IN LOWEST DECREE

White Found Guilty Only of Manslaughter.

NO EVIDENCE OF ROBBERY FOUND

Sudge Frazer Disposes of Charge of First Degree Murder, and Jury Rejects Theory of Second Degree-Defense Satisfied.

After deliberating from 4:45 until 8 clock last night, the jury which tried Andrew White for killing Peter Beau-Andrew White for killing Peter Beaukhene returned a verdict that he was
guilty of manshaughter, but recommended him to the mercy of the court. White
seemed satisfied with this result of his
four days' trial, for he shook hands with
the jurors and thanked them for their
verdict. His counsel consider the decision verdict. His counsel consider the decision quite a victory, and will not appeal. The possibility that White would be convicted of murder in the first degree, with which he was charged in the information, was disposed of early in the day, for Judge Frazer instructed against such a verdict at the opening of the day's session. Counsel then argued the case, and the court delivered his instructions, which left little room for any other verdict than that tle room for any other verdict than that

rendered.

Judge Frazer cut off the eloquence of John F. Logan on behalf of White at the opening of court by stating that no court would allow a verdict of murder in the first degree to stand. District Attorney Chamberlain suggesteds that he should instruct the jury to that effect. After a short argument between Dan J. Majarkey and Mr. Chamberlain, the court gave the jury the following instruction gave the jury the following instruction before counsel made the closing argu-

ments:

"The question to be determined is whether the defendant is guilty of murder in the second degree or guilty of manslaughter, or whether he should be quitted under further instructions to be given after the argument of counsel."

Argument of Counsel.

John Manning, the Assistant District Attorney, then opened the argument for the state. He contended that it was a poor state. He contended that it was a poor partification for White to say that he was so drunk at the time of the killing that he did not know what he was doing. He said White remembered everything that was favorable to him, but nothing that told against him. In asking for a second-degree verdict, he argued that White was in the act of robbing Beauchene when he was discovered, and that he had plenty of time to deliberate on the deed between the time when he walked into the street to nick up the club and the time when to pick up the club and the time when he returned with it in his hand to slay

George C. Stout, who made the first argument for the defense, devoted much time to showing that it was impossible for White to have hit Beauchene with the piece of lumber produced in evidence and to have inflicted the wounds described by the doctor, taking into consideration. by the doctor, taking into consideration the relative positions of the two men. He questioned whether White, in his drunken condition, could have wielded such a clumsy weapon effectively; and, if he did whether White, standing above Beau-chene, who was lying, could inflict such wounds. He said the evidence left no room for question that the two men stood up and had a fight which ended in White's felling Beauchene with a club.

Final Appeals to Jury.

After the noon recess Mr. Malarkey made the last argument for the defense. He declared that no man concerned in that drunken brawl could be gullty of anything but manslaughter, for there was no room for premeditation, as all were drunk. He said the state had failed to bery, and the court, having t there was no robbery or atdeciared that there was no robbery or at-tempt at robbery, had knocked the pins frem under the state's case. The ques-tion then wer if White did not kill to rob, what did be kill for? He argued that Beauc'ene ind only a few dollars with him when he left home, and that he must have spent nearly all of this in drinking, for there was no evidence that any money was taken from him. He pointed out dis-crepancies between the testimony of Del-schneider and Keefe. He ridiculed the idea of White having killed Beauchene with the piece of wood produced in evidence, saying he believed the wagon tongue was the weapon and that the state did not produce it because it would not agree with the testimony of Delschneider. He proceeded to discredit Delschneider's testimony and to hint that that witness went to the District Attorney's office to save his own skin, all at the suggestion of his brother-in-law, Owen Jones.

He tried to impress on the jury the reasonableness of White's story of the fatal quarrel. He contended that Beauchene had renewed the charge that White had robbed him of 5 cepts, jumped up as they sat on the curb and attacked White. Beauchene, he said, was a big, burly blacksmith, a powerful man, and White was justified in defending himself.

Goose Hollow, and was not led astray. He argued that White saw that the blacksmith was easy to "work" and Spokane's "struck him" for money. There was no evidence of a quarrel up to the time all The total the men sat on the curb together. In support of his contention that the club produced was the one with which the side of the head, to which Dr. Fenton had testified. He defended Delschneider's veracity, and said his flight and that of Keefe was the result of a natural impulse. He scouted the plea of self-defense, saying there was not a scratch or White after the affair, Judge Frazer then instructed the jury, defining the several crimes of homici

Instructions to Jury.

