

OREGON SUPREME COURT

REVERSAL IN CASE OF MACKIN VS. PORTLAND GAS COMPANY.

Other Proceedings—Return of Fred Ramsey—Raisin-Growers' War—Salem Notes.

SALEM, May 28.—In the Supreme Court today one case was decided and one motion for modification of decree was passed upon. The case decided was that of Sam Mackin, respondent, vs. the Portland Gas Company, appellant, from Multnomah County, Alfred F. Beane, judge. In an opinion written by Justice Beane, the lower court is reversed and the cause is remanded.

This was a proceeding by mandamus to compel the defendant to supply the plaintiff with gas at his place of business, 307 Fourth street, in the City of Portland. In the court below a demurrer to the defendant's answer was sustained, and the defendant refusing to answer further, a peremptory writ of mandamus was issued commanding the company to turn on the gas to the premises in question. The defendant having appealed, the Supreme Court says:

"The only question on this appeal is whether the court below erred in sustaining the demurrer to defendant's answer and ordering a peremptory writ. Briefly, the facts are that, in March, 1897, the plaintiff purchased gas of defendant for use at 24 Morrison street, under a contract which provided that in default of the regular payment of a bill the company would discontinue the supply until payment should be made. On Saturday, the 21st of that month he quit using the gas and left as the defendant alleges, an unpaid bill of \$15. Thereafter, and in September, 1898, he again purchased gas of the company for gas to be used at 17 Fourth street, and it was furnished him up to November 11, when he was notified by the defendant that the gas would be discontinued. This he refused to do, and the company cut off the gas. Upon those facts the inquiry is whether the plaintiff be deemed to be in default of the contract for the gas furnished at 17 Fourth street, and if so, whether the defendant be entitled to discontinue the supply of gas to the premises at 24 Morrison street."

The Supreme Court holds that a company of this kind may be compelled to furnish gas to all persons along its line who comply with its rules; that the company may adopt reasonable rules, which would include one providing that the supply of gas may be discontinued if the customer fails to pay his bills when due; and that in this case the defendant had a right to discontinue furnishing gas as one not provided for in the contract. The decree is reversed, and the case is remanded to the court below for a new trial.

Ellen Henderson, respondent, vs. M. W. Henderson, appellant, on motion to modify decree, denied, opinion per curiam. This was a motion to modify the decree rendered in the Supreme Court in the above-entitled cause, so that it may be entered against the surety on the order making for appeal, not only for the costs and damages, but as well for the sum of \$100, the amount of alimony which has accrued against the defendant under the decree of the Circuit Court since the appeal was perfected. Held, that the appeal from the decree dismissing the motion for a modification of the original decree granting a divorce and alimony, and the undertaking is not broad enough to comprehend the initial decree of the court granting the divorce and alimony, and that the surety is, therefore, not bound for the payment of the accrued alimony. Minor orders were made today as follows:

The French Glenn Livestock Company, appellant, vs. Alva Springer, respondent, ordered that respondent be permitted to withdraw the testimony and exhibits in this case for the purpose of copying certain exhibits. E. M. Wagner, respondent, vs. the City of Portland, appellant, ordered that respondent's time to file brief herein be extended 30 days.

Theodore A. Garbade, respondent, vs. Larch Mountain Investment Company, appellant, ordered that respondent's time to file brief be extended to July 1.

State, ex rel. W. W. Dowling, respondent, vs. F. O. Dowling, appellant, ordered that appellant's time to file brief be extended to June 1.

M. H. Hillis, appellant, vs. Rachel Hillis, respondent, ordered that respondent's time to file brief be extended 30 days.

J. T. Hunt, appellant, vs. Josephine Hunt, respondent, dismissed without costs to either party.

Back From the Philippines.

Fred A. Ramsey, a son of Judge W. M. Ramsey, of this city, returned to Salem yesterday after two years' absence in service on the battleship Oregon. He left the battleship at Yokohama two weeks ago, and arrived in Salem on the day of his return. Ramsey is a member of the Oregon's first crew, and has taken part in all the deeds that have made that battleship famous. By his faithful performance of duty he has gained advancement to the rank of gunnery sergeant. He has three months within which to re-enlist, with his former rank.

