The Journal $5.00 a Year

# Prince Rupert Journal

High-class Job Work

VOL. VI. PRINCE RUPERT, B. C., SATURDAY, DECEMBER 11, 1915. Price 5 Cents. No. 18.

# BRITISH AND FRENCH TAKE NEW BALKAN FRONT

# DIPLOMATIC TROUBLE BETWEEN U.S. AND AUSTRIA

# The Attaches Of German Embassy Ask Safe Conduct

# Lumber Industry Is Now Planned For Prince Rupert

## British And French Troops Successfully Occupy New Front

Paris, Dec. 10.—A report from the army of the east says that as soon as it was demonstrated that an obstruction, which had been attempted on the right wing of the Serbian army, was no longer possible, the commander decided to evacuate the advance positions occupied by our troops on the Cerna River toward Krivolak. The successive manoeuvres connected with the retirement were carried out without any great difficulty, nothwithstanding the fact that the Bul-

(Continued on Page Four.)

## Plans Formulating For Great Lumber Business Here

There is a prospect that in connection with the lumbering revival in this district, Prince Rupert is to come into its own. F. J. Durling, of Detroit, who is associated with the mills at Port Simpson that have just been acquired and are to be put into full operation is in the city, accompanied by his son, R. K. Durling. His plans are not fully maturerd yet, but it is quite possible that works for the making of boxes, the dressing and kiln drying of lumber sawn at Port Essington, and other features in the mill line may be carried out here.

Mr. Durling will, next summer, take up his residence in Prince Rupert with his wife. He controls considerable limits, some of them in the vicinity of Alice Arm. He is studying the whole situation and has quite extensive plans in view.

———o———

The members of the Anglican Church, W. A., desire to thank all those who sent in donations to their sale of work, and those who so ably carried out the evening's programme.

## United States Threaten Break With Austria

Washington, Dec. 10.—Diplomatic relations with Austria are in grave danger of being broken off over the sinking of the Ancona. Unless a satisfactory reply is received from the Austrian Foreign Office, to the American note sent on this subject, complications may follow.

Emperor William, of Germany, has personally recalled the naval and the military attaches of the German Embassy. He requests that safe conducts be procured from the Allies for these officers on their way back.

## KOMEDA GOT OFF VERY LIGHTLY

HE IS LET GO ON SUSPENDED SENTENCE BY THE COURT

The Term He Served Awaiting Trial Allowed To Lighten It.

Komeda, charged with assaulting with intent and also with the lesser offense, that of common assault upon Murphy, received his trial yesterday afternoon. The jury was not out long when it returned with a verdict on the first count, that of assault with intent. He received his sentence at the hands of Mr. Justice Macdonald. He was allowed out on suspended sentence.

When Komeda's case was reached in the evening the jury was selected as follows:

J. A. Murry, (foreman) H. S. Nickerson, G. Smith, F. E. Clapp, Henry Letoninean, E. C. La Trace, Weston Coyney, E. J. Large, M. McLeod, J. G. Johns, F. R. C. Brown and James Hunter.

(Continued from Page Three.)

## Ohara And Nagano Sentenced To Ten Years Each After Being Convicted Of Manslaughter By The Jury Yesterday

Yesterday in the Assize Court the Japanese trials in connection with the death of Jack Pittman, in Port Essington, on July 30 last were all concluded. Ohara and Nagano were found guilty by the jury of manslaughter. Komeda, on the charge of assault with intent, was found guilty. At eight o'clock last night His Lordship, Mr. Justice Macdonald, passed sentence on them. Ohara and Nagano were sentenced to 10 years each. Komeda having been in jail for over four months, with a murder charge hanging over him, was allowed his liberty on suspended sentence.

The trial judge's remarks upon the passing of sentence were delivered in a very impressive manner. His words were well chosen and in the highest sense of the word judicial. The court room was crowded at the time, but not a sound could be heard except the clear strong voice of His Lordship, and the strangely different tones of the court interpreter as he translated them to the prisoners, his voice being almost inaudible at times. His Lordship in sentencing Ohara and Nagano said:

"You received a fair trial. You were charged with the serious crime of murder, but the jury took the view that the crime was only manslaughter: in other words, that there were extenuating circumstances which reduced the graver crime to the lesser. As far as the killing of John Pittman is concerned, I am quite satisfied that the jury was correct in finding you both implicated. There is little that can be said in your favor, as far as your conduct was concerned on the evening of the murder. You did not control your tempers, and gave full vent to your passions and caused death to a man who came to your restaurant peaceably. He and his friends were without weapons of defense. You had at your disposal knives that you used, and I am quite satisfied you both used knives.