'In this case the evidence of deliberation and premeditation and the evidence that defendant killed Beauchene while attempting a robbery is so slight and unsatisfactory that the court has deter-mined that you would not be justified in finding the defendant guilty of murder in the first degree. Hence I instruct you that you should not bring in a verdict of murder in the first degree. Your verdict should be either guilty of murder in the second degree or manslaughter, or not

"In determining whether or not the killing was purposely or maliciously done, you must take into consideration the state of defendant at the time as to intoxica-tion." He then cited the law which makes voluntary intoxication no excuse for crime, but allows a jury to take it into consideration whenever the existence of any particular motive is a necessary ele-ment to constitute any particular species or degree of crime. The Judge declared this question important in determining the degree of guilt. It was evident that if a person was so intoxicated that he did not know what he was doing or could not distinguish between right and wrong. If you wish to enjoy a day of rest and he could not be guilty of a criminal intent or of malice. And even though the intoxication extended only so far in its effect that the intent to commit the crime was absent, then the jury could not find

the defendant guilty of murder in the sec-ond degree. But if the intoxication did not go to this extent then he may be guilty of murder in the second degree, al-though he was somewhat intoxicated. The Judge further said that if White killed Beauchene without malice in the sudden heat of passion, then he was guilty of manslaughter. If he intended to kill Beauchene, then he was guilty in the second degree. If he did not intend to kill Beauchene, but struck him and killed him involuntarily, then the verdict should be manslaughter.

PORTLAND STILL LEADS. Bureau of Labor Furnishes Figures

Some Claim Coast Federation Will Support It, Others Say Otherwise -Question of Overtime.

SEATTLE LONGSHOREMEN'S STRIKE

DIVIDES DELEGATES.

A general misunderstanding seems to have arisen among the delegates to the on Northwestern Cities,
OREGONIAN NEWS BUREAU, Washington, Oct. 2.—The Bureau of Labor, in its statistics of cities for the calendar year 1901, estimates that the population of Portland on January 1, 1902, was 34,000, or an increase of 3574 since the last census was taken. This leaves Portland

FUNERAL OF THE LATE HON. A. R. BURBANK



HON. A. R. BURBANK OF LA FAYETTE.

LA FAYETTE, Or., Oct. 9 .- (Special.)-The funeral of the late Hon. A. R. Burbank was held at the family residence at this place today at 10 o'clock, by Rev. J. Hoberg, of McMinnville. After a short sermon and a few appropriate remarks the remains were followed to the Masonic cemetery by a large concourse of people from all parts of this county and a number from Portland. Rev. Mr. Hoberg made a few remarks when the beautiful casket that centained the remains was carefully lowered to its last resting-place. Mr. Burbank was not a member of any secret society. The only organization that he belonged to was the La Fayette Hook and Ladder Company, which organization he was president of for 15 years, and always took an active part in all the meetings up to two years ago, when he was compelled to resign as president. The pall-bearers were selected from the charter members of the hook and ladder company at his request. They were J. J. Hembree, J. M. Kelty, Isaac Sampson, J. E. Hembree, Z. E. Perkins

the largest city in the Pacific Northwest, for the estimated population of Seattle is 90,000 (a growth of \$329), Tacoma, 40,000, (a growth of 2286), and Spokane 40,000 (a growth of 3152.)

In many other respects, however, the report shows Portland's supremacy over the other cities of the Pacific Northment. west. The total assests of Portland, in-cluding cash in treasury, sinking fund, and city property belonging to the sev-eral municipal departments, is far in advance of the other Northwestern cities, amounting to \$9,371,103. Scattle is the only city approaching this, with \$7,559,663. Tacoma ranking third with \$4,-

847,469, and Spokane last with \$3,141,343.

In the matter of expenditures for the maintenance of schools, Portland also takes precedence, having during the last calendar year, made an outlay of \$268,-791 for this purpose. Seattle expended \$261,959, Tacoma, \$164,906, and Spokane \$157,248.

permits for erecting new buildings and making repairs to old ones in Portland, at an estimated cost of \$1,538,005. The expenditures for new buildings in Seattle was \$4,218,446 and \$551,279 for repairs; in Tacoma, \$711.843 for new buildings and White was justified in defending himself. He contended that the discoloration of Beauchene's eye and the swelling of his nose proved this.

