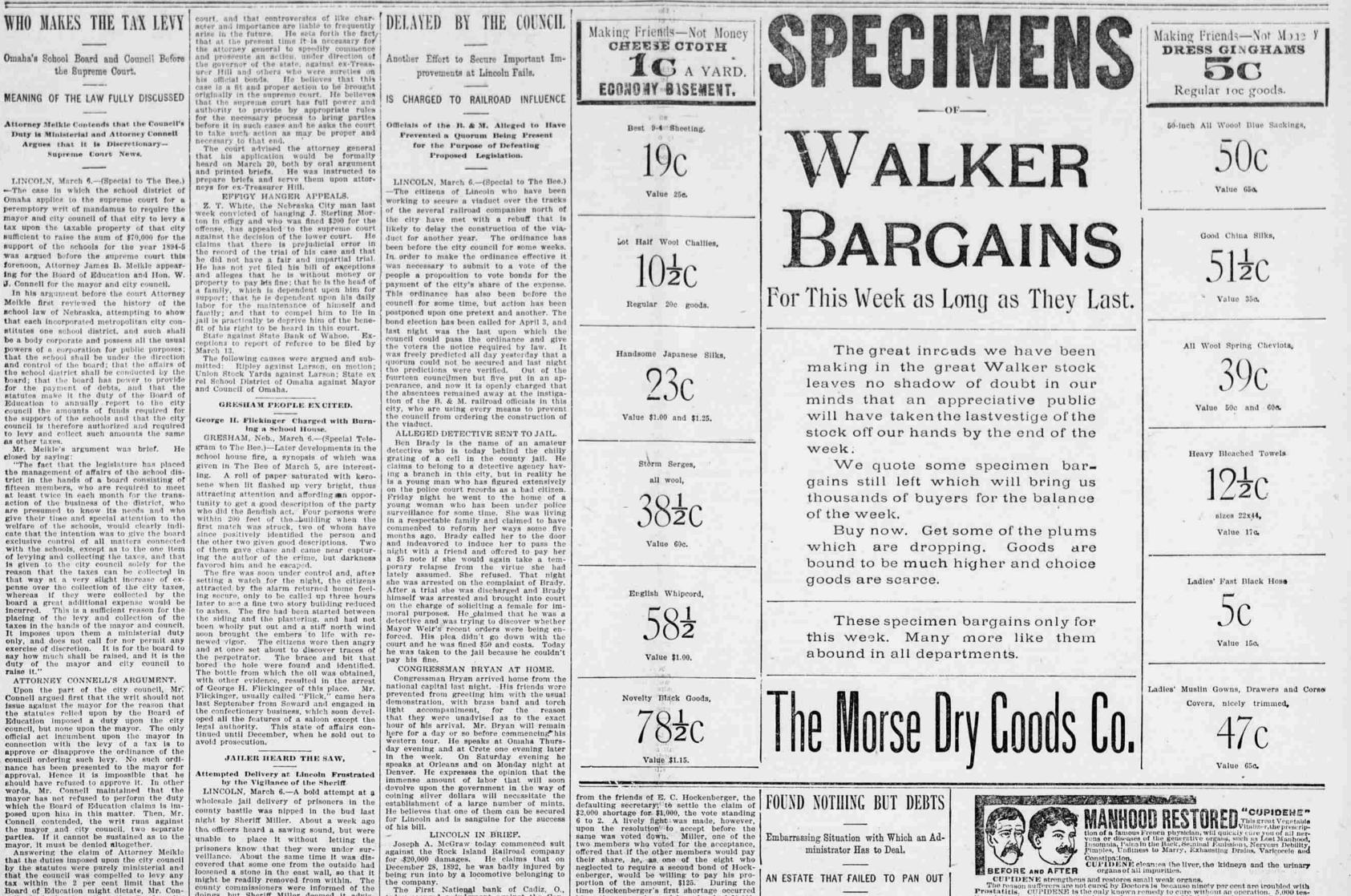
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# THE OMAHA DAILY BEE: WEDNESDAY, MARCH 7, 1894.



nell cited the fact that the Omaha city charter became a law in 1887, while the section of the statutes quoted by the attorney for the school board was not enacted until 1891. The charter (section 15) provides that the mayor and council shall have the care and management of the city, its property and finances, and "shall have power pass, amend or repeal any or all ordinances not repugnant to the constitution or laws of the state." etc.