"The provocation that saved you from the more serious offense being found against you, was one which you might have met by simply brandishing the knives and ordering Angus, Pittman and Murphy out of your cafe.. You gave, however, these men no chance of escape, but followed ruthlessly through the door out into the street.

"You, Ohara, stabbed Murphy reckless whether you murdered him or not, and then grabbed by Pittman to save himself, your friend Nagano struck the fatal blow. Not satisfied with that, you reeked your revenge on Angus and inflicted a blow that might have caused his death.

"Had this occurrence taken place in the Western States, some of the white people would perchance have had some weapon to defend himself with, but in our country the carrying of weapons is frowned down I am glad to say. I can add little, except to repeat that the vengeance in Ohara's mind was carried to the kicking of poor Murphy while on the ground.

"It is the duty of a court in inflicting punishment if possible to extend mercy, but if I were to allow sympathy and mercy to prevail to such an extent that you were to be allowed to serve your sentence, after a few years only in the penitentiary, it would be putting a premium on those who might see fit to let their tempers find sway and do to death innocent persons.

"You sent John Pittman to his death that night without a moment of warning. He was a man of repute in the community. His life was as dear to him as is yours to you. I have the power to sentence you for the remainder of your days to imprisonment, so that no more would you be a menace to the community. But I do not deem it necessary or advisable to go to that length.

"I can see very little difference between the two of you. Nagano seems to have got control of himself quicker than Ohara. Ohara was completely out of hand, and according to his own admission, ready to kill anyone who had been in the cafe that night. But his candid admission under oath or his state on that night compensates for him in some measure.

"Nagano, by his counsel, is said to feel keenly this charge; but he saw fit to add to his crime the crime of perjury. In my opinion his story was false, and the story told by Ohara essentially the truth.

"I have expressed myself somewhat at length so that you may appreciate, if possible, the gravity of the offence. You will be confined to the penitentiary for a period, and during that time, try and come to the conclusion that it is necessary to keep control of your tempers, and more especially not to resort to deadly weapons for the purpose of resenting provocation or insult.

"The sentence of the court is, for the offense of which you have been found guilty, that you be confined in penitentiary for ten years."

His Lordship then dealt with the two crimes to which they had pleaded guilty, that of assault with intent.

He sentenced Ohara to three years for the assault on Harry Murphy, the term to run concurrently with the other. In the case of Nagano he passed sentence for the assault on Angus for a similar term.

**Addresses Of Counsel.**

When court opened in the morning, T. Shoebotham for Nagano addressed the jury. He contended that Ohara had started the trouble with Carlson. Throughout Ohara was in a rage, while Nagano maintained his calm demeanor. Analysing the evidence to some extent, he argued that his client was not guilty of the of-

(Continued on Page Three.)

## SOME GOOD WORK DONE IN WEST

FRENCH ARTILLERY ACTIVE IN ARTOIS SILENCED ENEMY

Violent Artillery Engagements On The Belgian Front.

Paris, Dec. 10.—Our artillery has been active today, especially in Artois, where we silenced two of the enemy's batteries. We did some effective firing of the enemy's works in the region of Quenneveires in Argonne.

A Belgian official report says the day has been marked by violent artillery engagements. Our batteries did some effective firing against the enemy's concentration points and also towards Woumen.

———o———

## CHANGES AT SCHOOL ARE RECOMMENDED

CORONER'S JURY BRING IN VERDICT OF ACCIDENTAL DEATH

List Of Recommendations Made In Connection With Building.

The inquest into the circumstances connected with the death of Garnet MacPherson was held yesterday. The jury was as follows: J. Y. Rochester, (foreman) F. J. Bowness, Geo. Hill, Martin O'Reilly, Max Heilbroner, D. J. Corley.

(Continued on Page Two.)

———o———

Handkerchief sale will be given in basement of the Methodist Church on Saturday, December 11th, from 2 to 7 p.m. Musical programme during the afternoon. Refreshments served. tf

———o———

Let your Holiday Buying be comfort to the home. A Handsome Easy Chair, Rocker or Couch. Geo. D. Tite's Furniture Store.

———o———

DO YOU WANT CASH?

List your Lots and Houses for Auction Sale with F. W. Hart. tf.

**Westholme Opera House**

Rupert's Popular Playhouse.

TONIGHT

"THE STRANGE CASE OF TALMAI SIND." — Three-act Drama.

