

PENLAND JURY FAILED TO AGREE

After an All Nights Session They Were Dismissed and New Jury Called

The closing arguments in the Penland case were made Thursday afternoon. Mr. Bingham reviewed the testimony for the defendant corporation in a pleasant and convincing manner. He made no effort at eloquence. His associate reviewed the case from the legal standpoint, and severely analyzed the instructions asked by attorneys for Penland. This young lawyer, R. A. Leiter, who is assistant in the office of W. D. Fenton, showed great ability as a lawyer, and spoke in a fine clear voice to the jury. He pleaded for the defendant that it was not negligent in the slightest degree. A railroad company moving many cars involved danger at all times, and the track itself was sufficient warning to all people to keep off. If the company defendant had been negligent it must be shown that Mrs. Penland was not guilty of contributory negligence. If she was, she could not recover. Was she exercising ordinary care and prudence in going on that track and attempting to cross when cars were being switched? She made a mistake, took a chance, an error of judgment, and suffered the consequences. It was a fatal mistake and the railroad company was not to blame. The railroad company was not negligent in any way and Mrs. Penland was negligent. If she had stopped she would have seen the cars moving, would have seen the brakeman waving. People approaching a railroad must take as much care of themselves as they would have other people take care of them. The railroad was not an insurer, and all who had to do with them must act with reasonable care.

Mr. Inman closed the case in an impressive manner. He complimented the ability of the defendant's attorneys in presenting their side of the case, but asked consideration of the rights of common citizens. If the jury owned that crossing they would require a just regard for the rights of others in operating their property. He pictured the mother of the family, Mrs. Penland, going home from church to get dinner for her children. She was in haste. She was thinking of her home. A lady had crossed just be-

fore her. Others had preceded her. Others were coming after. Was it not reasonable that if Mrs. Penland had stopped longer she could not have told what track cars were coming down on? The three tracks diverged just east of the crossing of Commercial street in such a manner that no one could tell at a distance of fifty or one hundred feet which track a car was being switched onto in the direction of that crossing. The brakeman was attending to his duties coupling cars and there was no one there to warn her of danger. The open space at the crosswalk, just large enough to let foot passengers through, was an invitation to her to pass through and she had a right to conclude it was safe. But there was no notice. There was no brakeman to warn anyone. There was no flagman there. It was their duty to give pedestrians a warning against such dangerous contingencies, and reasonable care and prudence required some signal to warn passengers in such a thronged thoroughfare.

Mr. Inman showed by photographs and maps that any person might have been confused as to what track the cars were being switched upon.

The Instructions.

The court then instructed the jury very fully and fairly. He held the defendants had a right to move cars on those tracks. A railroad and the people had a right to use the street, but the defendant had a right to use the track first. It had a preference. It was the duty of both to use ordinary reasonable care. In a city both must use greater care than at some country crossing. It was the duty of the defendant to provide some way of warning against such a dangerous crossing, and failure to provide a flagman or gates or some warning to pedestrians, it was quite guilty of contributory negligence. If plaintiff was guilty of contributory negligence, the plaintiff could not recover. She was bound to use ordinary care to ascertain the real situation. If the company left an opening in its cars for people to pass through it was bound to

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ON THE SAFETY OF OVEREATING

The Rule of Choosing the Lesser of Two Evils Applies to the Way You Eat.

I want to know how a man is to know when he has had enough? The Pilgrim Fathers, I believe, had a quaint saying to the effect that you should always rise from the table feeling as if you could eat some more. But the question is, how much more? Just when to stop? That's the point. The rule is wrong, because it is no rule at all. It is inexact and unscientific. It is likely to lead to the dangerous habit of eating too little. And eating too little—or digesting too little, which amounts to the same thing—is the cause of nine-tenths of the diseases from which humanity suffers today.

What is disease? It is simply uneven balance between waste and repair. Some organ lacks strength to carry on the special work for which it was created. Where shall it find the strength it lacks? In drugs? Ten thousand times NO! Better die than become a hopeless drug fiend. No; in food. "But," you say, "I eat plenty of good food every day!" True, dear friend, but you don't digest it. And food undigested, is mere poison. So, to make food do you good, you must take Stuart's Dyspepsia Tablets. The great thing about Stuart's Dyspepsia Tablets is, that their action does not depend upon stimulative druggery. They cannot create a habit. They contain no ingredients to "pick you up," "tone up your nervous system" or furnish whip energy, by calling out your vital reserve force. They create new strength, force and energy—out of your food. If taken starving they will do you no good at all. So, eat to live, and live to eat, with Stuart's Dyspepsia Tablets. The curse of our present civilization is exhaustion. And exhaustion, whether of brain, nerves, physical strength or vital force, is caused by starvation. Of two evils, it is better to overeat (and prevent indigestion with Stuart's Dyspepsia Tablets), than to rise from the table not having eaten enough to repair the exhaustion of your vital forces. For exhaustion or starvation leads to the most varied forms of sickness or disease, brought on by inability of the weakened vitality to contract the disease—poisons and microbes. Whereas the well-fed and well-nourished person, without ever feeling the worse for it, can expose himself to dangers, the mere thought of which would drive the weak starving dyspeptic into a panic fit. Good food, well digested, is the great secret of a healthy existence here on earth. So eat heartily every day of the best food you can get, and regulate the working of your digestive machinery with Stuart's Dyspepsia Tablets. As a result you will be astonished to find how much stronger and livelier you feel, how much more and better work you can do, how much more pleasure you will get out of life, and how your old enemy that chronic trouble, which has fastened upon your weak spot, wherever it is, will up and away, and ever after leave you in peace, health and comfort. There is more truth and poetry in all this. Try it once.