The care, management and control of the city finances," contended Mr. Connell, "necessarily includes the exercise of full discretionary powers in all departments. The construction contended for by the at-torneys on the other side completely takes out from under the control of the city government a most important matter of city finances. Not only that, but it seriously interferes with the city's management of its finances in all other departments, since it puts it in the power of the board, by the extravagance of its estimates, to compel the city government to reduce below proper limits levies for the maintenance of other

equally essential expenditures. It destroys the power of the city government to exercise its plainly granted power to fix the proportion which each expenditure, in its judgment, should bear to the whole municipal taxation. in the lovy of all other taxes full scope

is given to the mayor and council to exertheir discretion as to the amount of the levy. The mayor has the veto power and the council the right to consider his objections. The words, 'the same as other taxes,' includes the foregoing as much as any other parts of the tax levy and collec-tion proceedings. The statute does not say that the amount named in the estimate that the amount named in the estimate shall be levied. The requirement is that the council shall levy the said amount, viz.: The amounts of funds required for the support of the schools. Such construction would preserve the power of the city government to exercise its discretion in making the levy and give to the board's estimate a directory instead of a mandatory force. The estimate of the board would in that case have the same functions as the estimates of the comptroller in other tax levies, to aid and inform the council.

"I submit that under the constitution no other construction can be put upon the secin question which will preserve its walldity.

# REVIVED THE HILL CASE.

Interest in the case in which the state of Nebraska socks to recover from ex-Treasurer J. E. Hill and his bondsmen the money lost in the Capital National was revived this forenoon by papers filed in the supreme court by Attorney General Hastings. It will be remembered that the attorney general in the Canital National was revived this and Judge Wakeley, who had been retained for counsel by the state, commenced an action against Hill and his bondsmen in the strict court in and for Douglas county. Judge Davis dismissed the case on grounds that the court in Douglas county lacked jurisdiction. The case was appealed to the supreme court and some two months igo that court affirmed the opinion of Judge Davis. Davis. The state applied for and received permission to file and argue a motion for a chearing.

Pending the application for a rehearing the attorneys representing the state will endeavor to secure a modification rules of the supreme court, or, rather, the adoption of a new rule especially covering the issues involved in the present case Section 2 of article vi of the state constitution provides specifically that "the supretourt \* \* shall have original jurisdic-tion in cases relating to the revenue, civil cases in which the state shall be a party mandamus, quo warranto, habeas corpus and such appellate jurisdictions as may be provided by law.

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In the application to the supreme court today today the attorney general calls the attor-tion of the court to this specific provision of the supreme court and calls further attention to the fact that no provision has, as yet, been made by law for the service of yet, been made by law for the service of process in such cases, or as to the methods procedure by which such jurisdiction y be exercised.

The attorney general further representa arisen of such character and importhat. heretoforo quently arisen of such character and impor-tance that it would have been greatly to the advantage of the state if the attorney general in his discretion could nave supreme and prosecuted such actions in the supreme in his discretion could have instituted

but Sheriff Miller able to be patient and wait for developments. meanwhile keeping a close watch on the pro gress that was being made. It was hoped that the outside parties might return, but they did not. A close watch was maintained until last night, but the prime movers could not be caught at work, owing to the fact that the cage was occupied during the day by some thirty or thirty-five men. Last night it was discovered that two bars in the northwest corner of the cage had been sawed. The plan evidently was to "lay low until the outsiders had everything fixed and to then escape either early in the morning or early in the evening before the prisoners are placed in their cells.

# Fremont Brevities.

FREMONT, March 6 .- (Special to The Bee.) Captain Murray, who has been in the hospital at Omaha for treatment from the effects of a fall, has so far recovered that he is visiting with friends in Lincoln.