HEARST-SELIG GAZETTE Featuring Russian Destroyer shell a Turkish Merchant ship and set it ablaze; and the latest fashions.

"A PERFUMED WRESTLER" Limburger Cheese does the work—Comedy.

"THE UNDERTAKER'S UNCLE."—Comedy.

Next Monday and Tuesday, 13 Episode of "THE DIAMOND FROM THE SKY." Coming, December 16th and 17th "THE SPOILERS."

**New Year Eve Ball**

In McIntyre Hall on the evening of

**December 31**

Under the Auspices of Queen Mary Chapter and Hill 60 Chapter of the Daughters of the Empire.

Geo. D. Tite Grand Holiday Drawing. For every $2.00 Cash purchase entitles you to a chance on 3 prizes. White Rotary Sewing Machine, Library Table and Ladies Desk.

**BULGER & DENIKE**

Successors to Wark's

Have received several New Shipments Of

Pearl Set Necklets and Brooches

The prices this year are quite low as the factories are anxious to reduce stocks.

New designs in Dressers and Chiffoniers—just arrived. Remember, for every $2.00 Cash purchase you receive Three chances in Grand Drawing. Geo. D. Tite, The Home Furnisher.

**Ganong's and Neilson's CHOCOLATES**

at

**ORME'S**

All kinds of fancy Christmas packages, make your selection now.

# Prince Rupert Journal

Telephone 138.

O. H. NELSON, Editor.

Office: 128 Third Avenue East, near McBride Street. Telephone 138; Postoffice Box 607.

DAILY EDITION.

Published every morning except Monday. Delivered by carrier in the city at the following rate, if paid in advance:—

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Published every Friday for circulation outside the City of Prince Rupert at $2.00 a year, addressed to points in Canada; or $3.00 a year to all points in the United Kingdom the United States or other foreign countries.

**Advertising Rates Upon Application Telephone 138.**

Saturday, December 11, 1915.


## NOT EVEN EXCITED.

The News is fearful lest the Journal might become "flabbergasted" upon learning that M. M. Stephens had accepted a government position at the Digby Island marine station. The Journal was not even excited, let alone "flabbergasted" over the information. M. M. Stephens is an excellent appointment, admirably qualified for the post, and we would like to know why he should not be appointed. Mr. Stephens is filling a vacancy temporarily made vacant by the enlisting of Mr. Beak for service in the overseas forces.

## CHAFES AT DELAY.

The Liberal organ chafes at delay on the part of the departments of the Government to act on the requests of the Conservative Association in the city. The News ought to know that Governments and government officials never act without due deliberation. The Conservatives sometimes complain of the decorous delay that follows representations, but the News is still more impatient. Mr. Cunningham, knowing he was coming north to investigate all matters connected with the fishing industry, delayed action on the request of the local Conservative body until he arrived on the scene. The News now awakens to the fact that this delay was very unwarranted. As a matter of fact, no great inconvenience seems to have been caused however, as the herring are not to be found in quantity just now.

## CHANGES AT SCHOOL

(Continued from Page One.)

The verdict was as follows:

"We the undersigned jurors, appointed by J. H. McMullin coroner, to enquire into the cause of the death of Garnet MacPherson, find that the deceased came to his death by accidentally falling from the balustrade on the second floor of the Borden Street School, on the afternoon of the 9th of Dec., 1915.

"And we condemn, in as strong a manner as possible, the existing conditions at the Borden Street School in being a menace to the safety and welfare of the school children, and we ask that the following changes be made immediately:

1 All stair rails and balustrades be fitted with a steel wire screen of sufficient height, not less than two feet, so that children can not climb or slide on the balustrade.

2 That the fire escapes at both ends of the school building be replaced by iron fire escapes.

3 That all outside rails and grounds pertaining to the school, that are a menace to the children, be protected.

4 That a telephone for emergency purposes only, be installed in a suitable place in this building.

5 That a stretcher be procured and kept in a convenient place in the school building.

6 That an electric light be placed in such a position as to thoroughly light the stairway leading from the first floor to the basement.

7 That a supply of first-aid bandages be kept in readiness for emergencies.

8 That a direct fire call should be installed at once with central station.

9 That all other school buildings in the city be inspected by the city building inspector and made to conform with the foregoing recommendations if necessary.