Mr. Chamberlain made the final argument for the state. He objected to White being called a boy, saying that Beauchene was only 10 years older. White, he contended the state of the state of the state of the state of the state. He objected to White he can be say only 10 years older. White, he can be say that the state of the state of the state of the state of the state. He objected to White he can be say that the state of the state of

Goose Hollow, and was not led astray. Tacoma's bonded debt was \$4,256,494, floating debt, \$215,433, sinking fund, \$44,239. Spokane's bonded debt, \$2,178,389; floating debt, \$662,386, with no sinking fund.

The total amount of property tax col-lected in Portland during the year was datal blow was struck, he pointed out the rough edges on one side which, he said, would make the three scratches. censes. Tacoma's property tax amounted to \$407,570, and liquor licenses to \$56,400, while Spokane collected in property tax \$455,441, and in liquar licenses, \$58,300.

HEAD OF COLLEGE RETIRES Webb Will Take Advantage of New York Pension Law for Teachers.

NEW YORK, Oct. 9 .- General Alexander Stewart Webb has sent a letter of resignation to the board of trustees of the College of the City of New York, of which he has been president for 22 years. He asks that his retirement take effect by December 1. According to the retire-ment act, passed by the last Legislature, the president and professors of the City College and other institutions, after 30 years of continuous and faithful service, may retire on a fund which is provided for with 1 per cent of the city excise fund. The pension for president is fixed at \$5000 and for professors at \$3500. General Webb's salary as president has been

THROUGH THE COLUMBIA RIVER GORGE.

GORGE.

A delightful trip of a few hours will take you through the famous "Columbia hiver Gorge," the greatest combination of river and mountain scenery on earth. O. R. & N. train leaves Portiand daily at S. A. M. Return can be made by steamer from Cascade Locks. Special low rates for this trip, Get particulars at O. R. & N. ticket office, Third and Washington.

a more favorable time for the settlement of their controversy. President Keefe was asked by The Oregonian to state the real sentiment of the meeting, but he evidently realized that there was room

The plan adopted by the Coast conven-tion is to have all of the unions report any trouble to the central headquarters, which will be in Portland, and to have the central body support them, if it trinks the grievance of sufficient importance. It is allowable for local unions to strike of their own accord if they see fit, but if they do they cannot secure the support of the organization. The Seattle people wish to have the support of the central body in their strike, but inasmuch as they were out before it began and it has not the sanction of the National organization, there was a question as to whether they were entitled to this sup-

There will be a concerted effort on the part of the Coast Federation to have the Pacific Coast Steamship Company come to union terms," said a Seattle delegate⁴ to The Oregonian. "We shall first make an effort to settle peacefully, but if this fails, all of the unions of the Coast will

take up the fight." "Our plan," said one of the officers, "Is to have all of the unions know that we do not approve of their going on a strikeby themselves. We want to settle every-thing peacefully, but if we have to strike, all strike at once until the thing is set-

"How about the Scattle people who went out without the sanction of the central body?" asked the reporter. "Will they have your support or will they have to stand alone?"
"They will have to fight it out on their

own merits," said he. "They cannot count on our support unless we are first notified of their trouble and have a chance to pass upon the advisability of a strike." "You're wrong," said the Seattle man and a brother from the same port at

once championed the statement. "The organization is going to make an exception here and give us its hearty sup "You didn't understand the spirit of the resolution on that subject," said another, "It is the plan for President Keefe to go

to Seattle with members from the local union and try to settle it by making ; And so the argument continued. On the fact that President Keefe and the Seattle union will first try to settle the matter

peaceably they all agree, but they disa-gree as to what subsequent action has been adopted. The contention in Seattle is in regard to the payment for overtime. Other firms, the Seattle men declare, pay 40 cents per hour and 60 cents for over-time, and count Sundays and holidays as overtime. The Pacific Coast Steamship Company will pay but 50 cents for over-time and will not count Sundays and hol-

idays as overtime.

The resolution covering this matter and the other resolutions have all been turned over to the executive committee, with in-structions to act according to the spirit of them. A meeting of the executive com-mittee will be held today. The officers elected yesterday to govern

the Portland district are: President, J. A. Madsen, of Portland. Vice-president, J. C. Williams, of San

The executive board chosen is as fol-ows: Messrs. McDevitt, San Francisco; Morrison, Scattle; Watters, San Diego; Gadsby, Victoria; Pease, Tacoma.

