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ROSEBURG



VOL. XIV.

ROSEBURG, OREGON.

FRIDAY EVENING, JULY 21, 1911.

No. 119.

DRAKE'S TRIAL ON

Libelous Charges Denied By Judge Hamilton

TOO ILL TO TRY McCLALLEN

Had Nothing to do With Instructions—Judiciary's Honor Demanded Prosecution

That he was not connected, either directly or indirectly, with the preparation of the instructions submitted by Judge Coke to the jury in the McClallen-Mahan homicide trial and that he was too ill to preside over the case at the time it was in court, were the emphatic declarations of Judge J. W. Hamilton this morning in the preliminary examination of Jesse O. Drake, charged with criminal libel.

The examination was held in Justice R. W. Marsters' court. Drake was represented by Attorney C. S. Jackson, who was retained by the defendant in place of E. L. Cannon, who voluntarily withdrew from the case before the hearing began. District Attorney Brown represented the state. Court adjourned at 11:30 a. m. until Saturday morning at 9 o'clock, when the state will introduce the testimony of Dr. A. F. Sether, who attended Judge Hamilton during his illness.

Drake's prosecution is the sequel to his communication to the Portland Oregonian, charging, among other things, that Judge Hamilton feigned illness to avoid trying the McClallen case and that he collaborated with McClallen's attorneys in preparing the instructions to the jury. Witnesses called to the stand this morning besides Judge Hamilton were W. W. Cardwell, one of McClallen's attorneys; Assistant District Attorney H. L. Eddy, who aided Brown in prosecuting the case; John Hunter, a local contractor and planning mill operator; Sheriff Geo. K. Quinn, County Clerk E. H. Genox and W. A. Pettit, a local newspaper reporter.

Another phase of Drake's alleged libel with which the hearing had to do related to his censure of the District Attorney for not placing on the witness stand at McClallen's trial Lillian Speicher, the woman who figured so prominently in the tragedy. Evidence adduced in regard to this was that the woman was too ill to appear in court or even give a deposition and that her testimony would have been detrimental rather than helpful to the state's case.

With the introduction of Dr. Sether's evidence tomorrow, the state will probably close. Then it will be incumbent upon Drake to prove the contents of his open letter. If he fails, in the opinion of the magistrate, he will be bound over to the grand jury. A justice of the peace has no punishing power in a case of this nature.

Judge Hamilton on Stand.

"I did not assist Attorney Cardwell in any way in preparing the instructions to the jury in the McClallen case," said Judge Hamilton

on the witness stand. "I have never spoken to Mr. Cardwell about the case. It was my intention to preside at the trial, but I was deterred by the adverse advice of my physician, Dr. Sether. Three days before the May term of court opened I was stricken with la grippe, and I secured Judge Gantenbein, of Portland, to hold a session here, conveying the grand jury and fixing the date for a special term one week later. I thought that I might be able to preside at the special term, but I had not fully recovered from the effects of a high fever and Dr. Sether warned me that if I attempted to resume work I might suffer a relapse that might result fatally. It was May 29 before I was able to leave my home. "I consider it my duty to prosecute Mr. Drake," continued the witness, "not because I have any ill will toward him, but for the reason that the judiciary should be cleared of the aspersions cast upon it by his letter. If Mr. Drake entertains the opinion that I was not ill during the McClallen trial I would like to have him produce the evidence upon which that opinion is based."

Lenox Corroborates. County Clerk Lenox testified that he visited Judge Hamilton at his home twice before the opening of court and a week after it had convened. On all three occasions he found the Judge sick in bed, with his throat so badly affected that he talked with difficulty. Mr. Lenox then related in detail the steps that were taken to secure some other Circuit Judge to take Mr. Hamilton's place on the bench. Judges Gantenbein, Harris, Calkins and others declined, explaining that business in their own courts demanded their attention. Finally Judge Coke, after having once refused to preside, was prevailed upon to try the case.

Cardwell's Evidence. "Judge Hamilton did not help to prepare the instructions to the McClallen jury. He did not see them beforehand, he did not know of them until they were of general public knowledge after Judge Coke discovered them." Such was the statement of Attorney W. W. Cardwell at the examination. "These instructions," Cardwell explained, "were prepared by myself and my associates, McKnight and Watson. They were written in my office and I placed them in my pocket and gave them to Judge Coke personally. I did not see Judge Hamilton on the trial and at no time during the trial and at no time during the trial and at no time during the trial."

Judge Coke did not give all the instructions requested by the defense. He gave only those of statutory establishment. These were taken from the language of Supreme Judge Bean in the case of the State against Morey, found in the 25th Oregon. We submitted them to Judge Coke because we believed that they applied to the McClallen case."