A case was in district court yesterday growing out of the failure of Nesbitt & Rogers, hardware merchants. The ques involves a priority of filed on the stock mort of gages the firm. The document filed recites that on the day of the failure the firm was indebted in large sums to Mareah E. Rogers and others, all bona fide debts, but the members could not agree as to the manner in which they should be secured, and each, without the knowledge of the other, undertook to secure such creditors as he individually ferred. Decision was deferred until Thursday morning. Mrs. F. W. Smith was yesterday pro

nounced insane.

J. F. Hansen, R. M. Allen, F. L. Burrill, Robert Kettle, A. J. Lee, Otto Huette, John Kruckett and L. M. Keene have been sebeen changed while it was out of his hands, but was positive that no changes had been made with his knowledge or consent. He lected to represent the city and the Board of Trade as delegates to the interstate testified that the bill had been read in the irrigation convention at Omaha March 23 same manner that long bills are always read, the first two times by the title and the and 23.

Blake and Wichelow, the men arrested for robbing Huck's jewelry store at North Bend, were given a hearing before the county judge today and placed under \$1,000 bonds they must have been made while the bill was in the hands of either himself or each to appear at the next term of the district court. In default of bonds they were one of his three assistants, Doughty, Little field or Shrader. remanded to the county fail.

# In the Interest of Irrigation.

CRAWFORD, Neb., March 6 .- (Special bill was inconsistent with the original bill The matter was discussed at an informal conference, at which himself, Rhodes and Telegram to The Bee.)-The Northwest Nebraska Irrigation association held its an nual meeting at Crawford today and was largely attended by enthusiastic delegates came in his opinion was asked. The speaker from the four counties comprising the dis-Some very important resolutions were trict. clerical nature it was the duty of the enadopted, favoring a general state irrigation grossing clerks to correct them before com-pleting their work. The errors referred to law with provisions for experimental artesian wells in the northwest, and favoring congresconsisted of omissions only. Speaker Gaffin stated that he had been called to the consional legislation for an irrigation survey of

the western states. ference referred to by Mr. Porter and that The following delegates were elected to attend the interstate irrigation convention in Omaha March 21: C. J. Grable, Crawthe question had been submitted to him whether they had a right to correct errors in the enrolled bill before it went to the house. He gave it as his opinion that purely clerical errors could be corrected and ford; Lt. J. Simmons, Harrison; E. K. Heath Rushville, and J. S. Paradis, Hemingford A committee comprising three member from each county in the district was elected offect. for the purpose of urging proper irrigation laws before the coming Nebraska legislature.

# Serious Result of a Quarrel.

William

To Impeach Clerk Skirving. O'NEILL, Neb., March 6 .- (Special Tele FULLERTON, Neb., March 6 .- (Special to gram to The Bee.)-The district court, which The Bee.)-C. W. Balley, a young farmer of has been in aession here for the past three Prairie Creek township of this (Nance) weeks, took a recess yesterday for a few county, while engaged in a quarrel with weeks William Murphy, who halls from Colorado was shot and severely wounded yesterday a Today the board of supervisors met take evidence in the impeachment case which was started against John Skirving, his farm. The quarrel was over some cattl which Murphy was herding getting into Bailey's corn and Bailey shutting them up which was started against John Skirving, clerk of the district court, last month. County Attorney H. E. Murphy and M. F. Harrington represent the plaintiff, while N. D. Jackson of Neligh, R. R. Dickson and T. Murphy undertook to take the cattle out the lot by force, while Bailey resisted. Mur phy then went-nway, procured a 38-caliber revolver, returned and renewed hostilities D. Jackson of Neigh, K. R. Dickson and T. V. Golden of this city are the attorneys for the defense. The main point of the case is the charge of negligence of duty, but the prosecution is not making the headway they anticipated. A majority of the members of t which resulted in the shooting of Bailey. Murphy is now in the hands of the sheriff

He is about 20 years old and a stranger in this county. Brewster Livery Barn Burned.