Ramsey is 25 years old and a fine specimen of physical manhood. He was born in Yamhill County, and resided in Oregon until his enlistment. He is known to a wide circle of friends in Yamhill, Marion and Polk Counties.

The Raisin-Growers' Fight.

Many fruit-growers of this vicinity have been availing with great interest the outcome of the fight between the California raisin-growers and their president, Theodore Kearney. The feeling has been general that the determination of the controversy would be decisive, on one side at least, of the question whether a combine of producers can be made successful. The announcement in the morning Oregonian that the raisin-growers have accepted the resignation of Mr. Kearney has been received with much interest by those interested in the organization of the raisin-growers.

The facts of the case, as understood here, are that the Raisin-Growers' Association had a success of the raisin-growers' combine and had become possessed of the idea that the association could not live without him. He considered himself in a position to dictate the new salary and recently tendered his resignation, to take effect unless his salary should be increased from \$50 to \$100 per month. As the growers here viewed the situation, it was a question whether the growers shall submit to extortion at the hands of their officers, as they always have at the hands of the produce buyers; or, if not, how they would proceed. It was generally expected that the raisin-growers would accept President Kearney's resignation, and thus demonstrate that the raisin-growers are the masters of their own fate. The press dispatches for the last few days have been closely scanned for news of the result, and the announcement today gives reassurance to the growers.

Memorial Services.

The memorial services held in this city Sunday were unusual in several respects. For the first time in the history of those organizations, the members of the local Grand Army Post and Woman's Relief Corps attended memorial services at the Catholic Church. The exercises were conducted by Rev. W. A. Daly, of this city, and Rev. F. Case, of Portland. This was the first memorial service attended by veterans of the Philippine War. The memorial address, delivered by Father Casey, was one of the most eloquent and patriotic addresses ever delivered in this city on such an occasion. Once the speaker was interrupted by a round of applause, some very uncommon in memorial services.

Large Load of Wool.

One of the largest loads of wool hauled into Salem by a farmer was that brought in yesterday by George Leabo, of Sher-

NORTHWEST DEATHS

MRS. ELIZABETH BUTLER, OF MONMOUTH, A PIONEER OF 1849.

She Was the Wife of the First Postmaster and Sawmill Man in Portland.

INDEPENDENCE, Or., May 28.—Mrs. Elizabeth Butler, of Monmouth, Or., a pioneer of 1849, died at her home Saturday night. Her advanced age was 52 years, 9 months, 14 days. The deceased was born in Cincinnati, O., August 6, 1847, and moved with her husband, J. B. V. Butler, from Pittsfield, Pike County, Ill., to Oregon City in 1860, from whence they moved to where Portland now stands in 1863, embarking in the mercantile business. Mr. Butler was the first Postmaster of Portland, and built the first sawmill in that vicinity. Later they moved to Eola, Polk County, where they resided for a short period. From there they settled in Monmouth, where Mr. Butler continued to reside until his death in 1893, when he retired and spent his time in looking after other interests up to the time of his death, which occurred on October 13, 1893. Since that time Mrs. Butler resided with her son, J. B. V. Butler, Jr. She was a member of the Christian Church of Monmouth for many years. Mrs. Butler was the mother of nine children, of whom eight survive her and reside in and about Monmouth. The children are: Orval, Hon. N. L. Henry, J. B. V., Mrs. Sara Jane Ground, Mrs. Martha Maloney, Mrs. Della Penton, of McMinnville. The funeral services will be held in the Normal chapel tomorrow at 10 A. M. Rev. A. Eason officiating.

William McEldowney. HILLSBORO, Or., May 28.—William McEldowney, aged 90 years, died at the Hawthorne ranch east of this city, yesterday afternoon. He was born in County Tyrone, Ireland, October 9, 1809, and emigrated to this country in 1832, settling in Pennsylvania. He was the father of Thomas L. McEldowney, deceased, who a few years ago was one of the most prominent breeders of registered stock in this state. Deceased was married to Anne Linn in Mercer County, Pa., in 1834, to which union children have been born, two of whom survive, Samuel, a resident of Chico, Cal., and a daughter, Mrs. Mary A. Patterson, of Bonanza. His wife died in California, in 1874. In 1885 he crossed the plains to Virginia City, Nev., later going to the California mines. From California he came to Oregon in 1886. Mr. McEldowney had been an Odd Fellow since 1857, having joined the order in Pennsylvania. For years he was a member of the Presbyterian church, but since coming to this state affiliated with the Baptists. The funeral services will be given at the family burial ground this afternoon, and the remains will be interred in the family burial ground at Riverview cemetery, Portland.

