## MARQUAM LOSES INSUPREMECOURT

Rehearing of Case Involving Valuable Property in Portland Is Denied.

### FORMER OPINION IS UPHELD

Supplemental Agreement Between Parties Is Declared Not to Have Changed the Character of the Prior Agreements.

SALEM, Or., July 17 .- (Special.)-The Supreme Court today denled the petition for a rehearing in the Marquam case, thus finally determining the litigation between P. A. Marquam and the Title Guarantee & Trust Company. The case was decided last December, when Justice Welverton was on the Supreme bench. The opinior was written by Justice Bean

The opinior was written by Justice Bean. Since the orizinal decision was rendered, Judge T. G. Halley succeeded Welverton, and the opinion on the petition for rehearing was written by him.

In the petition it had been contended that supplemental agreement made between the parties conferred upon the Title Company a power to sell the property. The Supreme Court holds that there is nothing in the supplemental agreement that attempts to change the character of the prior agreements. If it conferred a power to sell such sale, under our statpower to sell such sale, under our stat-ute, could only be made under a decree of foreclosure, as provided in section 423

The code.

The supplemental agreement is held to be in effec. a junior mortgage from Marquam and wife in favor of the investment Company. The opinion says that the court has reviewed the entire record in the case, and concludes: "After full consideration of the case, we are all agreed that the former opinion was correct, and the petition for rehearing will, therefore, be denied."

#### Doernbecher Case Reversed.

Heywood Bros. and Wakefield Company, respondents, vs. Doernbecher Manufacturing Company, appellants, from Multnomah Coun-, Alfred F. Sears, Jr., and Arthur L. axer, Judges; reversed; opinion by Justice tore.

The lower court awarded plaintiff judgment for \$573.75 on account of freights paid by plaintiff on furniture bought by it from the defendant. The Supreme Court holds this was error,

for there was nothing in the contract or the complaint that entitled the plaintiff to recover such sum. An amendment to the complaint on this subject during the trial was error. The cause is remanded for such further proceedings as may be

#### Complaint Held to Be Sufficient.

J. E. Madden, respondent, vs. Frank

J. E. Madden, respondent, vs. Frank Welch, appellant, from Malheur County, George E. Davis, Judge; affirmed; opinion by Chief Justice Bean.

In this action plaintiff alleged that he furnished feed and stabling for defendant's horses to the reasonable amount of \$52.68, but he did not allege that this was done at defendant's request or that defendant ever promised to pay. Demurrers were overruled in the Justice Court and Chreuit Court, and trial resulted in a verdict for plaintiff, and defendant appealed. The Supreme Court holds that, although the complaint was defective in the particular mentioned, it is sufficient after verdict.

Plaintiff Neglected to Specify.

## Plaintiff Neglected to Specify.

T. A. Barton, appellant, vs. W. W. Rose and Mattie Rose, respondents, from Malheur County, George E. Davis, Judge, affirmed; opinion by Chief Justice Bean.

unic's lien because he did not directly or by necessary inference specify to whom he furnished the material and labor.

## Greeks Denied a Rehearing.

State of Oregon, respondent, va. Tom Georges and Peter Demas, appellants, from Douglas County; petition for rehearing de-

The defendants were Greek laborers on the Southern Pacific at Roseburg, and were convicted of riot at the time the la-

## Rights of County Court.

George Miller, appellant, vs. Union County, respondent, from Union County, Robert Eakin, Judge, affirmed: opinion by Justice

the report of a board of county road view-ers and that the assessment of damages can be finally determined before the pro-

Walter M. Pierce, appellant, vs. Union County, respondent, from Union County, Rob-ert Eakin, Judge, affirmed; opinion by Jus-

This decision rested upon the same grounds as that in the George Miller case. A petition for rehearing was allowed in it, the case of Wolford vs. Fisher, but simtlar petitions were denied in the cases of Paxton vs. Livesley, Jennings vs. Jen-nings and Gaston vs. Portland.

