# RECALL REQUIRES **VOTE OF MAJORITY**

Failure of Ouster Means Defeat of Candidates, Despite Ballot Strength.

### CITY ATTORNEY EXPLAINS

Ex-Mayor Rushlight and Dr. George Parrish Enter Race-Five Aspirants Now Listed-Recall Act Called "Jumble."

## MR. BREWSTER SAYS HE WILL

shall not rezign, and if nec sary I'll make an active campaign to hold my office," said W. L. Brew ster, City Commissioner, upon hi return to Portland last night from Denver. He had learned of the refew hours before arriving in Port-

"I don't think the people of Portland want to vote public officials out of office without sufficient reason. I don't believe they favor a recall un-

less there is urgent need for it.
"There is no crisis in our city government to justify a recall. I am prepared to defend my administra-tion in every particular."

Coincident with the definite anouncement yesterday that ex-Mayor nouncement yesterday that ex-Mayor Rushlight would be a recall candidate against Mayor Albee and that Dr. George Parrish would be a candidate against Commissioner Dieck, City Attorney La Roche Issued a legal opinion in which he says there must be submitted to the vote of the people in the recall election the direct question of whether the officials sought to be recalled shall be recalled. If the majority of voters do not vote for the recall the vote for the various candidates under the preferential system didates under the preferential system

didates under the preferential system will not count.

It had been feared that if a number of candidates entered the field the vote would be so split by reason of the preferential system involving voting on first, second and third choice, that the strongest man might not win. It was feared that under the preferential system the voters would not pass directly upon the question of recalling the officials sought to be recalled.

### Recall in Question Form.

The opinion of City Attorney La Roche, which has been prepared for the benefit of City Auditor Barbur, who is preparing for the election, holds

Aspirants Now Five.

The advent of these two into the face makes a total of five seeking the positions of Mayor Albee and Commissioners Dieck and Brewster. The two seeking election as Mayor are Mr. Rushlight and B. E. Kennedy, while those seeking Commissionerships are W. A. Leet, H. E. Abry and Dr. Parrish.

It is expected at the City Hall that an injunction against the recall will be sought on the ground that it entails useless expenditure of money. R. W. Raymond, of the Manufacturers' Association, had a conference with City Attorney La Roche yesterday and announced that he may take the initiative in contesting the standing of the recall amendment. It is said also that the Civic League and the Non-Partisan League are considering legal steps against the proposed recall election.

Opinion Decemed Important.

# Opinion Deemed Important. The opinion of City Attorney La-Reche to the effect that the people will vote directly for or against the recall is considered the most important development since the filing of the re-call petitions. "Granting that the constitutional re-call amendment is a self-executing law

"Granting that the constitutional re-call amendment is a self-executing law and authorizes, without other legisla-tion, an election for the recall of the Mayer and Commissioners, a conclusion which is seriously doubted," said Mr. La Roche yesterday, "we find two dis-tinct provisions in the recall amend-ment.

First, this measure provides for the determination of the question of the recall of the officer, and, secondly, if the electorate determines to recall him, it then provides that candidates for his office may be nominated and voted upon at said special election.

The part of the law which provides for submission of the question of whether or not the officer shall be recalled reads: If he (referring to the officer against whom a petition is filed) shall not resign within five days after the petition is filed a special election shall be ordered to be held

determine whether or not the people

at said special election. The candidate who shall receive the highest humber of votes shall be deemed elected for the remainder of the term whether it be the person against whom the recall petition was filed, or another.

"So that at an election for the recall of the Mayor or one of the Commissioners a majority of the people may decide to recall the officer and in the election for his successor, if he secures the needed vote, may succeed himself. Here you have an apparent contradiction, as under the preferential system of voting it may be possible for a candidate who is recalled to succeed himself by a vote less than a majority. But this is of no great moment when one reflects that if some other candidate shall be chosen, he may be chosen in identically the same manner—by less than a majority vote.

Act Termed "Jumble."

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"If this construction of the law is inapt and wrong and the preferential system of voting shall be used, then you would have the strange spectacle of recalling an afficer simply by electing one of several candidates by possibly a minority of the total vote cast, and between the two evils the first construction is not only the lesser of them, but seems to be the only construction that the law is capable of, giving to the words employed in this act their usual and ordinary value. The entire amendment seems to have been hastily and carelessly prepared and is certainly a jumble."

Although it had been reported that Dan Kellaher intended running for Mayor in case Mr. Rushlight announced his candidate, Mr. Kellaher said yesterday he would not enter the race.

"I do not care to mix in a recall campaign or election," he said.

Investigation of the records in the Municipal Civil Service Bureau yesterday revealed the fact that H. E. Abry, who is a candidate against Commissioner Dieck, was in the city service in 1905 as a surveyor, and that he falled to pass an examination January 25, 1906. He served for a few months

in 1905 as a surveyor, and that he failed to pass an examination January 25, 1908. He served for a few months in 1905 on temporary appointment. In the examination in January, 1905, he failed to pass, receiving a rating of 55.25 per cent. In mathematics he received only 10 points out of a possible 100.

