The issues of the night were trying the case of

A. O. Eisenke, Samuel Perry, Samuel Bateman, W. H. Lorenzo, John H. Bennion, C. C. Hadley, W. J. Yard and Wm. McMillan.

PROSECUTION'S OPENING STATEMENTS.

Mr. Putnam in making his opening statement said the prosecution would show that the defendant is charged with a theft on our island Salt Lake City. She was by profession a trained nurse and was acquainted with Mr. and Mrs. Mathis as it was Fourth month. There were other members of the Mathis household whom was Mr. Mrs. F. Hayward of the Union Light and Power company. Mrs. Hayward was away and had left in her husband's care, among other things, a few silver ornaments. Last September a Spaniard and a Mexican came to the Mathis home for nearly two weeks. After they had gone several articles were found to be missing, among them the silver ornaments and revolver. The men had also taken a jackknife with them, and Mrs. Hutchinson suggested that the jackknife be charged for that was the men would return and commit other depredations. The suggestion was adopted but before the jackknife had arrived Mrs. Hutchinson was missed. Mrs. Hutchinson became very much alarmed at the loss of her jewelry, the house that her fears and suspicions had been confirmed and that the left sought to have been stolen. Mrs. Mathis said that the Spaniard or Mexican had entered the house and stole the things.

One afternoon in October Mrs. and Miss Mathis were out at a Democratic meeting. Before leaving the house Mrs. Mathis had carelessly thrown an apron over a trunk. The next morning she found the apron had disappeared and the trunk. She thought it peculiar and made some remarks concerning it. A few days later George Mathis, son of Mr. and Mrs. Mathis, returned home and found the house locked up and the folks all out. He went around to the rear of the house and discovered a window pane broken and the sash raised. He climbed in through the window and going to his mother's and sister's room found everything in confusion. He went to the room occupied by Mrs. Hutchinson and found the door and found it locked. He returned to the drug store and informed his father of what had happened. Mr. Mathis returned to the house and found a number of things missing. While taking an inventory Mrs. Hutchinson appeared on the scene and said her gold watch and diamond pin and other articles had disappeared from her room. She carried on terribly about robbers breaking into the house and said she was in a very excited manner. The police were at once notified and the department responded that it had in fact, with a list of the stolen articles. Next morning Mr. Hutchinson went to the old city hall and engaged Chief Pratt in conversation, with respect to the robbery, telling him of her loss and throwing the blame on the Spaniard and Mexican. She also offered to pay a good deal to get back her diamond and watch, so far as to express the offering of a reward. Mr. Pratt said it was not necessary and began questioning her closely as to her whereabouts on the afternoon of the robbery, and said she was out. The police learned the day following that she had taken a number of articles to a house in Fourth West, however. Tenth and Eleventh South. Then Mrs. Hutchinson was accused of having stolen the missing articles, and was placed under arrest. She then broke down and made a confession, but later changed it, have taken the charge to prevent their being stolen. Chief Pratt then secured her of taking Mrs. Hayward's silverware. At first she denied indignant but finally admitted the theft and led Mr. Pratt where they may be found. She also confessed to Mr. Pratt of having broken the window, but said in extenuation that she had a son to support, and that she had had lots of trouble and that this was a cold and cruel world, anyway.

THE DEFENSE.

Grant H. Smith, of counsel for the defense, then told the jury what the other side expected to offer in evidence. He said the evidence would show that at the time of the offense—insanity—a statement at this time was necessary. He then defined insanity, stating that it is that to constitute a crime of this nature the intent as well as the act must be shown by the prosecution to have existed. The defense would endeavor to prove that the crime intend against the statute was beyond the capacity of criminal intent. The laws of Utah expressly say that no person shall be capable of committing a crime who is insane.

Judge Smith then named the various kinds of insanity and said they were as numerous as there were different kinds of brains. The kind of insanity in Mrs. Hutchinson's case was inherited, on her father's side of the house, and her extreme nervousness she got from her mother. She had had been a sufferer, for four years she had been afflicted with total blindness. She had married unhappily and during the past three years had lost her husband in all particulars, she was the mother of three children, two of whom died in infancy. When she was born she was physically weak. Being a nervous and physical wreck. Insanity began to manifest itself in a kleptomaniac form. She took things she had no earthly use for, such as pipes, razor strops, etc., and frequently was asked to say to whom or when she had taken them.

Judge Smith then reviewed her history as nurse and the training she had received in this profession, her accomplishments, her kindness to children, stating with a strong appeal to the jury not to lose sight of the fact that the woman defendant was a sick woman and that our sympathies were in her behalf. He then said that she had not the power to resist the temptation, which it came upon her.