Joseph J. Brown.

IZEE, Or., May 28.—Joseph J. Brown died May 15 at the home of his son, Walter S. Brown, at Ize, of consumption. He was born in Jasper County, Missouri, June 18, 1823. His father, William Sweeney, was a native of Scotland, coming to America when 17 years of age with La Fayette, serving through the Revolutionary War as a drummer boy. Joseph J. Brown was a pioneer of Oregon, coming here in 1851. He spent the first winter in Polk County, working on a farm, and the following fall went to the Rogue River Valley. He was a volunteer in the Indian War of 1855-56. In the early '60s he engaged in packing to the mines of Idaho, on one trip going as far as the Kootenai country, in British Columbia. Mr. Brown met Mr. Macaulay and party going in to the mines on his last fatal trip, which is so well known to all early Northwest pioneers. Mr. Brown engaged in the cattle business as early as 1854 in Crook County, where he remained until 1860. He was married to Miss Elizabeth J. Hay in Josephine County in 1853. Three children were the result of this union. Mrs. Brown died at Belknap Springs, Lane County, August 12, 1896.

W. D. Kay.

MONROE, Or., May 28.—W. D. Kay, a prominent citizen of Benton County, died at his home on the 26th inst. of cancer of the stomach. Mr. Kay was born in Louisville, Ky., March 27, 1835, and came to California in 1858. In 1859 he started for Oregon on the 15th of Crook County, where he remained until 1860. He was married to Miss Elizabeth J. Hay in Josephine County in 1853. Three children were the result of this union. Mrs. Brown died at Belknap Springs, Lane County, August 12, 1896.

Mrs. Samuel Kenny.

SEATTLE, Wash., May 28.—Mrs. Samuel Kenny, a Pacific Coast pioneer, and widow of the late Samuel Kenny, who

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NORTHERN PACIFIC TRYING TO GET TO BELLINGHAM BAY.

Seeking an Entrance into Fairhaven Parallel With the Great Northern's Line.

FAIRHAVEN, Wash., May 28.—What is admittedly a move of the Northern Pacific to secure entrance to Bellingham Bay occurred tonight, when the Bellingham Bay & Eastern Railway Company applied to a special session of the City Council for a franchise along the entire waterfront of Fairhaven, parallel to the Great Northern's tracks for a large part of the distance, and would pass between a large part of the shore front which they own and deep water. At present the Bellingham Bay & Eastern only extends from the northern boundary line of Fairhaven through New Whatcom to the head of the harbor, a distance of about 2 1/2 miles. It will now be completed to connection with the Seattle & International Railway, near Wickersham, a distance of some 11 miles. Officials of the road announced that work on this extension will commence within 60 days. The Bellingham Bay & Eastern is owned by Peter Larsen and ex-Governor House, of Hieson, Mont., and was originally built to haul Bellingham Bay coal from the mines, also owned by them, to tidewater here.

To Shut Out Competition.

SEATTLE, Wash., May 28.—The Northern Pacific Railway today filed a bill in equity in the Federal Court against the Columbia & Puget Sound Railway and Pacific Coast Company, in which the court is asked to restrain the defendants from revoking the terms of its traffic agreement permitting it the use of the defendant's tracks between this city and Black River Junction.

Quarantine Station.

Machinery Arrives at Astoria From Philadelphia. ASTORIA, Or., May 28.—The machinery for the new quarantine station, now arrived from Philadelphia, and includes a complete disinfecting plant. The machinery is stored here until the buildings are erected.

Accused of the Murder of a Colfax Chinese.

COLFAX, Wash., May 28.—Wong Yee, commonly called "The Highbinder," is under arrest on a charge of having murdered Ching, the Chinese gambler whose room was cut off Sunday morning. Wong Yee was captured near Penawawa last Sunday afternoon by Deputy Sheriff Carter, who chased him fully two miles before he could catch him, the fugitive stopping only after two shots had been fired by the officer, narrowly missing him. At the second shot he fell on his face, and as the officer ran up he called out, "Who tell you? I no shoot you." He claimed that he had been working in an orchard near Penawawa for a week or more, but when brought to Colfax it was quickly established that he had been seen here after midnight Sunday morning.