PLUMBER CALLED FIREBUG RE-

day's session of court, where Max Albert is on trial for arson. Victor Goldstein, witness for the prosecution, was attacked in the Courthouse corridor a few moments after he stepped off the witness stand, by B. Lavoff, a plumber, whom he had accused in his testimony of being a firebug.

The plumber stepped up to Goldstein and asked: "Did you say that I am a firemaker, too?"

"Yes, I said so," was the reply.

Then the air was full of flying fists and the witness was struck three times in the face and knocked down.

Attorney Malarkey asked Goldstein on cross-examination if he knew Lavoff. "Yes, I know him," replied the witness, "he is a firemaker, too."

"They all want to kill me." said Goldstein to the District Attorney, to whom

Master of A. M. Simpson Is Accused of Negligence.

## UNITED STATES PLAINTIFF

again through the passage of the rivers and harbors bill and Captain Reed and others of her crew will be summoned before the board Monday to testify. The Simpson proceeded to California after the collision, as she was outbound with lumber, and the testimony of her officers and those of the crew who were on duty was taken there and has been forwarded to Inspectors Edwards and Fuller.

Meanwhile the Michie was here for repfirs and Captain Reed and his men testified. After considering all evidence the inspectors have preferred charges. The Simpson was not particularly harmed by the accident, but the

PLUMBER CALLED FIREBUG RESENTS TESTIFIER'S REMARK.

Provecutor to Charge Assailant With
Assault and Battery—Burning of
Sax Store Related Again.

Internal dissensions in the so-called local "arson trust" broke into open hostilities yesterday at the close of the day's session of court, where Max Albert is on trial for arson. Victor Goldstein, witness for the prosecution, was tracked in the Michie was unable to operate on the bar without repairs.

Another case on the calendar for the inspectors is that of the steamer Game-cock, which struck a rock and went down near Sheridan's Point, on the Middle Columbia, last month. She was raised and towed here for repairs, being now on the ways at the yard of the Portiand Shipbuilding Company. Her stem and forefoot were carried a distance of 25 or 30 feet, heavy timbering in the hull broken and other harm done, but at that there is not as much damage as many supposed would follow the accident. At an investigamuch damage as many supposed would follow the accident. At an investiga-tion today Captain Zumwalt and offi-The board yesterday reinspected the

speedy steamer Georgiana here and the steamer St. Johns is to be inspected FINCHLEY LOADS FOR EPSOM

## London Information Is That Condi-

From Pincus Lazinski.

Spending his money in riotous living and failing to support her were grounds alleged by Bertha Lazinski against pincus Lazinski, which won her a divorce yesterday in Judge Gatens' court. "Articles next enumerated and notwice yesterday in Judge Gatens' court. Marie Smith was given a divorce from F. W. Smith by Judge McGinn, it being alleged that he had beaten and choked her. In the same court a decree was given Anna S. from Evan J. Thomas, it being charged that the defendant was cold and distant in his attitude and neglected her. A decree was also given Carrie K. B. Butler from D. W. Butler.

Jacob W. Johnson sued Lucy Mae Johnson on the ground of desertion.

ROBINSON FUNERAL TODAY

Long Tombur 1 and Contraband Is Declared.

Collector of Customs Burke Is in parted for Seattle, where he will emparted for the following telegram from E. F. Sweet, essistant secretary of the sparke Is in the tender Manzanita to he had been davices from London as to contraband; it is the contraband; in the triated seat conditional contraband; Ill the triated for Seattle, where he will emparted for Seattle, where he will empart to the Columbia River.

With San Francisco as her destination, the contents are conditional to the conditional contraband; Ill the triated as conditional contraband; Ill the triated for Seattle, where he will empart to the Columbia River.

With San Francisco as her destination, the other contents of the declaration of London, with \$15 beneral with \$1,050,000 feet of lumber, with \$15 beneral with \$1,050,000 feet of lumber, with \$15 beneral with \$1,050,000 feet of lum

of Own Dock Bonds Today.

new ordinance to avoid confusion. Permission was given the Ukase investment Company to eliminate a concrete fire wall at one end of its open dock, as there is no fire risk within 200 feet. It was moved that a shed maintained by Joseph Supple, at the foot of Belmont street, used for the construction of small vessels, be removed. The shed was maintained under a special arrangement.

### Mistake in Name First Leads to Report That Tymeric Was Lost.

## plies to Stockmen Along River.

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LEWISTON, Idaho, Oct. 5.—(Special.)