District delegates elected to the Tweifth Annual International Convention to be

DIFFER AS TO REMEDY held at Bay City, Mich., next July were F. W. Clark, of Seattle, and Charles J. Kelley, of San Francisco. The next Coast convention will be held at San Francisco the first Monday in October, 1908.

ITINERARY OF PRINCE.

Entertainment Provided for Royal Visitor From Siam.

WASHINGTON, Oct. 2.—The Crown Prince of Siam and party, who are to arrive here Saturday next, will be brought to this city on a special train, arriving about 8 o'clock in the morning, and will be received by the President, if his condition will permit it, at the temporary White House at 11 o'clock. Saturday eventure the party will be entertained at evening the party will be entertained at dinner by Secretary Hay, and Sunday evening a dinner will be given in honor of

the visitors by the Slamese Minister.

Monday the party will visit the Naval
Academy at Annapolis. The programme
for Tuesday includes a visit to Mount
Vernon. On Wednesday the Prince will
proceed to Wilmington, Dei, and then will visit Philadelphia incognito from the 16th to the 22d inst., when the party will go to New York. The programme for their entertainment in that city in-cludes a visit to the West Point Military Academy on the United States steamship Dolphin on the 23d, a dinner by Mayor Low on the 24th, a visit to the home of Mr. Hyde, of the Equitable Life Insur-ance Company, at Bay Shore, Sunday, the 25th, and a dinner by Mr. Holls, of New York, a member of The Hague Arbitra-tion Court, on Monday, the 27th, and on the same evening the Prince and party will be entertained by the Presbyterian Board of Foreign Missions at the Metro-politan Club, and it is probable the Crown Prince will give a dinner himself on the following eyening. On the 29th the party will go to Boston and remain there three

The official entertainment will terminate at Boston, whence they will start on a tour of the country, visiting Syracuse, Niagara Falls, St. Louis, Kansas City. Colorado Springs, Pike's Peak, Portland, Or., Seattle, San Francisco and other cities. The intinerary will cover a distance of 7131 miles, and will consume about four weeks' time.

VALUE IN HEMLOCK BARK Western Lumbermen Have Not Real ized Its True Worth.

OREGONIAN NEWS BUREAU, Washington, Oct. 9.—The lumbermen of the Pacific Northwest, and particularly of Washington, apparently do not place a proper valuation on the hemlock tree. This conclusion is reached by the Bureau of Forestry after a systematic study of the subject. The disposition to shun hemlock as lumber has heretofore been pointed out. The failure to recognize an important industry in utilizing hemlock bark for

tanning purposes is emphasized.

Although thinner than the bark of the Eastern hemlock, the bark of the West-ern tree is found to be exceedingly rich in tannic acid. In Oregon, where hemlock is logged for paper pulp, the bark is utilized by local tanneries, and brings \$5 to \$12 a cord. Its users claim that it produces a lighter leather than Eastern bark. The bark of the Eastern tree averages about 10 per cent tannin. Careful analysis of samples of Washington bark show an average tannin content of 16

It is true that the wet climate of Ore-gon and Washington will prove somewhat detrimental to the economic handling of emlock bark, as it must be taken at the hemiock bark, as it must be taken at the right, season, and not subjected to moisture. It is necessary, to obtain the best results, to cure the bark by storing it from one to two years. No figures of results were obtainable from Oregon and Washington bark, but it is a matter of record that Eastern bark, much less fertile yields 400 to 330 rounds of extract to tile, yields 400 to 430 pounds of extract to the cord, which is sufficient to tan from 200 to 225 pounds of sole leather, or a trifle

more of upper leather.

At present the available supply of hides in the Pacific Northwest is insufficient to support a tanning industry of any great proportions. It is probable that before there is a home market for any considerable quantity of bark it will be required to supply tanneries in the East, where complaint is already made of an inadequate supply. If this proves true, the product must be shipped in a condensed form and considerable capital will be re-quired to develop the industry.

VISIT OF A PUBLISHER.

Daniel Appleton, of New York, on Trip of Inspection.

Daniel Appleton, of the firm of D. Ap pleton & Co., publishers in New York, and his brother, visited Portland yesterday on a trip of inspection. Business was almost the sole object of their tour, Mr. Appleton said, though their eyes were

not blind to natural beauty.