—o—

**New designs in Dinnerware, 97 piece sets at Geo. D. Tite's. Special Holiday Discounts.**

—o—

Be prepared for the campaign of the local Patriotic Fund Committee

### LIQUOR ACT, 1910.
### (Section 19.)

NOTICE is hereby given that, on he First day of December next, application will be made to the Superintendent of Provincial Police for the renewal of a licence for the sale of liquor by wholesale in and upon the premises known as Beaver Wholesale Liquor Company, of Prince Rupert, Limited, situate at 708 Fraser Street, Prince Rupert, B. C., upon Block (32) Section (1) City of the lands described as Lot (15-16), Prince Rupert, B. C.

Dated this 18 day of September, 1915.

THE BEAVER WHOLESALE LIQUOR CO., OF PRINCE RUPERT LIMITED,
GEO. A. SWEET,
**Manager.**


**Reduced Price of MILK**

**The Standard Dairy**

will deliver pure milk of its usual high standard

at 5 cents a Pint
or 10 cents a Quart.

Phone Standard Dairy.

**Blue 247**


### LAND ACT.

TAKE NOTICE that I, Miles MacInnis, of Anyox, B. C., occupation merchant, intend to apply for permission to purchase the following described land: Commencing at a post planted about 1,500 feet distant in a southeast direction from the shore of an unnamed lake situated near the summit of the divide between the head of Alice Arm and the Naas River, being about sixteen miles in an easterly direction from the head of Alice Arm, Cassiar District, B. C. Thence south 80 chains, thence west 80 chains, thence north 80 chains, thence east 80 chains to the point of commencement, and containing 640 acres, more or less.

MILES MacINNIS,
Applicant,
Carl Bowman, Agent.

Dated Nov. 23, 1915. w-d-1

### MINERAL ACT.
(Form F.)
Certificate Of Improvements.
NOTICE.

"Edith M.", Glenora," "Oneda," "Cobalt Fraction," "Evans," "Granby," "Railroad," "Ayrshire," and 'Motherlode," Mineral Claims, situate in the Portland Canal Mining Division of Cassiar District. Where located, on American Creek.

TAKE NOTICE that Pacific Coast Exploration Company, Limited, Free Miner's Certificate No. 93,862B, intend, sixty days from the date hereof, to apply to the Mining Recorder for a Certificate of Improvements, for the purpose of obtaining a Crown Grant of the above claim.

And further take notice that action under section 85, must be commenced before the issue of such Certificate of Improvements.

Dated this 4th day of October, A. D. 1915. t-o-26

### MINERAL ACT.
(Form F.)
Certificate of Improvements.
NOTICE.

Last Laugh No. 2 Frac; Last Laugh; Point; Last Laugh No. 3 Frac; Never Sweat; Grey Eagle and Triangle Frac., Mineral Claims, situate in the Portland Canal Mining Division of Cassiar District. Where located, at Swamp Point, Portland Canal, B. C.

TAKE NOTICE that I, J. Fred Ritchie, Free Miner's Certificate No. 90,-071B, acting as agent for the Granby Consolidated Mining, Smelting & Power Co., Limited, Free Miner's Certificate No. 90,810B, intend sixty days from the date hereof, to apply to the Mining Recorder for a Certificate of Improvements, for the purpose of obtaining a Crown Grant of the above claim. And further take notice that action, under section 85, must be commenced before the issuance of such Certificate of Improvementss.

Dated this 20th day of Oct. A. D. 1915. w-d-1

J. FRED RITCHIE, Agent.


**The Morning Journal 50c. per Month**


### NOTICE OF SHERIFF'S SALE
IN THE SUPREME COURT OF BRITISH COLUMBIA
Between
MICHAEL SEEBURG, Plaintiff
and
W. J. KENNAUGH, Defendant.

PURSUANT to an Order of His Honor, Judge F. McB. Young, dated the 4th day of June, 1915, I will offer for sale by public auction at my office in the Court House, Prince Rupert, B.C., on MONDAY, THE 20TH DAY OF DECEMBER, 1915, at the hour of ELEVEN O'CLOCK in the forenoon, the following described lands:—

Lot Fourteen (14), Block Twenty-one (21), Section Six (6), in the City of Prince Rupert, Province of British Columbia, subject to a Judgement for the amount of $1,519.74; interest thereon at the rate of five (5) per cent. per annum from the 22nd day of December, 1914, and costs incidental to the sale.

Dated at Prince Rupert, B.C., the 7th day of June, 1915.

j-9-6. JOHN SHIRLEY
Sheriff of the County of Atlin.