Captain E. G. McFarlane has anounced that the gasoline boast Prosnounced that the gasoline boast Prospector will resume operation on Upper the present stage or waier the Prospector can ascend the river 75 miles, and the first boatloads will be supplies for the stockmen who keep their herds on the breaks of the river during the During the past Company and that regular and Mrs. Smith on a fishing expedition that promises to eclipse any junket of the kind yet recorded.

MARINE INTELLIGENCE.

Winter,
During the past Summer Captain McFarlane worked in conjunction with the
Government engineers in removing obstructions at Mountain Sheep, Boulder,
Douglass and Dug Bar rapids, which
makes it possible for the boat to go
into service at an earlier date than
usual.

Frank Wyatt, a resident of the Sal-mon River country, is in the city and says the range along the river is in excellent condition.

## News From Oregon Ports.

ASTORIA, Or., Oct. 5.—(Special.)—
The steam schooner Thomas L. Wand arrived this morning from Southeastern Alaska with 4000 cases of canned salmon for Astoria and general cargo for Portland.

The gasoline schooner Della arrived this morning from Nestucca with a cargo of cheese for Portland. cargo of cheese for Portland.

The gazoline schooner Gerald C. arrived this morning from Nestucca with 982 cases of galmon for Elmore & Co. The steam schooner Klamath arrived this morning from San Francisco with a cargo of asphaltum for Portland. The steamer Alvarado sailed today for San Francisco via Coos Bay with general cargo from Portland. She loaded 25 tons of flour here.

The steamer Navajo arrived this afternoon from San Francisco with cargo for Portland.

soda, 100 tens of oil, 50 tens and 15 tens of meat-cutters.

Henry L. Beck, Inspector of the Seventeenth Lighthouse District, has departed for Seattle, where he will embark on the tender Manzanita to in-

Making a good run of 46 hours the steamer Bear arrived at San Francisco yesterday afternoon. The Beaver was but 48 hours on the trip here from San Francisco, which ended Sunday after-

# BAD TAKE SALTS

Been Eating Too Much

Damago Done to Col. P. S. Michie Is Basis of Suit to Be Heard by Inspectors at Coos Bay—Game-cock Sinking to Be Probed.

"Carelessness and negligence" are charged against Captain Bendergard, of the steamer A. M. Simpson, by United States Inspectors Edwards and Fuller will try the accused Monday at Marshfield, alleging that he failed to exercise due caution early in the season when his vessel collided with the Government to nearly in the season when his vessel collided with the Government to Fortland Red Red Red Alagust 4, and after discharging the German cargo was released. She digger so she had to be brought to Fortland Fuller will be summoned of the Fortland Corporate Edwards and Puller with the Government of the Governm

DUE TO DEPART.
For
Coos Bay
F to L. A.
San Diego
San Diego

an Ramon. SUROPEAN AND ORIENTAL SERVICE.

Der mier der Berting heite der Steiner der

Washtenaw. Port San Luis for Portland, 155 miles north of San Francisco. San Ramon, San Francisco for Portland, 1 miles north of Umpqua River, Northland, San Francisco for Portland, 2 miles north of Coos Bay. Magatlan, San Francisco for Astoria, off Tillamook Rock. Chatham, Eagle Harbor for San Francisco, 212 miles from San Francisco. Asuncion, Aberdeen for Richmond, off Tape Mears. Dowey, Seattle for San Francisco, five niles south of Yaquina Head. eara.
Governor, San Francisco for Seattle, off arrowstone Point.
Santa Rita, Port San Luis for Seattle, miles from Seattle, Drake, Port Angeles for San Francisco, off nake, Port Angeles for San Francisco, off Point, ongolia, Orient for San Francisco, 1183 s west of Honolulu October 4, averick, Honolulu for San Francisco, miles out, October 4, anos, San Francisco for Honolulu, 1672 s out, October 4, ontura, San Francisco for Honolulu, 1937 s out, October 4, ontura, San Francisco for Honolulu, 1937 s out, October 4, oterprise, Hilo for San Francisco, 1279 s out, October 4, oterprise, Hilo for San Francisco, 748 s out, October 4, londan, Honolulu for San Francisco, 748 s out, October 4, londan, Honolulu for San Francisco, 8 segundo, Bichmond for Seattle, 20 s north of San Francisco for San Pedro, numbis, San Francisco for San Pedro, numbis, San Francisco for San Pedro, nucles south of Point Reyes, propado San Francisco for San Pedro, nucles north of Point Reyes, propado, San Francisco for San Pedro, nucles north of San Francisco for San Pedro, nucles Dollar, Bandon for Port Harford, miles north of San Francisco. Monterey.

Con, Port Angeles for San Pedro, five south of Farallones.

nalet, San Francisco for Eureka, 50 north of Point Royes, littler. Eureka for San Francisco, 120 north of San Francisco, esident, San Francisco for San Pedro, liles south of Pigeon Point.