ey are attempting to impeach is a repub DUNNING, Neb., March 6 .- (Special Telelican and they mean to get charge of the office if possible. The case will consume gram to The Bee.) -- The Thomas livery barn several days. at Brewster was destroyed by fire last night. Five horses and one cow belonging to patrons of the barn burned. Loss, \$1,800; insurance, \$1,000. The origin of the fire in unknown.

secured a judy t against the Cap his actions were insured by a bond of \$1,000 ital National bank for \$475. which bond has, however, disappeared. For The democratic city convention has been called to meet on Friday of the present the next term the board neglected to take . bond. A resolution was passed appointing The republican convention will be veelc. committee to investigate fully and see to held on Monday next. The residence of R. C. Outcalt, cashier of the recovery of the missing bond, the resolution providing for as many search warrants the defunct Capital National bank, was this afternoon sold at sheriff's sale for \$9,430 as may be found necessary.

the purchaser being Yonker Bros. of Dea Moines. The residence was sold to satisfy judgment secured in district court by Yonker Bros. This is one of the pieces of property transferred by Outcalt the day after the failure of the bank and for which the depositors blame the bank examiner for proceeding to attach as soon as he learned that the bank was insolvent.

# CORRECTED CLERICAL ERRORS.

## Interesting Testimony Bearing on the Maximum Rate Injunction Case.

LINCOLN, March 6 .- (Special Telegram to The Bee.)-Some important testimony was taken at the state house today bearing upon the maximum rate injunction case now pending in the the federal court. The witnesses were J. N. Gaffin, speaker of the house, of Republican City: H. A. Edwards, secretary of state, and Porter of Merrick county has announced that a dividend of 25 per cent member of the house, chairman of the committee on railroads at the last session had been declared to the depositors of the Citizens National bank, payable about Apri of the legislature. They were called by the ailroads, and their testimony was not of the character that will impress the people of the do much to loosen the stringency in this state with the methods which prevailed at he last session. In response to the question of Attorney

Representative Porter of Merrick county

f the

testified that his attention had been called

Newberry were present. Speaker Gaffin had

had said that if the errors were of purely

a instructed the engrossing clerks to that

The hearing will be resumed tomorrow.

the board are independents, while the offic

Refused to Compromise.

cen required to be present and when he

o the fact that the engrossed copy

### an exceptionally early and good one. J. M. Woolworth, Secretary Edwards admit-ted that the maximum rate bill might have Child's Hands Mangled. KEARNEY, Neb., March 6 .- (Special Tele-

organized.

gram to The Bee.)-This afternoon while a young son of John Barnds, living south of town, was out hunting, he was resting on his gun with his hands over the muzz! when it was discharged, the contents passing third time in full. If any changes were made in the bill while it was pending through his hands and taking off part of his left ear. The right hand will probably have to be amputated. He is 13 years of age.

Nuckolls County Teachers Organize.

The organization starts with

good fund for a county teachers library and

o provide for lectures and suitable instruc-

tion for the actual training and preparatory

Paying an Early Dividend.

GRAND ISLAND, Neb., March 6 .- (Special

Telegram to The Bee.)-Receiver Westervelt

A dividend was expected about April 15

The news is received with delight, as it will

work to be done in these associations

# Working for Dr. Miller.

CRETE, Neb., March 6 .- (Special Tele gram to The Bee.)-The city council of this city, by unanimous vote, telegraphed the following to the president today: Be it resolved by the mayor and council of the city of Crete that this body joins with the rest of the state in earnestly re-questing the appointment of Dr. George L. Miller of Omaha for the vacancy on the Interstate Commerce commission.

Red Cloud Residence Destroyed.

RED CLOUD, Neb., March 6 .- (Special to The Bee.)-At 1 o'clock last night the dwelling of B. F. Mizer, the finest residence in the city, caught fire and was nearly de-Loss \$4,500; insurance \$4,000 building and \$500 on household goods, in the British-American.