## ONEIDA IN FAVOR OF BORAH

### Delegation Has Not Been Instructed to Support Convention's Choice.

BOISE, Idaho, July 17 .- (Special.)-The only news received from the Republican primaries in Oneida County is to the ef-fect that the delegates are in favor of renomination of Governor Gooding and personally in favor of Borah. It is added, however, that the state delegation may not be instructed to support the state convention plant.

will be for both Borah and Gooding, according to this information, the inference being that they will be left to decide af-ter getting on the ground whether to sup-port the plan of nominating a Senator. This information comes from one of the leaders of the county who is assumed to know the evac-situation. know the exact situation. He declines to permit his name to be used. Nothing has been heard from Lemhi.

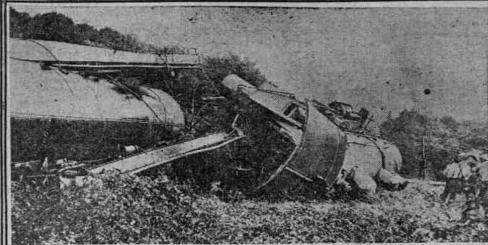
## Wages Sent to Mitchell Girl.

OREGON CITY, Or., July 17 .- (Special.) OREGON CITY, Or., July II.—(Special.)

—A check for \$14, covering the amount of wages due her, was today forwarded by the Oregon City Manufacturing Company to Esther Mitcheil, who murdered her brother at Seattle a few days ago. The Mitcheil girl was employed in the tailoring department at the woolen mills for several months prior to last March, when she disappeared during the noon hour one day. As requested in the girl's letter, which was a miserable specimen letter, which was a miserable specimen both as to penmanship and orthography, the check was forwarded in care of the Sheriff of King County.

Hood's Sarsaparilla brings back health and gives strength after serious illness.

WRECK OF RUNAWAY FREIGHT TRAIN IN SISKIYOU MOUNTAINS







Dr. Baker's Lecture Proves a Treat to Chautauquans.

Reunion of Students of the Old Portland University Is to Be Held

at Gladstone Park Next

Friday Afternoon.

DEATHS THAN ALL OTHER DISEASES COMBINED.

Warner's Safe Cure

When the kidneys are diseased the uricacid is not carried off, and this causes Gout, Lumbago, Rheumatism of the Joints, Rheumatism of the Muscles, Rheumatism of the Heart, Rheumatism everywhere.

In Bright's disease the bowels are often constipated and the liver torpid. Warner's Safe Pills quickly relieve this condition, and no ill after effect is experienced.

Warner's Safe Cure is absolutely the only complete, permanent, safe home cure for all diseases of the kidneys, liver, bladder and blood. It soothes inflammation, repairs the delicate tissues and restores energy and vigor to the whole body. Safe Cure is made entirely of herbs, contains no harmful drugs and is pleasant to take. Prescribed by doctors and used successfully in the leading hospitals for fifty years. Cures where all else fails. At all drugstores, or direct, 50 cents and \$1.00 a bottle.

Refuse Substitutes and Imitations.

They are worthless and very often exceedingly dangerous. Ask for Warner's Safe Cure; it will cure you.

Our doctors will send free advice and counsel to anyone Write fully and in confidence. Medical booklet free. Address Warner's Safe Cure Co., Bochester, N. Y.

POET-SCOUT IS

Charge Filed Against Esther Mitchell and Mrs. Creffield.

EXAMINED FOR

Judge Upton, of Walla Walla, Telegraphs That He Cannot Assist in Defense, and Attorney Morris Also Declines.

SEATTLE, Wash., July 17 .- (Special.) SEATTLE, Wash., July 17.—(Special)
—Attorney Speckert. today received a
telegram from Judge Upton, of Walla
Walla, to the effect that the latter could
not possibly assist in the defense of
Esther Mitchell. Upton created a sensution by the following message sent
the night that Esther Mitchell shot
down her brother George:
—Walla Walla, Wash., July 12, 1908.—
Miss Esther Mitchell, County Jail, Seattie, Wash.—Accept thanks, congratulations and assistance if needed. Talk
to your lawyer only.

to your lawyer only.

"WHLLIAM H. UPTON."

Attorney Will H. Morris this morning wrote a long letter to O. V. Hurt,
Mrs. Creffield's father, advising him
that he could not defend the two women, owing to urgent business. Morris stated that the defense of the two women would probably be placed in the hands of a young attorney in this city, at the request of Hurt.