### SYNOPSIS OF COAL MINING REGULATIONS.

Coal mining rights of the Dominion in Manitoba, Saskatchewan and Alberta, the Yukon Territory, the Northwest Territories and a portion of the Province of British Columbia, may be leased for a term of twenty-one years at an annual rental of $1 per acre. Not more than 2,560 acres will be leased to one applicant.

Applications for a lease must be made by the applicant in person to the Agent or Sub-Agent of the district in which the rights applied for are situated.

In surveyed territory the land must be described by sections, or legal subdivisions of sections, and in unsurveyed territory the tract applied for shall be staked out by the applicant himself.

Each application must be accompanied by a fee of $5, which will be refunded if the rights applied for are not available, but not otherwise. A royalty shall be paid on the merchantable output of the mine at the rate of five cents per ton.

The person operating the mine shall furnish the Agent with sworn returns accounting for the full quantity of merchantable coal mined and pay the royalty thereon. If the coal mining rights are not being operated, such returns should be furnished at least once a year.

The lease will include the coal mining rights only; but the lessee may be permitted to purchase whatever available surface rights may be considered necessary for the working of the mine at the rate of $10 per acre.

For full information application should be made to the Secretary of the Department of the Interior, Ottawa, or to any Agent or Sub-Agent of Dominion Lands.

W. W. CORY,
Deputy Minister of the Interior

Skeena Land District—District of Queen Charlotte Islands.

TAKE NOTICE that R. N. Ferguson, agent, Victoria, B. C., and A. M. Hall, manager, Vancouver, B. C., intends to apply for permission to prospect the following described lands for coal and petroleum: Commencing at a post planted 100 chains east and 60 chains north of the mouth of Joseph Creek, to the southeast corner of C. L. No. 10,148, thence 80 chains north, thence 80 chains east, thence 80 chains south, thence 80 chains west to the point of commencement.

R. N. FERGUSON and A. M. HALL
Name of applicants
G. W. KERR, Agent.

Dated July 17, 1915. w-s-15

### MINERAL ACT.
(Form F.)
Certificate of Improvements.
NOTICE.

"Rosalie" Mineral Claim, situate in the Portland Canal Mining Division of Cassair District.

Where located: South fork of Glacier Creek.

TAKE NOTICE that I, William Spruck, Free Miner's Certificate No 80,499B, intends, sixty days from the date hereof, to apply to the Mining Recorder for a Certificate of Improvements, for the purpose of obtaining a Crown Grant of the above claim. And further take notice that action, under section 85, must be commenced before the issue of such Certificate of Improvements.

Dated this 27th day of September, A. D. 1915 o-5

The Morning Journal delivered to your home at 50 cents a month.


**Snap In Real Estate**

**Choice Lot with Building on it for $2,200 Cash**

*Lot 12, Block 9, Section 1*

APPLY TO

**GEORGE BRODERIUS**


### LIQUOR ACT, 1910.
(Section 42.)

NOTICE is hereby given that, on the first day of December next, application will be made to the Superintendent of Provincial Police for renewal of the hotel licence to sell liquor by retail in the hotel known as the Granby Bay Hotel, situate at Anyox, in the Province of British Columbia.

Dated this Sixth day of Sept., 1915.

Granby Bay Hotel Company, Limited.
JAS. CHURCHILL, Manager.
t-s-14 Applicant.


**HOTEL DIRECTORY**

Members of the Prince Rupert Licensed Vintners' Association

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Cor. of First Ave. and Eighth
W. H. WRIGHT, Prop.

**HOTEL CENTRAL**
First Ave. and Seventh St.
European and American Plans
$1.00 to $2.50 Per Day
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First Ave. Between Eighth and Ninth
European Plan; Rates 50c to $1.00 Per Day
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Second Ave. and Sixth St.
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**PRINCE RUPERT IMPORTING CO. LIMITED**
Empress Hotel Building—Third Ave.
Phone 7

**FREDERICK PETERS, K.C.**
Barrister, Solicitor and Notary Public
Office in
EXCHANGE BLOCK


Skeena Land District—District of Queen Charlotte Islands.

TAKE NOTICE that Albert Scott Lock, of Victoria, B. C., occupation broker, intends to apply for permission to prospect the following described lands for coal and petroleum: Commencing at a post planted 160 chains east of the north east corner of Lot No. 2,771, near Otard Bay, thence south 80 chains thence east 80 chains, thence north 80 chains, thence west 80 chains to the point of commencement.

ALBERT SCOTT LOCK,
Name of applicant
G. W. KERR, Agent.