The Northwest and the Tourist.

The tourist is beginning to appreciate the beauties of the Pacific Coast. For years California has been most popular—and justly so—with the seeker after health and recreation. But even California, charming as it is, with its perpetual sunshine, its orange groves and its poppies, presents no such scenic grandeur as the states that lie to the north of it. Indeed, in no other section of the world is to be found such a wide variety of picturesque features. Here may be seen mountains as grand, as awe-inspiring as any in the Alps or the Pyrenees. Neither the Rhine nor the Hudson, nor any other river, can rival the marvelous beauty of the gorge of the Columbia. Nowhere in the world can be found such magnificent forests as are here to be seen. Niagara may boast greater volume, but in height and in number, and in the savage beauty of their setting, the waterfalls of the Northwest are peerless. Surely, with all these enticements, the tourists cannot ignore the appeal of this wonder-country to the lover of the beautiful, the unusual, the picturesque.—Pacific Monthly (October).

Too great to miss—the Egyptian ballet at the "Huskia" Bee."

When Your Cold Catches You Just There

There is No Time to Wait.



It is not a "little thing." It's a deadly thing. It will not "get well by itself" if you let it alone. Whiskey and quinine and such things brace you up for the time, but they don't cure you.

Ask any intelligent doctor why you catch cold so easily. He will say, "Because you are a bit run down." He means that the force which nature placed in your body to keep out disease germs—the resistive force—is weakened. The door is open a little way toward disease.

There is not a gravestone in any cemetery in the world caused by consumption or pneumonia or any lung trouble whatever, which did not start with what you call "Nothing but a cold."

A cold should not be beaten back or dragged over—it should be cured, and the general health should be built up.

ACKER'S ENGLISH REMEDY

should be taken at the first symptoms of cold. It is a tonic for the whole body, a specific for sudden colds, coughs or sore throats. It doesn't matter where the cold is or how it got there, we know that Acker's English Remedy will reach it and cure it. It is sold on a positive guarantee.

NO CURE NO PAY. If you have a cold—no matter how slight—it means something. Take Acker's English Remedy at once. Keep it in the house. If it does not relieve you almost instantly, we will refund you the price paid.

"Acker's English Remedy saved my life. A cough, slight at first, grew constantly worse and I finally had to give up my work in the Knife Factory at Walden. I had frequent bleeding spells. Was examined by local doctors, prominent physicians in New York and at a Medical College. They all pronounced my case hopeless. I began using Acker's English Remedy and a few bottles cured me. I am today a perfectly well man." (Signed) A. H. SIMPSON, Walden, N. Y.

Acker's English Remedy is sold on a positive guarantee that the purchase money will be refunded in case of failure. 25c., 50c., and \$1.00 per bottle.

SOLD AND RECOMMENDED BY DAN'L FRY, DRUGGIST, SALEM, OREGON.

Desperate Fighting.

Berlin, Oct. 14.—The desperate courage of the individual Japanese soldier was never better illustrated than in the following story from Odessa of a Cossack named Uriadtsch:

"Near Tashchikhan we pursued a Jap infantryman into a Chinese house, where he rushed up a loose stair or ladderway leading to a loft, and began to shoot. We had no ammunition so thought we would burn him out, when down went one of our men with a bullet in his back. This made us mad and we rushed up the stair. There was room for only one at a time, and Misha Medvedtsch rushed first. The Jap waited until Misha was on him, and then fired right through his body, wounding the man behind. The rush from behind drove Misha's dead body on top of him, and the third man, taking advantage of this, hacked at the Jap, cutting his cheek. Yellow

face yelled and fired again, killing our third man. Now it was my time, and though I knew I was done for, I felt no fear, but only thirst to cut down the Jap, who laughed at every shot. However, I wasn't going to give myself away, so instead of rushing on I stuck my lance. The Jap drove it down with his rifle muzzle, but it went through his knee. There were three bloodthirsty demons behind, and Master Jap wasn't safe yet. I heard afterwards how he rushed at one man who hesitated to go on, pulled him over the bodies, and struck him with a knife. The other two men were knocked down by shots. When more of our men came up they fired the house, after pulling me and the other wounded out. The Jap, seeing he was done for, put his head out of a window and laughed. Then he jumped and was caught on a lance."

Come and laugh at "The Huskies' Bee."

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Cigar

That

Charms

The House Furnishing Co.

Appreciates Your Business and Strives to Merit it.

CARPETS



CARPETS

A great movement of Carpets is now taking place. We have made great preparations for this extraordinary movement with a stock adequate to the demand. We have the quantity and quality and we allow no one to underprice us.

Mattresses



Mattresses

Are you satisfied with the mattress you are using? Has it come up to [your] expectations? Did you think you were getting a wool bed and it turned out to be old cast off rags? Or did you order a hair one and it turned out to be hog bristles and moss or something worse? We are makers of all kinds of mattresses except the 'filthy' kind. The poorest kind we make is composed of excelsior and cotton. Whatever kind you buy of us will be clean.

The House Furnishing Co.

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