Government Surveying.

Contractors to Begin Work in Harney and Lake Counties. OREGON CITY, May 28.—Henry Mel-drum and E. A. D. Huggins, who have extensive Government surveying contracts in Harney and Lake Counties, left today, accompanied by their crews, to begin work. Others here, who have surveying contracts, will start out in a few days. Deputy County Surveyor John W. Meldrum is busy resurveying county roads located many years ago, in some instances the work was done carelessly, and the wooden monuments have decayed and are lost. Stone monuments are now being erected where the new surveys are made, and it will be possible in future years to determine the original location of a road without employing a surveyor.

Washington Women's Clubs.

NORTH YAKIMA, May 28.—The fourth annual convention of the Washington State Federation of Women's Clubs will be held here the 29th, 30th and 31st. Delegates from the various clubs in the state arrived this afternoon, and were taken in charge by the committee appointed by the local clubs. As many more will come tomorrow, the convention will be held in the evening of the 29th, and the reports will be given at the Commercial Club rooms.

Washington Notes.

There will be an athletic meet of the High School boys of Puget Sound June 1 at the Y. M. C. A. Park, at Seattle, and most of the prominent High Schools of the Sound will be represented.

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"APENTA" The Safest and Most Reliable Household Aperient. The RICHNESS of APENTA WATER in natural saline aperients renders it the most valuable and safest laxative and purgative.

POND'S EXTRACT Used Internally and Externally. Refreshing and invigorating when used in the toilet, or after shaving. As a remedy it controls all pain, bleeding and inflammation.

CAUTION—Witch Hazel is NOT Pond's Extract, and cannot be used for it. Ordinary Witch Hazel is sold in bulk, diluted, easily turns sour and generally contains "wood alcohol," which is an irritant externally, and, taken internally, is a deadly poison.

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Study These Numbers. There are many people, women and men, who suffer from nervous disorders, and who are misled as to the true nature of the malady on account of the complex symptoms. When the nervous system is at fault, symptoms arise that are entirely remote from the seat of the disorder, and this is why people will doctor for stomach trouble, heart trouble and other disorders when in reality it is the nerves alone that are at fault.

Albany Happenings. ALBANY, Or., May 28.—Hon. John G. Woolly delivered his second address in Albany, speaking tonight in the United Presbyterian Church to a large audience in the interest of the prohibition cause.

Notes From Seaview. SEAVIEW, Wash., May 28.—At one locality at Seaview within a compass of three blocks there have been four open cottages; one of these is today closed. The weather had been milder than in Portland until Wednesday's storm. On that day some stormbirds had to be restored to winter position temporarily.

Wind Damaged Hops. HILLSBORO, Or., May 28.—Complaint comes from the various hopyards that the heavy wind of last week caused considerable damage by blowing the vines from the poles and wires. Growers are busy trailing the plants. The continued wet weather is doing considerable damage to winter wheat, and unless there is a change soon the yield of this crop will be very much less than that of last year.

An Oregon Postmaster. WASHINGTON, May 28.—Tyrphena Tifany was appointed postmaster at Crosswell, Or., vice William Tiffany, dead.

Contagious Blood Poison. Contagious Blood Poison is the most degrading and destructive of all diseases, as it vitiates and corrupts the entire system. The first sore or ulcer is followed by little red pimples on the body, mouth and throat become sore, the glands enlarge and inflame, copper colored spots appear, and hair and eyebrows fall out. These are some of the milder symptoms; they increase in severity, finally attacking the vital organs; the body is tortured with rheumatic pains and covered with offensive eating sores.

CURE YOURSELF AT HOME. Gives for our Home Treatment book, which gives a history of the disease in all stages, and is the result of many years of close study of blood poison and actual experience in treating it at home, and your secret is your own. Should you need any information or medical advice at any time, write to our physicians. They have made a life study of blood diseases, and will give your letter prompt and careful attention. Consult them as often as you please; we make no charge whatever for this service. All correspondence is conducted in the strictest confidence.