Esther Mitchell and Mrs. Maud Cref-

field were jointly charged with murder in the first degree today by information filed direct in the Superior Court. John F. Miller, assistant prosecuting attorney, stated that the trial of the two women would probably be concluded before Chester Thompson is brought to

trial.

The prisoners are being examined daily by Dr. J. B. Loughary, who calls in one or more consulting physicians to act as advisers in an effort to determine the mental condition of the women who are responsible for the death of George Mitchell. These examinations are being made at the request of Prosecuting Attorney Macintosh, and the reports made by the physicians are being kept a secret. It is said, however, by Macintosh that no complete report has been made so far, and it is probable that the examinations will be kept up for some little tions will be kept up for some little

time.
The women so conduct themselves as to make the determination of their mental condition very baffling.

## Burial of George Mitchell.

Burial of George Mitchell.

NEWBURG, Or., July 17.—(Special.)—
The lifst act in the Creffield-Mitchell drama so far as George Mitchell figured in it, was closed here today when Mitchell's body was laid to rest beside the remains of his mother. A number of old neighbors attended the funeral.

The Mitchells came from a good family, the father, Charles Mitchell, having been born and raised to manhood on a farm near Bioomingdale, Fark County, Ind. After his marriage he located in Hisnols and some if years ago he removed with his wife and a large family of children to Oregon, settling on a small place near Newberg, where a few years later his wife died.

his wife died.

Mr. Mitchell was always of an impulsive and rather an eccentric disposition and for some time immediately following the death of his wife he showed such extreme agitation of mind that fears were felt for his sanity. A few menths later he left the children to shift for themselves, going to the State of Georgia for a time and later back to Illinois, where he was again married.

## ASHLAND DEVELOPMENT DAY

#### Special Train Brings Crowd of Excursionists From Valley Towns.

ASHLAND, Or., July 17.—(Special.)—
Development day and States day at the Southern Oregon Chautauqua was marked by a notably large attendance and a big time all around. A special train was run from Grants Pass and brought nearly 1000 people from the several towns along the line, including the members of the Rogue River Valley Development League, which held sessions hers today.

velopment League, which neid sessions here today.

The regular afternoon lecture hour was given over to a development meeting in the tabernacle and a very large audience was addressed upon general development lines by Dr. House of Portland, President Campbell of the State University and E. Hofer of Salem, besides local speakers representing the several towns of the valley also spoke.

A feature of the afternoon was a hotlycontested ball gams between Ashland and

this adding to the great success of the day.

Tonight Captain Jack Crawford entertained a great audience. The general attendance at the assembly has been larger than ever before and the interest promises to even increase until the close of the assembly Friday next. Crawford pleased a large audience Monday night, as did Rosani with his two evenings of jugglery and sleight of hand, and Mrs. Glelow with her stories of the South.

NEW ROUTE TO THE GULF

#### Colorado & Southern to Connect With St. Paul in Montana.

BUTTE, Mont., July 17 .- The Colorado

BUTTE, Mont., July 17.—The Colorado & Southern Railway is preparing to build into Montana, according to an Eastern Montana special to the Miner, which states that Engineer Worrell, of the Colorado & Southern, is now at Rosebud with a party of engineers on a preliminary survey, which has for its purpose the locating of a route for the road through from Orin, Wyo., to which point the route is said to have already been determined upon.

The Colorado & Southern will enter Montana somewhere between Billings and the Yellowstone National Park, extending north, it is said, until a connection with the St. Paul road can be made. The Colorado & Southern will have its line within 50 miles of Galveston, Tex., in the course of several weeks, it is said, and its proposed connection with the St. Paul in Montana will afford the latter a traffic way to the Gulf and give the Colorado & Southern an outlet to Puget Sound.

JUDGE MELLEN FOR LONG TERM

#### Alaska Democrats Pick Swineford as Short-Term Delegate.

SEATTLE, Wash., July 17.—A special to the Seattle Post-Intelligencer from Juneau, Alaska, states that the Democrats of the district in convention assembled nominated Judge H. W. Mellen, of Copper Mount, for the long term, and exJudge Swineford for the short term, as Delegates. Judge Mellen is father-in-law of Governor W. B. Hoggatt, recently appointed Territorial Governor by President Roosevelt.

Rosevolt.

