HOWARD IS CUILTY

Baker County Horse Thief Will Serve Five Years.

NOTORIOUS CASE IS ENDED

Supreme Court Decides What Constitutes a Former Adjudication in an Action to Recover Possession of Real Property.

witness by introducing an affidavit made by himself, it is proper to admit estimony showing the circumstances nder which the affidavit was made. order to constitute a bar to a sub equent action for recovery of powerefendant must show that the trial and

SALEM, June 29 .- (Special.)-Two appealed cases were declared by the Supreme Court today, One of them was the case of the State vs. Mannie Howard, the Baker County horsethief. Howard is already serving his time and the affirmance of his serving as time and the antification of assentence by the Supreme Court closes a case that has been pending in the courts for several years. Howard's sentence was five years' imprisonment. His co-defendant, Alexander Meldrum, is also serving a sentence for the same crime.

State vs. Howard.

State of Oregon, respondent, vs. Mannie Howard appellant, from Baker County, Robert Eakin, Judge, affirmed; opinion by

This is the second appeal in this case, This is the second appeal in this case, the first appeal having resulted in a reversal and a new trial. In this case the court says that the questions arising on the instructions, and relating to the sufficiency of the evidence to justify a conviction, are practically the same as in the Meidrum case. "We have re-examined them," says the opinion, "and find no reason to change the conclusions therein reached." In the first trial I. I. Beisley. In the first trial J. J. Baisley testified against the defendant, but later made an affidavit to the effect that his testimony was false and had been given for a consideration paid by one of the prosecuting witnesses. On the second trial when he testified against the defendants they produced this affidavit to impeach his testimony. Thereupon Balsley was permitted to relate a conversation be had with one Inman and to state the contents of a threatening note he had received and to which inman referred in the conversation. Defense objected to this testimony on the ground that the conversation did not take place in the presence of defendant and he did not write or authorize the writing of the note. The Supreme Court helds that the testimony was properly re-ceived for the purpose of showing the cir-cumstances under which the affidivit was made. No error being found the case is

Hoover vs. King.

Newton Hoover, appellant, vs. W. J. King, Alice L. Bartiett and George W. Bartiett, respondents, from Harney County, M. D. Clifford, Judge, reversed; opinion by Justice Bean.

This was an action to recover possession of the east half of the southwest quarter.

This was an action to recover possession of the east half of the southwest quarter of section 2, township 25, south of range 25% east. A similar suit was brought by the same plaintiff in 1859 and against the same defendants. At that time plaintiff alleged that he was the owner and en-titled to the possession of the property. Defendants denied plaintiff's ownership and set up title in Alice L. Bartlett. The verdict of the jury was as follows: "We, the trial line," the trial jury in the above entitled action, find for the defendants, Alice L. Bartlett and George W. Bartlett, and against the plaintiff, Newton Hoover. The judgment rdered that the complaint be dismissed

and that defendants recover their costs.

In this case the defendants sought to set up, as a bar to the new action, the judgment in the first case. The Judge in the court below held that the former judg-ment constituted a bar and so instructed the jury, but the jury found for plaintiff. ct was set aside and a new trial

had when the court directed a verdict for defendants and the plaintiff appealed. The Supreme Court holds that the first judgment did not constitute a bar to the judgment did not constitute a bar to the present action. The opinion quotes from sections 226, 225, 229, 230 and 329 of the Beilinger and Cotton code on this subject. The latter section provides that the judg-ment "shall be conclusive as to the estate in such property and the right to the possession thereof, so far as the same is thereby determined." The opinion then

says:
"It is declared in express terms that the judgment is conclusive on the title only so far as the same is thereby determined and that only is deemed to have been de-termined by a judgment which appears upon its face to have been so de-termined, or which was actually and necessarily included therein and necessary thereto. (B. & C. Comp., section 748.) There is no finding by the jury or determination by the court concerning the title, nor was it necessarily included in the judgment. The verdict in the former action was simply a finding in favor of defendants, and the judgment mergly dismissed the complaint and taxed the costs and disbursaments

and disbursements against the piquitiff.