District Attorney Brown took the opportunity of proving by Cardwell that the state would have been the loser instead of gaining, by insisting on Miss Speicher's presence on the witness stand at the McClallen trial. "The state certainly had no use for Miss Speicher's testimony," said Cardwell. "She would have corroborated McClallen and strengthened our side of the case. She was brotreated by the shock of the homicide and from high nervous tension. Dr. Miller, as you will remember, testified in court that her temperature was 102 and that her presence was a physical impossibility. We wanted her testimony badly. We asked Judge Coke to grant a continuance of the trial, but there was no certainty as to when Miss Speicher would be able to come to court, and

he refused to comply with our request. He also refused to allow any testimony to be taken at her bedside."

State Did Not Want Her. Attorney Eddy, associate of the District Attorney, testified that Miss Speicher was not wanted as a witness by the state because her story was decidedly in favor of the defense. Mr. Eddy gained this knowledge from his examination of the woman at the Coroner's inquest. Her story, given on that occasion, was read from the transcript of the court reporter at the request of the District Attorney and substantiated the claim of the prosecution as to which side it favored.

John Hunter as Mentor. Mr. Hunter stated that Drake showed him the manuscript of the alleged libelous letter before he mailed it to the Oregonian. Brown asked him regarding the report that Hunter had either written or suggested the paragraph relating to Judge Hamilton. Witness testified that he was in no way connected with the authorship. He explained that when Drake showed him the manuscript that the paragraph relating to Judge Hamilton be stricken out and that there be inserted in its stead some mention of the act of Justice of the Peace Marsters in leaving his bed at midnight to hold a session of court and admit McClallen to bail. An affidavit sworn by Drake and concerning Hunter from any part in the writing of the letter was presented by Hunter and admitted as evidence. Quinn and Pettit testified that Drake admitted the authorship of the letter, and the former added the statement that Drake declared he "could prove every word of it."

"THE TALE OF TWO CITIES"

The management of the Palace Theatre told us this morning he has been able to obtain the pictures of "The Tale of Two Cities," for Friday and Saturday. This was a big feature at the Star Theatre in Portland for two weeks and the people of Roseburg should appreciate the opportunity of seeing as high class pictures in Roseburg as in the best theatres in Portland. There are three reels of this picture and the manager advises it possible to come at the beginning of the show, 7:30, 8:30, 9:30 and 10:30, in order to see the picture in their proper succession.

Kidney Diseases Are Curable.

Under certain conditions. The right medicine must be taken before the disease has progressed too far. Mr. Perry A. Pitman, Hale, Tex., "I was down in bed for four months with kidney and bladder trouble and when Dr. P. Love attended his kidney trouble cured me well and sound." For sale by all druggists.

While ripping some lumber with a circular wood saw, at the home of John Weaver, two miles south of Myrtle Creek this morning, L. Brumbaugh suffered a severe laceration of the inside of all four fingers of his left hand. He came to Myrtle Creek where Dr. P. Love attended his injuries. He lost considerable blood, but the injury is not thought serious, although he will be unable to use his hand for some time.

Parson's Poem a Gem.

From Rev. H. Stubbenvoll, Albion, Ia., in praise of Dr. King's New Life Pills: "They're such a health necessity. In every home these pills should be. If other kinds you've tried in vain, USE DR. KING'S And be well again. Only 25c at all druggists."

LOSS OVER \$25,000

Myrtle Creek Business Block Completely Wiped Out

OTHER BUILDINGS BURNED

Most of the Losers Will Re-build—Escapo of Other Blocks Considered Mark als

The Losers.

R. A. Hunsaker	\$3000	\$2000
K. M. Hansen	3000	1800
W. C. Harvey	2500	1400
S. E. Moore	3000	1000
Weaver Bros.	1000	3000
J. S. Guther	1000	400
Miss Amy Bruce	900	
C. J. Ingram	1250	500
Dr. W. W. Ashley	500	
Mrs. Bogardus	200	
Mrs. P. Slavin	300	
J. D. Roberts	200	
City Fire Dept.	150	
Rice Bros.	300	
Electric Light Co.	150	
Pacific Tel. & Tel. Co.	500	
Local Phone Co.	150	
J. J. Anhalt	750	
Myrtle Lumber Co.	1000	
Chas. Neat	200	
E. J. Fairbanks	125	
A. H. Oden	125	
N. Selig	200	
Citizens State Bank, W. V. Hurst & Co., A. C. Dolg, C. H. Arundel and others, windows broken by heat, \$500.		