# KILLED BY CAVES-IN.

## Four Miners in One Mine and Three in An other Lose Their Lives.

SCRANTON, Pa., March 6 .- Four men of a gang of mine shaft sinkers were killed in the Richmond shaft.... The accident was caused by the fall do some rock from the side, near the bottom; and as a consequence of an explosion of gas. The victims are: THOMAS HOLWELL, married, wife and

RICHARD HUGHES, single, 27 years old.

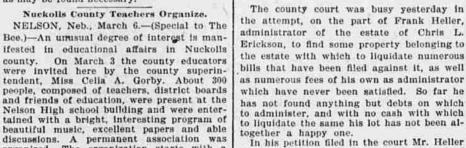
JAMES NORTHERN, single, 29 years old. ALBERT RICHARDS, single, 24 years old. Five others of the shift made their escape. BRUCE MINES, Ont., March 6 .- Three miners were killed at the Ophir gold min today by a rock caving in on them. Th The names of the dead men are:

FRANK PERCY. JAMES O. HEATH ANTHONY SAVAGE.

# To Make Up the Time They Lost.

HAMMOND, Ind., March 6 .- After being out a week the East Chicago strikers decided to accept the reduction and nearly all cided to accept the reduction and nearly all the men have returned to work. The iron and steel mill will be run day and night to make up for lost time. GRAND ISLAND, Neb., March 6 .-- (Special to The Bee.)-The Board of Education at its meeting last night rejected the proposition

Mrs. Erickson Alleged to Have Captured Her Husband's Property-For Possession of Three . Children-Other Court Cases.



alleges that Mr. Erickson died possessed of a considerable amount of property, consisting of land, lots, bills receivable, bills payable, certificates of deposit and other items of value, but of the entire amount he has only been able to find the bills payable. He al leges that the wife of the deceased has pos session of all the assets and is only willing turn over to him the bills payable, and he wishes the court to compel her to come forward and tell what she has done with the property, and either turn it or its value into the court, in order that the claims against the estate may be paid.

Caroline S. Erickson denies all the allegations in the petition except that she was the wife of the deceased, and the court is now community. The dividend is considered as engaged in endeavoring to ascertain which party to the controversy is correct.

## They Must Stand Trial.

James H. Howard, William F. Herman and N. D. Coleman, the men who were bound over to the district court on the harge of swindling in connection with the selling of tickets to an alleged charity ball they said was to be given for the benefit of railway employes, were up before Judge Ambrose yesterday afternoon on a writ of habeas corpus. The judge heard the argu-ment and just before adjournment handed down a decision in the case denving the The writ was asked for on the ground writ. that the information on which they were held did not allege a felony. The judge in passing upon the application stated that he was not prepared to say, with the short time he had for examination, just how he yould hold on the points raised if he were trying the case in the criminal court and the question was raised on demurrer, but he did not feel like stepping in and taking the case out of the hands of the court which should properly try the case when the reasons for doing to were not clear. He there-fore remanded the prisoners for trial.

# Legal Fight for the Children.

There is a pretty little fight on in the county court over the possession of three children. The children are Josle, aged 7, Frank, aged 11, and Emma Tinneman, aged

Some time ago the father of the children died and a few months ago their mother also Since that time the children have died. been in the care of an older brother, Fred, who lives at Thirty-second and Pacific streets. Through a petition filed by Carl E. Hering the Nebraska Children's Home ant. jury brought in society asks the court to give the custody of the three little ones to them that they in the sum of \$347. provide homes for them, maintaining they are better prepared to care for may them than is the brother in whose custody

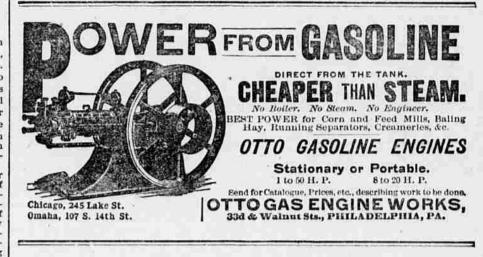
The brother says that he is not only able but anxious to care for his little sisters and brother and does not propose to have them taken away from him if he can prevent it.