Since neither the verdict nor
the judgment in the former action shows that the title to the property was deter-mined, the judgment can, in our opinion, have no more force than a nonsult, and is not a bar to a subsequent action to recover possession of the same property.' The case is remanded for new trial.

LAW IS INEFFECTIVE. Public Officials Cannot Be Made Sub-

ject to Garnishment.

SALEM, Or., June 29.—(Special.)-The last Legislature passed an act which was intended to make state and other public officials subject to garnishment for money in their hands and due to private individuals. Attorney General Crawford is of the opinion that this law is ineffective and that stae officials cannot be made parties to garushmenn proceedings. He will support this epinion in a suit now pending in the Circuit Court for Marion County in which F. J. Strayer is plain-tiff and W. Hayden detendant. The plaintiff having recovered judgment against Hayden has served a notice of garnishment upon Secretary of State F J. Dunbar, attempting to attach money due Mr. Hayden as salary for his services

Mr. Hayden as salary for his services as a guard at the State Prison.

Mr. Crawford will move to dismiss the proceedings against the Secretary of State on the ground that a public official cannot be made a party to such a proceeding. His argument will be that it is contrary to public policy and therefore fliegal to permit such proceedings. Another argument will be that the state cannot be sued without its own consect. cannot be sued without its own consent and if garalshment proceedings are per-mitted to be brought against state offiials the parties can in that way try out indirectly a case they could not try di-rectly and in effect this would be suing

The questions involved will come before Judge George H. Burnett for deterraination. The Oregon statute does
not expressly authorize the bringing of
garnishment proceedings against public
officials. Prior to the session of 1905 the



cials from such liability but the Legis-lature last Winter passed an act amending the law so as to eliminate this ex-emption. Several who have looked up the court decisions in other states say that the weight of authority declares that

Ings. RECOVERS HER CHILD.

in the absence of express authority by statute, litigants cannot make public officials parties to garnishment proceed-

Formerly From Portlan Says Boy Was Kidnaped.

OLYMPIA, Wash., June 25.—(Special.)— Mrs. Jennie Dunham, who claims Port-land as her home, through the aid of the Olympia police today recovered possession of her 5-year-old son, who, she mays, was kidnaped four months ago by her former husband.

Mrs. Dunham was a patient in Spokane Hospital, undergoing an operation for ap-pendicitis at the time the child was stolen, and the boy was in the Sisters' hool in Everett. Since the child was ured from the school by Dunham, the nother has been tracing them from place o place in this state. She arrived here five days ago, and, with the aid of the pelice, located Dunham at a mill near town on Saturday. Mrs. Dunham went to the country today and returned with the child in her possession.

NOT DESERT LAND,

Large Tract in Big Bend Country Withdrawn From Entry.

NORTH YAKIMA, Wash., June 28. (Special.)—The Register and Receiver of the North Yakima Land Office have been notified by the Interior Department imnediately to withdraw from the desert land entry a large body of land on the Columbia River east and northeast of Takima County. The tract lies mainly in the bend of the river in Douglas County. half of it being above Priest's Rapids and half of it below. It includes five fractional townships in Yakima County, and any of it may be taken under the homestead law and not otherwise. The which has been withdrawn, the other land being in the Walla Walla district and lies in Adams, Franklin and Walla Walla Counties. The land is withdrawn pending further investigation into the feasibility of building a big irrigaton sys-tem in the Columbia Basin.

Falls Over a Precipice.

BILLINGS, Mont., June 29.-William Battans died this morning from injuries sustained from failing over a precipice the night before. Battans was carrying Charles Burton, Jr., who had been wound-ed by a gunshot, to Billings from a ranch several miles distant, and fell over a precipice while hunting for the which he had lost in the dark.

Elma Pastorate Filled.

ELMA, June 29.-(Special.)-The pasorate of the Disciples' Church, made torate of the Disciples Church, made va-cant here by the resignation of Rev. Trundle has been filled by Rev. State from Ohio. He preached his first sermon last Sunday. He was educated in the school of his denomination at Lexington,

Smeltermen Banquet Him

BUTTE. Mont., June B.-Superintendent John T. Morrow today resigned from the Boston & Montana Company. The smeltermen. 1000 strong, tendered him a banquet. Mr. Morrow goes to Arizona to assume charge of the Queen Copper-Company's properties.