Dated July 19, 1915. f-s-17

Skeena Land District—District of Queen Charlotte Islands, Graham Island.

TAKE NOTICE that I, Theed Pearse, of Vancouver, B. C., solicitor, intends to apply to the Chief Commissioner of Lands for a license to prospect for coal and petroleum on and under the following described lands: Commencing at a post planted one mile west of the mouth of Naden River, at Naden Harbor, thence south 80 chains, thence east 80 chains, thence north 80 chains, thence west 80 chains to point of commencement, containing 640 acres more or less. North West Corner.

THEED PEARSE,
Name of applicant,
o-9 Samuel Horner, Agent.

Dated the 10th day of August, 1915.


**J. H. HILDITCH**
**Contractor and Builder**

Estimates given on all classes of work, whether small or large. Personal attention given to every item.

PHONE GREEN 321

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General Teaming
Furniture Moving a Specialty.

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Office will open today in Law-Butler Building for sale of a limited amount of Treasury Stock
GEO. F. MACDONALD, Sec.-Treas.

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The Favorite Household Coal
Cleanest, Brightest and Best
**Rogers & Albert**
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**PAPERHANGING PAINTING POLISHING AND WALL TINTING**
HIGH-GRADE INTERIOR DECORATING A SPECIALTY
**Martin Swanson**
SECOND AVE. NEAR McBRIDE

THE MOST COMFORTABLE
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Corner Second Ave and 4th St.
Pianos and other musical instruments for sale.
Pianos to Rent.
A large assortment of sheet music. Classic songs and music, and all the popular selections of the day.

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—FOR—
**Coal, Furniture Moving, Baggage and Heavy Teaming**
W. J. CRAWFORD, Manager
*PHONE 566* Office and Residence: 1009 THIRD AVE.

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O-CEDAR MOPS, O-CEDAR MOP POLISH
ALABASTINE SANITARY WALL COATING
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MARTIN-SENOUR 100 PER CENT. PURE PAINT
PAINT BRUSHES, LAWN MOWERS AND GRASS SHEARS
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Masters and Mates prepared for examination. Compass adjuster.
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Helgerson Block, opposite Royal Hotel

**B. C. Undertakers**
Funeral Directors and Embalmers — Satisfaction Guaranteed — Open Day and Night
117 Second Street Phone 41
Bruce Morton - - Manager


The Morning Journal 50 cents per month.

# OHARA AND NAGANO SENTENCED

(Continued from Page One.)

fense.

L. W. Patmore, for Ohara, argued that it looked like concocted evidence on the part of Mrs. Komeda, who swore she could not see her husband.

The evidence of Ohara was given very frankly. He did not deny that he stabbed Murphy. It was the evidence of a man telling the truth.

It would be necessary for the jury to decide whether this was premeditated. The Crown had not shown as contended, that the trouble was over and the Japs driven back before the assault began. The reasonable story was that of a continuous fight. White men under the same conditions would have used revolvers had they found them. A knife to a Japanese was similar to a revolver to a white man. If they found there was no pre-meditation, and no concocted action, then it was necessary for the jury to decide who struck the fatal blow. That blow to Pittman was not by Ohara.

Analysing the evidence given, Mr. Patmore argued that it was Nagano struck the fatal blow and not Ohara. The clothes of Ohara were not covered with blood. It was Nagano's clothes that had the blood on them.

W. E. Fisher, for the Crown, said that it had been his intention to analyse the evidence of the various witnesses, but Ohara having gone into the box and given that, he was bound to believe it was a very truthful statement, he would not dwell at length on that part.

The evidence of Ratchford and Pierce, who were very cool, was to the effect that Pittman was stabbed on the platform. It was Nagano they could feel confident struck the blow.

Mr. Fisher contended there was quite a distinct lull in the proceedings after Angus chased the Japs back into a corner with the dishes. This allowed the white men to get out. The Japanese made for the back window, evidently intending to get out. They changed their minds and came forward with the weapons.

He called attention to what seemed evidently manufactured as between Komura and Mrs. Komeda, who saw the same situations from the window at different times.

Angus at the time of the arrest when everything was fresh, had said to the constable when he arrested Nagano, "You've got the right man."

The statement that Nagano took the clever for protection was nonsense. He could have got the best of protection behind a corner close to where he was.

In his charge to the jury, His Lordship pointed out that malice aforethought was a necessary feature of murder. The killing having been proven it remained with the accused to prove that there was no aforethought. If they believed Angus, they could believe that the fatal blow was struck by Nagano. In corroboration they had the evidence of Murphy, Ratchford and others. They would bear in mind the contradiction as to the weapon carried by Nagano as to whether it was a knife or a clever.