The platform adopted by the convention declares for the principles enunciated by Jefferson, Jackson and Bryan, and are against the Republican party for general neglect and dereliction of duty. It also declares in favor of a territorial form of government, advocates the creation of a fourth judicial district and the election of a Delegate to Congress from each of said districts.

## BOX OF GOLD IS RECOVERED

#### Treasure Stolen From Steamer Ida May Found Near Fort Gibbons.

SEATTLE, July 17.—A special to the Times from Fort Gibbons, Alaska, says: The box of gold stolen from the steamer Ida May has been found in the woods in the outskirts of town by the Northern Commercial agent, W. C. Rexman. It was found to be intact and nothing miss-ing. The box is uninjured. Superintendent Charles, of the express

company, had offered \$500 reward for the recovery of the gold on his arrival at Gibbon. Many are under suspicion, but no arrests yet.

## Back Broken in Logging Camp.

ASTORIA, Or., July 17.—(Special.)— August Federle, an employe at the Seger logging camp near Skamokawa, Seger logging camp near Skamokawa, was so badly injured while at work on Saturday afternoon that he died a few hours later. He was employed as a rigging rustler, and was putting a choker on a log that was lying on a steep hillside, when another log rolled down the hill and striking Federle, threw him several feet, breaking his back. He was 42 years of age and unmarried.

## Judge Linn Adjourns Court.

VANCOUVER, Wash., July 17.—(Special.)—The Jury session of the Superior Court closed this afternoon, and Judge O. V. Linn, who was sitting instead of Judge W. W. McCredie, left for Olympia. The entire time of this session was devoted to condemnation proceedings by the Portland & Seattle Railway Company. Three cases of the number tried affected lots in Vancouver.

#### Best Medicine in the World for Colle and Diarrhoea.

here today.

The regular afternoon lecture hour was given over to a development meeting in the tabernacle and a very large audience was addressed upon general development lines by Dr. House of Portland, President Campbell of the State University and E. Hofer of Salem, besides local speakers representing the several towns of the valley also spoke.

A feature of the afternoon was a hottycontested ball game between Ashland and this morning I feel like a new man." For sale by all drugglets.

authors of classic literature. The lecturer concluded with an eloquent reference to Christ and the Bible, without a knowl-edge of which, he said, no literary educa-

CARS OF SAN FRANCISCO

JUNH TORN TO PIECES

Christ and the Bible, without a knowledge of which, he said, no literary education is complete.

Mrs. Max M. Shillock, of Portland, was the soloist this afternoon and sang a beautiful Scotch love song that received a hearty encore from the audience.

Tonight in the audicting the Portland, Y. M. C. A., under the direction of Mr. Myers, gave an athletic entertainment, the feats of tumbling and other gymnasium exercises being supplemented by vocal solos by Miss Louise Hagner and Mrs. Olga Bartch Lang, both of Portland, and selections by the Y. M. C. A Glee Club.

At the W. C. T. U. round table this afternoon Rev. L. Vrooman, of Boston, deflivered an excellent address on "Labor and Temperance." Mr. Vrooman is a temperance worker of international prominence.

Captuin Jack Crawford, the poet-scout, "A series of the properties of Mothers; address, Miss Alpha Dimick, "Teachers and Mothers"; address, Miss Alpha Congress of Mothers; a

Which has been threatest readout. The time for the meeting has been fixed for Friday afternoon, July 20, from 3 to 7.30 P. M. A. C. today defeated Portland Trunk Club at baseball by score of 10 to 7. The programme for Wednesday follows:

LIFE SAVED BY SWAMP ROOT.

The Wonderful Kidney, Liver and Bladder Remedy.

SAMPLE BOTTLE SENT FREE BY MAIL.

Swamp-Root, discovered by the eminent kidney and bladder specialist, promptly cures kidney, liver, bladder and uric acid troubles.

Some of the early symptoms of weak kidneys are pain or dull ache in the back, rheumatism, diminess, headache, nervousness, catarrh of the bladder, gravel or calculi, bloating, sallow complexion, puffy or dark circles under the eyes, suppression of urine, or compelled to pass water often day and night.

The mild and extraordinary effect of the world-famous kidney remedy, Dr. Klimer's Swamp-Root, is soon realized. It stands the highest for its wonderful cures of the most distressing cases. If you need a medicine you should have the best.

you need a medicine you should have the best.