Sworn in as Midshipmen.

SECOND SEARCH BEGUN

GROUND BETWEEN HEPPNER AND LEXINGTON WILL BE COVERED.

Three Crews of Picked Men Put to Work-Body of Mrs. Clarence Andrews Recovered.

HEPPNER Or. June 29 .- (Special.) -- Another body was today added to the number This was the body of a woman dragged from the mud and slime of a deep public of water in front of the residence of William Dutton, two miles below town. Though badly decomposed, the corpre was identified as that of Mrs. Clarence Andrews, a member of the ill-fated family of George Swaggert. Searchers were attracted to the place by the noisome odors and found the body partly exposed.

Yesterday, the executive committee went over the ground between Heppner and Lexington to note the progress of the



Miss Agnes Craft, Queen of Albany Merchants' Carnival, -Photo by Crawford.

work of search and decide upon future plans. The result was that all men were called in and paid off, then three crews of ten picked men each were selected and sent hack to go over the searched territory a second time.

All cases of need have been relieved temporarily, and Mrs. Britton, who has head charge of emergency work leaves

had charge of emergency work leaves for her home at The Dalles tomorrow, Contributions continue to arrive. These which came today are as follows:

James Greene, Carson City, Nev. \$
Baker City (additional).
Masoole lodge, Roseburg.
Starbuck, Wash.
White Swan Concert Band, Baker City Seattle Times Seattle citizens (additional)... Daywille
O Cottonwood Idaho
Independence
Aberfeen
Cash from sale of perishable produce
Mr. Hastings, Pendleton,
Canyonville (additional)
Astoria (additional)
Monument
Lone okane (additional) ... Long Creek
Three little girls of Colfax-Grace
Stafford, Jennis Miller and Agnes
Gelestic

A. Foiger & Co., San Francisco

More Funds for Heppner, LA GRANDE, Or., June 29.—More money is coming in for the relief fund. The Order of the Eastern Star at a recent meeting appropriated \$50 and C. O. Nuclat collected in Summerville and vicinity #5.
The Grange Hall people, east of this city gave a basket social Thursday that netted \$25 for the fund.

Aberdeen's Subscriptions.

ABERDEEN, Wash., June 28. (Special.)— The total subscriptions to date in Aber-deen for the Heppner relief fund amount to \$660. Over \$100 was raised by a benefit entertainment given by the

By Forest Grove Maccabees FOREST GROVE, Or., June 29.—At a meeting of Banner Tent, No. 44, Knights of the Maccabees, of Greenville, Saturday night, 450 was voted for the Heppner

CANNOT BE TAXED.

Lands Held Under Certificate of Sale From the State.

SALEM, Or., June 29.-(Special.)-That lands held by private individuals under certificate of sale from the state cannot be taxed, is the opinion of Atterney-Gen-eral Crawford. This question was recently submitted to the Attorney-General by one of the County Assessors. The question was not submitted in writing and no written opinion has been rendered upon the subject, but Judge Crawford said today that after looking into the matter he has arrived at the stated above.

This is in accordance with what has always been the practice in this state. The State Land Board, in pursuance of law, sells land upon the installment plan, the purchasers taking deeds when they have completed their payments. Until they have completed their payments the state holds the legal title and the purchaser has no equity. The Attorney-General holds that in this state equitable interests in real property are not favor. interests in real property are not taxa-ble and this applies to equities in state land as well as to equities in land owned by private individuals.

by private individuals.

For a number of years there has been more or less demand for legislation which will provide a means of taxing lands or certificates of 'sale so that each purchaser will pay taxes according to the interest he holds. The subject has been discussed a great many times but the Legislatures have not seen fit to pass a law of that kind.