Losses aggregating \$25,000 to \$30,000, with about \$10,000 or \$11,000 insurance, resulted from a fire at Myrtle Creek this morning. One block in the business section was wiped out, three bars, a small office building and a woodshed in another block were destroyed and many other buildings were scorched or suffered from broken windows.

The exact origin of the fire is unknown. It started either in the northwest corner of W. C. Harvey's confectionery or at the rear of J. D. Roberts' meat market establishment, and was discovered about 1:15 a. m. Hayter, with his wife and two-week-old baby, had living rooms at the rear of the store. They got out safely. Within a very few minutes C. O. White, from the drugstore on the corner below, and Henry Adams, from the Rice Bros. store across the street, were at the scene. A vigorous alarm was sounded from the fire bell, and the citizens quickly responded. Everything was very dry, the water pressure was not great and there was considerable wind, in a short time the entire block was in flames. This block, from the northwest corner, contained the following: The confectionery, R. A. Hunsaker's large grocery store, Kelly Duncan's drug store, telephone offices, E. J. Fairbanks' real estate and insurance, J. D. Roberts' meat market, W. C. Harvey's confectionery, Mrs. Frank Slavin's millinery, C. J. Ingram's meat market, Dr. Ashley's office, J. S. Guther's real estate and insurance, city hall tower and hose car.

Firebrands were scattered afar by the wind, and strange to say, the fire seemingly jumped over the row of buildings across the street and beyond them burned three bars, woodshed and office of the Myrtle Lumber Co. One of these, the old Overland Hotel barn, was also owned by the



FOR RENT—Three large well furnished rooms for gentlemen, strictly first class. 318 West Douglas street. d124

FOR RENT—Good saddle pony, well broken. Clyde Wallace, 24, northwest of Roseburg. Phone Farmers 145. 11

FOR SALE—Light spring wagon with cover, suitable for carrying purposes. Will go cheaply if taken at once. Theo. Thompson, S. E. Roseburg. d125

The price of foodstuffs has come down at the North Side Grocery. d11

and they will have a tone and elegance to be proud of. Our special showing of dining-room furniture and bed room, etc.

RICE & RICE

The House Furnishers.

Complete satisfaction in every case undertaken.

A. S. HUEY

OPTOMETRIST.

Cass Street.

MORGAN SLAYER

Grants Pass Prisoner Confesses to Killing York

SELF DEFENSE IS ALLEGED

San Francisco Hotel Man, Involved in 'Damage Suit Brought By His Wife, Suicides

(Special to the Evening Review.)

GRANTS PASS, Or., July 21.—Mike Morgan, the United States Army deserter, today made a full confession of the murder of John E. York, his employer, in this city last Thursday night. He declared he killed York in self-defense.

The two men were camped together near Grants Pass. Morgan alleges that on the night of the homicide he went to the camp in a half-drunken condition and that York reproved him. York started to assault him, he said, when he struck him on the head with a club, killing him. Morgan then carried the body to the river and threw it in. There it was found by boys in bathing four days later with several feet of logging chain wrapped around it.

Incendiarism Possible. There are some indications of incendiary origin of the fire. A couple of reports resembling the discharge of a pistol about the time the fire was discovered are not fully explained. Neither is the disappearance of a number of sacks of flour and some other articles from the store of R. A. Hunsaker, the present mayor of Myrtle Creek. While the individual losses are severely felt, there is a general feeling of thankfulness that the sweep of the fire was not far greater, with everything so dry as at present and very limited means at hand with which to combat the flames. Very little was saved of the contents of any of the buildings.

While there was considerable excitement, accidents were comparatively few. The Weaver suffered a knife wound in the leg while slashing the halter ropes of horses in his liver barn in his haste to get the animals out. He will be laid up for only a few days, however. As several of the horses after being taken out, tried hard to re-enter the structure. The building was finally saved from burning.

Will Re-build With Brick.

Both the principal losers of buildings, S. E. Moore and Weaver Bros., are planning to rebuild as soon as possible, and expect to use brick instead of wood in the new structures. Mr. Hunsaker will open another store just as soon as he can get a building to do business in. Others also expect to resume business as soon as the conditions will admit. Insurance adjusters are expected to arrive tonight to begin surveying the losses.

A Peep Into His Pocket.

Will show the box of Bucklen's Arnica Salve that E. S. Loper, a carpenter, of Marilla, N. Y., always carries. "I have never had a cut, wound or bruise or sore that it would not heal," he writes. Greatest healer of burns, boils, scalds, chapped hands and lips, fever-sores, skin eruptions, eczema, corns and piles. 25c at all druggists.