TAKING OF TESTIMONY.

The first witness called was George Mathis, son of Douglas W. D. Mathis. He testified that he had known Mrs. Hutchinson for various months.

At this point Mr. Mr. Hutchinson arose and asked what crime Mrs. Hutchinson was charged with in the information. Mr. Putnam said the charge was that the grand jurors and petit jurors. Mr. Corkran took the position that only jurors were called in the charge in connection with the crime of housebreaking. He asked that the prosecution be required to state what crime it intend upon to secure a conviction.

Mr. Putnam said the form adopted and in vogue in the Utah Bar had been adopted in this case. Housebreaking, he said, was an attempt to commit a larceny and was therefore a part of the larceny.

The court overruled the objection, holding that the jury might find the defendant guilty of housebreaking, without larceny, of the case.

Continuing the witness, Mathis, said he was the lock window broken and the window sash raised. He identified the house one afternoon last month and found Mrs. Hutchinson in the house for an appointment. Went to Mrs. Hutchinson's room and found the door locked. He said he thought the door was and went to the drug store and informed his mother of what had happened. That afternoon he went back to the house and discovered a number of things missing, among them a number of things Mrs. Hutchinson claimed to have had stolen from her.

Under cross-examination the witness was questioned as to the fact that he had been called from the inside or outside. There was no one in the house when he entered, so far as he knew.

Miss Laura Mathis, sister of the last witness, testified to her acquaintance with the defendant and to her absence for a period of three years. The witness identified some of the missing apparel, found in Mrs. Hutchinson's trunk, belonging to her and her mother.

Miss Mathis was subjected to a rigorous cross-examination by Mr. Corkran and created considerable amusement with her ready answers to the questions put to her.

John F. Hayward, manager of the Union Light and Power Co., and he named the first name in the indictment, Mrs. Hutchinson's friend, stated being at the house and a few days afterwards he missed some silver ornaments, a revolver and a knife, a pipe and a pair of candlesticks, and other articles. He had seen them on a previous visit, the day the Spaniard left. He missed them on Friday. The exact date he could not remember. The next day he found out the articles was at the police station.

Mr. V. H. Mathis was not called to the stand and was kept being examined when the "News" report closed.

Writ of Prohibition Granted.

The Overland Gold Mining company and Asher Hildebrandt, petitioned the Third district court today asking that a writ of prohibition issue restraining Judge Barnes of the Fourth District from proceeding with the case of Frank Alexander vs. Hildebrandt to prevent the enforcement of a judgment for $2,000 recently rendered against Asher Hildebrandt, in favor of Mr. Long for $2,000. It appears that Hildebrandt was an employee of the Overland Gold Mining company and acted as agent of the company, $2,000 of the Overland money was garnished.

The contention is that Justice McMaster is entirely without jurisdiction because the summons was served in Tooele county.

A writ was ordered issued by Judge Cherry, returnable Saturday, December 10th.

Injunction Proceedings Commenced.

William A. Rivers commenced injunction proceedings against the North Point Consolidation Irrigation company in the Third district court today, asking that the defendants be enjoined from trespassing upon certain real estate described as the south half of the east half of the northeast quarter of section 5, township 1 south, of range 1 West, of the Salt Lake meridian.

The complaint goes forth that on the 22nd inst. the defendant entered upon the property, and with teams and scrapers began the excavation of a ditch to plaintiffs damage in the sum of $200.

A temporary restraining order was granted by Judge Hiles made returnable Saturday December 10th.

More Jurors Summoned.

A special venire calling for the following named persons, to serve as jurors in the criminal court was issued yesterday: Jos. F. Smith, W. W. Corey, W. E. Smedley, Wm. McMillan, Charles Cramon and G. H. Garver.

Probate Matters.

Estate of Charles A. Hoffstetson, deceased; order made for settlement of final account and for distribution.

Estate of John J. Kelly, deceased; hearing on petition to set apart homestead to the widow and family allowance, set upon trial calendar.

Estate of Samuel Bassett, deceased; order made confirming sale of real estate.

Estate of Sarah Roberts, deceased; will admitted to probate. Mr. William Thoburn appointed executor, without bonds in accordance with provisions of will.

District Court Notes.

In the case of Nathaniel Ferguson vs William G. Morgan, Judge Hiles today rendered a decree in favor of plaintiff, quieting title to the property in dispute with party, to pay their own costs.

The case of Thomas Miller vs Elizabeth L. Johnson, et al was partially heard by Judge Hiles, but the defendant's counsel desired to amend his answer