HUMPTULIPS IS HIGH. Flood Flonts Down 15,000,000 Feet

of Logs. HOQUIAM, Wash., June 28 .- (Special.)-The recent heavy rains have caused the Humptulips River to rise. The water was so high yesteriay that it floated 15, 000,000 feet of logs down and they lodged 000,000 feet of logs down and they lodged against the Northern Pacific bridge which crossese the river. The construction engine went to the scene and the work of breaking the jam and letting the logs through will commence at once. This amount of logs coming down at this time of the season leaves a good supply on hand in the Humptuilps boom.

Gillnetters Make Good Catches. ASTORIA, Or., June 29.-(Special.)-Fairly good catches are now being made glilnetters in the lower harbor, but the fish have not yet gone above Tongue Point. The up-river selners are all getting their gear ready to begin ope-rations as soon as the freshet in the river subsides, which should be during the coming week.

No Matter Who Is State Republican Chairman.

SAME OLD BATTLE OVER AGAIN

Marion County Politicians See No Present End to Factional Differences in Republican Party.

SALEM, Or., June 29 .- (Special.)-Salem Republicans are taking only a passive interest in the question whether the Re publican State Central Committee shall have a new leader, for it is generally recognized that the solution of the prob-lem is of political significance chiefly in Multnomah County. While it is appar-Multnomah County. While it is apparent that the personnilty of the state chairman is always of more or less importance in a political campaign, yet, so far as difference between factions of the party are concerned. Marion County Republicans do not see that it is material who is state chairman. In other words, it is the almost unanimous expression of opinion that the factional fight will go on just the same whether one man or of opinion that the factional fight will go
on just the same whether one man or
another be at the head of the party organization. Whether the fight shall be
waged over the shoulders of a Matthews
or a Baker, or any other man, is therefore considered of secondary importance.
"The same old battles will be fought
over again," said a prominent Republican, who is identified with that wing
of the party which bears the name of
Simon. "There is no use crying bears."

of the party which bears the name of Simon. "There is no use crying 'peace, peace,' when there is no peace. A state chairman cannot be chosen who can promote harmony in the party. There are men who could promote harmony but none of them will be placed at the head of the organization. Perhaps Baker could do it, but he won't have a chance. In the first place, if he is at all satisfactory to the Simon secone the Mitchell-Fulton. to the Simon people the Mitchell-Fulton people will not out him in power. If the Mitchell-Fulton people are so well pleased with him that they are willing to give with him that they are withing to give him the reins, then the Simon people will not be satisfied. And there you are. Baker won't be state chairman unless he will play the Mitchell-Fulton game." Leaders in the Mitchell-Fulton wing of

the party have very little to say about the proposed change in the management of the state and Multinomah County organizations, for whatever is deemed best by the powers that he will be ac-cepted as a matter of course. The fact that the managers of the last state cam-paign gave Marion County leaders no help in the local fight probably causes som in the local fight probably causes some dissatisfaction with Matthews, for it is felt that under the circumstances special efforts should have been made to carry Marion County for the leader of the ticket. On this account a change might be desired, but this is a subject not openly discussed.

Some of the Republican workers, who are supposed to be closest to ex-Senator.

are supposed to be closest to ex-Senator Simon have been heard to express the hope that Matthews will be left at the head of the managing committees for both the state and Multnomah County, and the reason they give for this is that the chances of victory for themselves would be atrengthened thereby. They do not conceal their confidence in the succes not conceal their confidence in the success of what is known as the Simon element in the primaries next Spring, though they all acknowledge that they are up against a hard fight with the opposition in complete control. The apparent indifference of Mr. Simon at present is explained by saying that their leader is waiting for the delegation at Washington to complete the distribution of patronage. In other words, they do not expect Simon to begin the great political pect Simon to begin the great politica game until the deal has been completed and he finds out what cards he holds in his hand.