Loninn, Honolulu for San Francisco, 482

les out. Argyli, San Pedro for San Diego, 15 miles est of Point Loma. Wm. F. Herrin, Avon for Gaviota, 53 miles eth of Gaviota. Wm. F. Herrin, Avon for Gaviota, 53 miles orth of Gaviota. Avon for San Pedro, 15 cellio, San Francisco for San Pedro, 15 cellio, San Francisco for San Francisco, 5 celles north of Pedro, for San Francisco, 5 celles north of Pedro, for San Francisco, 5 celles north of Pedro, for San Francisco for New York, 5 miles south of San Francisco for New York, 15 miles south of San Pedro, New City, San Pedro for San Francisco, 5 miles west of Santa Barbara. Francisco, 5 miles west of Santa Barbara. San Francisco, 5 miles west of Santa Prancisco, 5 miles south of San Francisco, 5 miles southeast of San Pedro at con-October 5.

# After the hunt-

KUMERIC IS SUNK BY EMDEN Says Backache Is Sign You Have

A bottle of good old

Gambrinus Brewing Co.

GIRL BLAMES SELF FOR ATTEMPT

Main 49

TO HOLD UP CARMEN. Margaret Thurman, 17, Says Her Penury Led Half-Brother to Crime-Pros-

ecutor Seeks Relief for Loss. "If he dies I will kill myself. It was for me that he held up the streetcar. It was to get money for me to live on that he made the rash attempt."

That was the declaration of Margaret was the declaration of Margaret with the street of the

That was the declaration of Margaret Thurman, the 17-year-old half-sister of Frank J. Thurman, the amateur high-wayman who tried to reb Conductor Mosher on the Riverview line Sunday night and who now lies hovering between life and death at the Good Samaritan Hospital.

tween life and death at the Good Samaritan Hospital.

"It was my fault," said Miss Thurman to District Attorney Evans yesterday. "We had spent our last cent. He told me he could not bear to see me wearing these old clothes."

She said that for a ong time Thurman has been the support of the family. Her father, she says, was of violent temper and drove the children from home. Their mother is in an insane asylum.

The girl said her half-brother brought her here from California last March. Since then he has worked whenever he could find employment. The last

A 1149

employment he had been able to get was balling hops during the recent picking season. Since then, she said, her half-brother has been driven desporate by his failure to get work.

She was started on a business college course by her half-brother when they first came to Portland, said Miss Thurman. She has two months longer to finish her school course and it was his earnest wish that he might keep her there until she graduated.

The girl reproached herself for not having left school and gone to work. District Attorney Evans interested Mrs. Lola G. Baldwin and others in the case yesterday. He took the siblect up with Attorney Frank Lonergan, who represents the Portland Railway, Light & Power Company, and an effort will be made to get a position for the girl with

Power Company, and an effort will be made to get a position for the girl with the company her half-brother tried to Thurman himself, who is but 15 years old, showed solicitude for the girl when taken to the hospital. His first thought

# Coffee Hurt You?

You know better than that, for you can point out all around you olks who are the worse for coffee's slugging.

fee's slugging.

Think over a few coffee-drinking friends and casually inquire if they are entirely and perfectly well and just how coffee treats If it hurts others, isn't it just

Catch the drift, don't you?

No need to get mad now; tear up the paper, or shout "non-sense, good coffee never burt plain that if you are a coffee-anyone."

In fact, after having studied the matter a bit, it will become plain that if you are a coffee-drinker the chaptes are that some form of inciplent or perhaps fixed organic disease due to coffee has set in-headache, bii-

iousness, constipation, nervousness, sleeplessness, heart flutter
or others of the well-proven coffee ills. One can refuse to look
the thing squarely in the face
and peg along with the coffee.
Some day nature will haul him
up short,

# It's a Poor Bargain

to swap health and a clear, business-like head for a few cups of coffee each day.

Every coffee toper tries to wiggle round and charge his aches and ills to weather, overwork, too much or too little food, this, that or the other thing, but how he hates to admit that the real enemy is his Master, coffee.

## A Sure Personal Test

will locate the exact cause of your steady destruction of health, if that cause be coffee. It's worth knowing the plain, sober fact before organic heart trouble or other disease sets in, which perhaps cannot be cured.

The test is pleasant, accurate and satisfying-

Quit coffee absolutely for ten days and in its place use POSTUM.

Postum now comes in two forms. Regular Postum must be boiled. Instant Postum—soluble form, made in the cup instantly with hot water. Both kinds of this famous food-drink have the color and flavor very much like the high grades of Old Government Java.

If in a few days you begin to sleep soundly at night, disest your food better, stomach and bowels show signs of recovery, or the old feeling of weakness at the heart leaves, or head works clearer (the alls of coffee drugging are multitudinous) the facts will be before you, and

You Have the Answer— POSTUM

"There's a Reason"