They might also consider whether both parties were implicated. Supposing they found that Nagano inflicted the fatal wound, they would have to consider how far the other man was guilty. In the eyes of the law the person present and abetting was just as guilty as the one committing the act. They had a right to consider whether there was a concerted action on the part of the two men; that they moved together in the attack; and that they had weapons calculated to cause death. They would be entitled to consider whether the accused were justified in making the attack upon the white men, in view of the attack made upon them, and whether the attack outside could not be considered as a continuation. If they found concerted action then the two men were equally guilty.

The presumption is that once a homocide is proved it is murder, unless it is otherwise proven. There had been no attempt by counsel for the accused to prove justification from self defense. Murder could be reduced to manslaughter if there was sufficient provocation. Under the code this provocation must have been such as to arouse an ungovernable passion, sufficient to deprive an ordinary person of the power of self control, if he acts before having time to allow his passions to cool. The standard upon which they were to base their judgment, was that of an ordinary person. He pointed out that these two men being Japanese were entitled to just the same consideration at the hands of an English jury as those of their own race. The jury would have to decide upon the sufficiency of the provocation to warrant a reduction from murder to manslaughter.

Referring to the circumstances, he said that these accused men were on their own premises. The white men came to get meals as was their right. The advent of Carlson in a drunken condition, which often caused trouble. When Carlson was brought back and Ohara began to discipline him, all parties were out of a normal condition of mind. Making reference to the attempted escape through the window, His Lordship said that was not a course that an owner of property was entitled to take, but rather to hold their ground. It would be for the jury to decide whether they went farther than that in what they did.

There were bound to be discrepencies in the account of events that took place, especially in such a one as this, where there was a good deal of excitement. They should give due consideration to these, leaning towards the accused. If a reasonable doubt arose the accused should have the advantage of it. He could not say where the doubt might arise.

The jury were the judges of the facts. When these were established, then they should draw a natural conclusion.

The jury retired at 12 o'clock. At 4:20 they returned with a verdict of guilty of manslaughter.

The prisoners showed little or no emotion as the verdict was given. Ohara heaved a sigh, but no change could be seen on the face of Nagano.

Before dismissing the jury His Lordship expressed his satisfaction at the action of the jury throughout. They had shown that they were men who very fully appreciated the duty they had to perform, and had shown marked attention throughout. He excused them from further duty during the Assize.

In the evening the prisoners appeared for sentence, Mr. Shoebotham made a plea for Nagano. He pointed out that he was a young man, scarcely past the bounds of youth. He asked that the judge take into consideration that the lesson would fit him for an honorable future. He asked that he make the sentence as light as possible. He felt it very keenly, and he felt that any leniency would not be misdirected as far as Nagano was concerned.

Mr. Patmore, for Ohara, said he did not wish to reiterate what had been said. He urged that some clemency be shown in view of the fact that the prisonerr had so frankly confessed all he did and threw himself on the mercy of the court.

His Lordship thereupon addressed himself to the prisoners as given above.

## KOMEDA GOT OFF.

(Continued from Page One.)

Mr. Fisher in outlining the case, referred to the dispute at the restaurant of Nagano's, in which building the accused had an interest. It was charged that Komeda had taken a crutch and assaulted Murphy, a lame man, in the restaurant.

John Wesley, an Indian, testified that he saw Komeda holding Murphy against the counter. He saw knives taken, but Komeda did not have a knife.

Cross-examined by Mr. Peters, witness said he never saw Komeda strike anyone.

Robert Angus called, said he saw through the broken window of the cafe, Komeda smashing Murphy over the head with a crutch.

Cross-examined by Mr. Peters, witness said that the row started when Komeda and Ohara took Carlson into a corner.

Mr. Peters asked why witness did not say at the preliminary hearing that he saw Komeda strike Murphy in the face.

Witness did not know whether he stated that then. It was the truth anyway.

He did not think that he hit Komeda with a dish.

Upon resuming in the afternoon, Harry Murphy was called as a witness. He testified to Komeda having reached for one of the crutches of the witness as he sat on a stool. The accused struck at Carlson. Witness tried to get out with one crutch but could not do so. Komeda took his other crutch and witness fell to the floor. Komeda then began beating witness. Ohara came to the assistance of Komeda.

Cross-examined by Mr. Peters, witness said that he eventually went out.