Ask for piano notes at Josephson's d11

Eyes Fail at

Forty-Five!

No matter how good the eyes may be, alone about the age of 45 reading sight begins to fail.

This law is inexorable with the human race. If proper correcting glasses are promptly obtained no harm to the eye will come; if not the overstrained effort in reading will result in serious injury.

But, remember, when getting glasses that put ones are worse than none at all.

Complete satisfaction in every case undertaken.

A. S. HUEY

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PROFITABLE INVESTMENT

Advertisers get good returns from announcements placed in live papers—the **DAILY AND THURSDAY REVIEW**. Try them—there's none other so good.

AMERICANS BAND TOGETHER TO FIGHT REBELS.

WASHINGTON, July 21.—Reports from Hayti today say that a desperate situation confronts Americans and other foreigners at Port Au Prince. The embassies of Chester and the Moines are racing to the aid of the imperiled city and it may require the use of their guns to save American lives.

PORT AU PRINCE, July 21.—Fearful of looting and violence when this city falls into the hands of the rebels, as it probably will, within a few hours, Americans and other foreigners are today banding together for defense. President Simon has sent out troops to meet the advancing rebels but it is believed the federals will be easily defeated.

WANTED—A TRAIN ROBBER.

ST. PAUL, July 21.—The North-eastern Pacific today offered a reward of \$7,500 for the capture and conviction of the three bandits who robbed the passengers on the Limited yesterday in North Dakota.

EXPLOSION OF ENGINE KILLS TWO MEN.

SPRINGFIELD, Ill., July 21.—Charles Baker and John Buck are dead and two other men critically injured through the explosion of an engine in the power plant of the Illinois Traction Company at Riverfront last night.

GREATER THAN GOVERNMENT IS SUGAR TRUST.

NEW YORK CITY, July 21.—Testifying before the Hardwick committee investigating the sugar industry, today, John E. Parsons, who claims to have organized the sugar trust, said: "The sugar politicians realize that their efforts to prevent combinations of capital from increasing the price on all commodities, and that the 'dear public' is the only sufferer by their attempts, the better it will be for the country. The capitalization of corporations on the basis of actual physical valuation of properties is a joke. The future must be capitalized as must also the opportunities. The Government must lose its hands off."

On cross examination Parsons furnished into a defense of the trust methods. He said "modifying politicians" were a curse to the country and the regulation of capital was "almost a crime." Parsons declared the sugar trust was the first Simon pure monopoly organized in America.

Standing of the contestants in the Union piano contest at Josephson's: No. 24, 25, 26; No. 32, 2, 29; No. 34, 12, 100; No. 36, 7, 35; No. 35, 24; No. 118, 2325; No. 110, 3295; No. 143, 19, 180; No. 114, 2140.

Escaped With His Life.

"Twenty-one years ago I faced an awful death," writes H. B. Martin, Port Harbourn, E. C. "Doctors said I had consumption and the dread of death had looked like it. I was enough. I tried everything I could hear of for my cough, and was under treatment of the best doctor in Georgetown, S. C., for several months, but could get no relief. A friend advised me to try Dr. King's New Discovery. I did so, and am completely cured. I feel that I owe my life to this great throat and lung cure." It's positively guaranteed for coughs, colds, and all bronchial affections. 50c and \$1. Trial bottle free at all druggists.

COMING

That Real Funny Show

The Big Colored

MINSTRELS

Under Canvas



Roseburg, Wed., July 26th.

DON'T MISS THIS GOOD ONE

The Largest and Best Minstrels in the World

PARADE AT NOON

PERFORMANCE AT 8 P. M.

Two Surprises For This Week!

First as to Beauty and Quality—second, the Price.

SHELL GOODS.—The new things in Barrettes, Barrette and Comb Sets, Barrette Comb and Side Comb Sets, Shell Pins, of all descriptions. Hair Bands, Bandeaux, etc.

COLLAR PINS.—Absolutely the newest things in splendid assortment of styles: Necklaces, Lavallieres, Brooches, Beauty Pins, Collar Supporters, Waist Sets, Earrings: fashion's latest deeree.

HAT PINS AND HAT PIN SETS.—These are right p to the minute, and we want every lady in Roseburg to see them.

Now as to Girdles and Hair Goods and many other things—let us show you.

The Leader

112 Brockway Street, Waite's Addition, near High School.

Modern Apartments, with bath and hot and cold water in each room.

FIRST CLASS DINING SERVICE

We guarantee to please particular people.

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