Swamp-Root is not recommended for everything, but if you have kidney, liver, bladder or uric acid trouble you will find it just the remedy you need.

Sold by druggists in 50-cent and one dellar sizes. You may have a sample bottle of Dr. Kilmer's Swamp-Root and a pamphiet that tells all about it, including many of the thousands of letters received from sufferers cured, both sent free by mall. Write Dr. Kilmer & Co. Binghampton, N. Y., and please be sure to mention that you read this generous offer in the Pertland Dally Oregonian. Don't make any mistake, but remember the name, Swamp-Root, Dr. Kilmer's Swamp-Root, and the address, Elinghamton, N. Y., on every bottle. of New Mexico, who speaks at Gladstone Park Thursday and Friday, received a cablegram from Dublin, Ireland, the other day: "Name terms for two months at Ireland's World's Fair." As Captain Jack was born in Ireland, he will probably take it in. Captain Crawford's first lecture at Gladstone Park will be given Thurs-day afternoon. nottle.

> Summer Night" (Goring Thomas), violin and Summer Night (Goring Thomas), violin and 'cello obligato, Mrs. Anna Selkirk-Norton; 'cello solos: (a) "Le Cygne" (Saint-Saens) and (b) Spanish Dance (D. Popper), Ferdinand Konrad; quartet, "Ruy Blas" (Mendelssohn), Mr. Nash, Miss Fox, Mr. Lind

## NEBRASKA STANDS TEST

COVERS COURSE AT RATE OF 19.06 KNOTS AN HOUR.

Crew Is a Green One, Made Up Largely of University Students and Inexperienced Seamen.

SEATTLE, Wash., July 17.—The battle-ship Nebraska was today subjected to the official endurance test, going over the four-mile course, which she steamed at the rate of 18.06 knots per hour, exceeding her requirements by .06 of a knot, and again demonstrating her superiority. Robert Moran, of the Moran Bros. Company, builders of the vessel, stated to the Associated Press at the conclusion of the test that he was well satisfied with the showing made by the vessel.

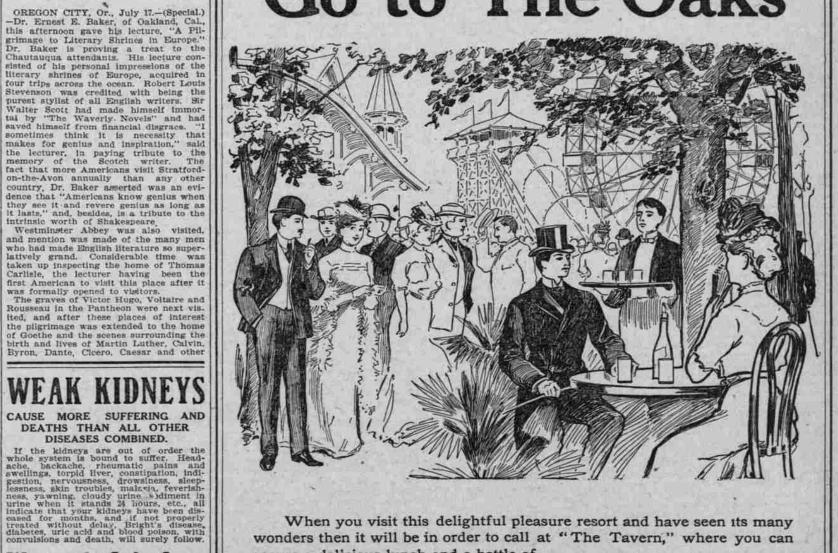
In the standardization trip and endur-

In the standardization trip and endur-

# Go to The Oaks

have a banquet and talk over old times. This year the reunion will be held at Gladatene Park on a beautiful knoil which has been christened Reunion HP.

of New Mexico, who speaks at Gladstone



When you visit this delightful pleasure resort and have seen its many wonders then it will be in order to call at "The Tavern," where you can secure a delicious lunch and a bottle of

# WEINHARD'S BEER

A special effort will be made to cater to family trade, and this popular beer has been secured owing to its immense popularity with all classes of people. Weinhard's three brews-"Standard." "Columbia" and "Kaiserblume"-are unexcelled in quality anywhere and are unequaled on the Pacific Coast.