Harry Berryman had known Komeda for five or six years. He saw Komeda outside strike with a crutch and he told him not to do it.

Cross-examined, witness said he knew nothing against Komeda's character. He did not see Komeda strike Murphy.

H. Murphy recalled, was asked by Mr. Peterrs if he was kicked by Ohara as he lay outside. He said he was kicked in the left ear. He was paralysed below the neck at the time.

R. Leese, Provincial Police Officer, under cross-examination by Mr. Peters, said that he found no blood marks on the clothes of Komeda. He had heard that Komeda had been down to the police station looking for a policeman. He had no reason to disbelieve this. He knew nothing against Komeda.

John Lacy, cross-examined by Mr. Peters, said that against Komeda and his wife he had never heard anything. On the night of the murder, after witness had seen the body of Pittman lying in front of his place, Komeda came to witness from the direction of the police station. He had a flashlight in his hand and asked about the police.

Dr. R. W. Large testified to Murphy having an abrasion over the left eye. There were other abrasions about the head over the nose. The man had loss of sensation and loss of power on about half of the body—the right half.

Cross-examined by Mr. Peters, witness said the wounds on the face might have been caused when he fell down, if he slid. They were not serious wounds.

He had lived in Port Essington in the summers for five years. He knew nothing against him.

Mr. Peters, outlining the case for the defense, said that Komeda was arrested for murder and all kinds of charges. It had dwindled down to a common everyday garden variety of assault, capable of being tried by a police magistrate. He had been held in jail since July 30.

Mr. Fisher in addressing the jury, pointed out that while Komeda was charged with the others with murder, it was found that Komeda should be charged with assault upon Murphy. Murphy who had only one leg took no part in the fight. He sat as far as he could get from the fight after he could not get out. Komeda took his other crutch away and then beat him on the floor. Outside, evidently Komeda had hit Murphy again.

Mr. Peters would doubtless try to make out that Komeda was a peacemaker; that he ran to get the police. But the evidence went to show that the man, after coming back, hit Murphy as he lay on the ground.

Mr. Peters in addressing the jury, said that they came forward with a statement by Angus that the accused hit Murphy with a crutch, which evidence he did not give in the magistrate's court.

Mr. Fisher took exception to this, saying Angus said he did testify to that, but the magistrate did not take it down.

Mr. Peters did not believe any such statement. The depositions were taken before Major McMullin, as careful a magistrate as there was in the country, and he would not have overlooked such a statement.

The man should never have been sent up for murder. There was no evidence that Murphy was hit by Komeda on the ground.

Mr. Peters said nobody regretted the charge more than Komeda. He had suffered a very considerable punishment in being in jail nearly five months. He had been put to a very heavy loss in a business way. There were many witnesses who spoke well of the convicted man. He had got in communication with local wholesale firms and they had, in dealings, found him a very honorable man. He is a married man. After regard to all the circumstances very generous treatment could well be invoked.

In charging the jury, His Lordship pointed out that the evidence showed that the accused took away the crutch of Murphy, a cripple. If the evidence were believed there was no evidence against it. If the jury regarded this as a trival matter, they could do so. That was not the view he took of it.

His Lordship pointed out that he was liable to a three-years term. He pointed out that he had had the charge of murder hanging over him. He also had had the chance to give evidence on his own behalf, and had he done so with any hope of clearing himself he would have added perjury to his crime. That he had not done so was in his favor. He referred also to the good name he held in the community, and told him that that helped him at the time.

His Lordship felt that the ends of justice could be served by taking into account the time he had already been confined, and he therefore suspended his sentence for the future.


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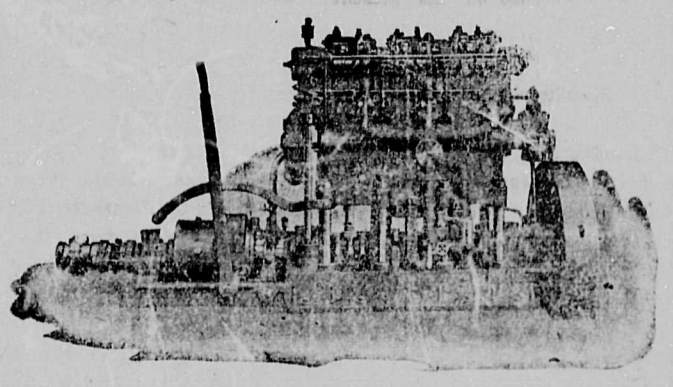

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