Harmony is the last thing that anyone expects. That the crowd now on top wants peace is generally remarked, but the Simon people say that their leader never quits lighting when he is whipped. Though there has been talk of a new alignment and a wiping out of the old factional differences, there is no mention of any leader of the anti-Mitchell people except Simon and no one expects a new leader to appear. In fact, none other is wanted, for if Simon takes no part in the primary fight next Spring his followers will do nothing more than look after ocal affairs in which they may be inter

In this county the organization is in the hands of men who have been identi-fied with the Simon wing of the party. The contest in the primaries in 1962 was between the Mitchell people on the one hand and a union of Simon and Geer forces on the other, and the latter won by an overwheiming majority. Whether the Simon people could win again would depend upon many local questions that will be involved. There will be no holdover Senators to elect next Spring, so it is probable that very little will be hear

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PEACENOTTOBEHAD WHAT SHE ESCAPED

Delay Would Probably Have Been Fatal in Miss Goodwin's Case.

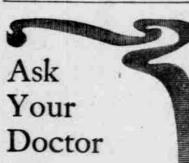
"My mother died of consumption five years ago," said Miss Johannah Good-win, of Northbridge, Mass., "and I thought I was going into the same disease. I believe I would have done so but for Dr. Williams' Pink Pills for Pale People.

"My complexion had turned pale and yellow, and I was ghastly looking. I was so weak I could not dress myself without sitting down to rest a few times, and often when I walked a short distance, or even stooped over, pains shot through my back. I was short of breath and often dizzy, my food did not digest properly, and my heart was very irregular. There was a noise in my lead that nearly drove me crazy. I would hold my hands tight over my ears, but still it would not stop, and sometimes I could hardly see. I grew thinner and weaker, and was afraid and nearly certain I was going to die.

"One day a friend advised me to try Dr. Williams' Pink Pills, and I did so. They helped me before one box was used up, and in less than two months I was well and strong again, entirely cured.

The disease from which Miss Goodwin suffered was anaemia or "bloodlessness," and is caused by an actual deficiency of the blood and a watery and depraved state of that fluid. It is characterized by a pallid complexion, pale lips, dull eyes, tongue and gums bloodless, shortness of breath on slight exertion-especially upon going upstairs, palpitation of the heart, feeling of impending death, weakness, loss of appetite and ambition. If left to itself it is apt to result in decline and death.

The one remedy that has proved itself s specific for anaemia is Dr. Williams' Pink Pills for Pale People. These pills have a double action, on the blood and on the nerves. This is the secret of Dr. Williams' discovery, and is the cause of the wonderful cures effected by them In stubborn cases of locomotor ataxia, partial paralysis, St. Vitus' dance, sciatica, neurzigia, rheumatism, nervous headache, a'ter-effects of the grip, palpitation of the heart, pale and sailow complexions, and all forms of weak-ness either in male or female. Dr. Williams' Pink Pills for Pale People are sold at all druggists, or will be sent direct from Dr. Williams Medicine Co., Schenectady, N. Y., postpaid, on receipt of price, 50 cents per box, six boxes for \$2.50.



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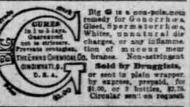
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DR. W. NORTON DAVIS.

general practice, and must then go on to proficiency in a few of those conditions and diseases more difficult to understand, and more difficult to cure. Our methods of treatment are original with us, and have been devised through years of study and careful, painstaking and conscientious practice.

AS WE ALONE TREAT "WEAKNESS"

WEAKNESS"

We have conclusively demonstrated the fact that derangement of the masculine functions is a curable aliment. That there has been considerable diversity of opinion upon this point among the profession is but an evidence that functional weakness has not been thortoughly understood, and has been unscientifically treated. Though company regorded as a nervous disorder, it has never yielded when treated upon this theory. We have ascertained by the closest observation in thousams of cases that only in rare instances is the general constitution or nervous system involved to any noticeable degree whatever, and that 'weakness' in all its phases is merely a symptom of derangement in the prostate gland, brought on by early discipation, improperly treated contracted disease, from overwork or from ieading too sedentary a life, and not paying sufficient attention to the calls of nature. Such cases may show temporary improvement under attinulating processes of treatment, but ultimate relapse is sure to follow all such methods. The only radical cure is the absolute removal of the abnormal condition responsible for the functional disorder, and this we accomplish mainly through carefully directed local measures. Our treatment is entirely astinctive and original. No other physicians employ the same methods or approach our success in curing. The results we obtain are thorough and lasting, and strength and vigor are restored in the full and hormal degree.

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