In the criminal section of the district court the case of the state against Edward J. Collins was taken up late in the afternoon and

McPherson and Oliver Dale were engaged in taking some coal from a freight car in the town of Valley when McPherson was killed

timoniaia Aw ven and monoy returned if six boxes does not effect a permanent cure. 51.00 a box, six for 55.60, by mail. Send for alrealar and testimonials, Address DAVOL MEDICINE CO., P. O. Box 2076 San Frandisco, Cal. For sale by Goodmay Drug Co., 1110 Farnam St., Omaha: Camp Bros., Council Bluffs, Iowa.

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"A TRAINING IN CLEANLI LESS IS A FORTUNE." COMPLETE YOUR EDUCATION WITH SAPOLIO

the injured man that he was not the party who fired the shot. Collins was subse-quently arrested and bound over on the charge of having fired the shot. McPherson lingered until the 25th of November, when he died.

Collins and Dale have both been in jail former as princithat time, the pal and the latter as a witness.

Wants Sheriff's Deed Canceled.

William G. Whitmore, guardian of Mary Gugin, an imbecile, has filed his petition in the district court to have a sheriff's deed to section 1, township 16, range 10, set aside. Jonas A. Fry, the holder of the foreclosed mortgage, and S. Peter Munson are made parties defendant. Whitmore alleges that he is the present guardian of Mary Gugin, and that at the time the mortgage was foreclosed and a default taken against Mary Gugin her guardian at that time, James W. Moore, was an inmate of the Sioux Falls penitentiary, sent there for forging the girl's name to a pension check, and was not the either able or willing to defend the action The plaintiff asks that the deed be set aside

# Burness Allowed Nine Hundred.

The jury in the case of Burness against the Cudahy Packing company returned a verdict in favor of the plaintiff for \$900. The suit was one for damages for injuries to the son of the plaintiff, which were received while on the premises of the defend-

and he be allowed to redeem.

In the case of Meyer against Crane the a verdict for the plaintiff

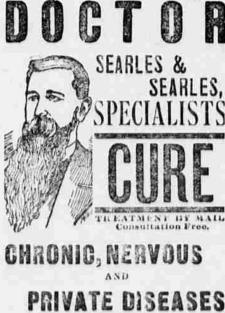
We could not improve the quality if we paid double the price. DeWitt's Witch Hazel Salve is the best salve that experience can produce, or that money can buy.

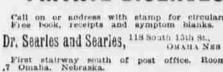
# Married at High Noon,

The marriage of Miss Minnah Hawke to Mr. Charles F. Scovil of Chicago took place at the residence of the bride's sister. Mrs. W. S. Rector, 2117 Wirt street, at high noon yesterday. Miss Hawke is well high noon yesterday. known in Omaha and Nebraska City

ciety circles, and the groom is a fay known young business man of Chicago. Mr. and Mrs. Scovil left via the Burling-ton for an eastern trip and will be at home to their friends at the Hyde Park hotel.

catch rheumatism, Salvation Oil cures it.







A New and Complete Treatment, consisting of SUPFORITORIES, Caparitos of Ontiment and two Bornes of Olntment. A neves-failing Cure for Files of every nature and degree. It makes an operation with the finite or injections of carboite add, willow are painful and sediom a permenent where and offen resulting in death, unnecessary. Why endure this tetrible discuss? Why endure this tetrible discuss? We guarantee O boxes to cure any endo. You out y say for benefits received, it a box, of for boty mail. Scimple

CONSTIPATION Cured, Piles Prevented, the great Livers and Sychia Addition Regulation and the GOD PURIFICES. Sunnil, mild and Pilesent to UMIFIER, ismail, mild and ploasant to scially adapted for children's and, 50 Doos GUARANTEES formed ontwhee

KUHN & CO., SOLE AGENTS, OMAHA.

# they now are

# On Trial for Murder.

the work of securing a jury begun. On the night of November 18 last, Louis

Chicago, after April 1

If you go out early in the morning you may