"We are not intending to establish a branch here," he stated, "for we already have a very flourishing one in San Francisco. Still, the trade in Oregon is advancing with such strides that a wide-awake man will keep his eyes open. Port-land is getting to be a great book-buying city. We ourselves have found it very appreciative of such works as 'David

"Just at present the trade requires personal knowledge of the desires of different parts of the country. Conditions in the West differ from those in the East, and to keep track of this we must have firsthand information."

Mr. Appleton is not only the head of one of the largest publishing houses in the world, but also the Colonel of the famous Seventh Regiment of New York. Yester-day he met General Beebe, who was once as yie met General Beebe, who was once a private in that regiment, and the General entertained him at luncheon at the Arlington Club, together with Colonel Everett, of the Third Oregon, and several others. After luncheon Colonel Appleton was driven to the Armory. After inspection of it he expressed himself as astonished at its completeness. "I can give nothing but unqualified appropriate give nothing but unqualified approval to such efficiency," he said, "and I consider it a great testimony to the spirit of the Guard in Oregon."

After being escorted around the city. Colonel Appleton and his brother dined at the Portland and left last night for San

SCHWAB TO GO ON CRUISE Steel Trust President Will Spend Winter on Mediterranean.

NEW YORK, Oct. 9 .- Charles M Schwab, president of the United States Steel Corporation, has chartered Anthony J. Drexel's steam yacht, The Marguerita and will spend part of the Winter cruis-ing in the Mediterranean, cables the London correspondent of the Herald. Mr. Schwab intended taking a villa somewhere on the Riviera, but decided that he would be more benefited by a cruise. The Mar-guerita, which has been laid up for the Winter at Lowes, will be immediately overhauled and made ready for her cruise. She is expected to go into commission on October 22. Mr. Schwab will board the boat with Mrs. Schwab at Marseilles. The yacht is cnartered until March 1. London is now practically empty of American visitors.

GHOST IN THE CLOSET.

Terrible Experience of a Man Who

Was Alone at Home.

Worried by troubles and a feeble constitution, and awed by the darkness in the lonely house, Mormon Bishop Pills are the remedy that will keep a man from imagining he sees ghosts. Mormon Bishop Pills are worth their weight in gold for a siugaish brain, a torpid liver, an aching back, constipation, loss of vitality, weakened vitality, loss of memory, despondency and loss of appetite. They are sold by S. G. Skidmore & Co. Portland, Or. at 50 cents per box or six Loxes for \$2.50. Mormon Bishop Pills positively remove all effects of early decay, youthful folly and excess.

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PROTECT TIMBER LANDS

OWNERS WILL ASK LEGISLATURE FOR ASSISTANCE.

They Want Rangers to Prevent and Extinguish Fires-May Meet to Draft Measure.

Protection of timber lands from fire is me of the subjects with which the next Oregon Legislature will have to wrestle. The large holders of these lands will de-mand that the lawmakers do something to safeguard this class of property. "We pay taxes," they say, "and we are entitled to some consideration from the Gov-

What remedy the timbermen will advise is not known yet; in fact, they do not know it themselves. "We want legisla-tion to prevent fires," they say, "not sim-ply legislation to punish the starters of forest fires. The National and state statutes are stringent enough now, if they are enforced. But they can't be enforced to do us much good. We want a law that will actually keep fires off our lands. It does not give back our timber to have a man punished who destroys our for-

Forest rangers are suggested as proper agents to prevent fires. Such officers are employed on the Government lands. They have saved Uncle Sam much valuable timber. The fact that comparatively lit-tle destruction came to the Government reserves is cited as evidence. The National system is a good example for the state government to follow, say certain timbermen. They insist that officers of the law should patrol all forests in the

dry season. Several timber land companies employed men last Summer to patrol their forests. The companies believe that their foreosses. The men cost about \$2 50 a day. One company had each of its patrol cover about 10,000 or 12,000 acres. Its representative in this city said yesterday that the rangers were especially active in watching camping parties, whose careessness would otherwise have wrought big damage. These men followed closely behind the campers, cautioning them to out out campfires when they moved.

"We do not insist," said a timberman, "that the state government employ all the rangers necessary to prevent fires, but we think it should help to do so. The policy would secure the public safety, a duty which belongs to government. We are not the only sufferers from forest fires. Homesteaders also come in for losses. Although our losses may be im-mense, frequently theirs are relatively as

"These fires are serious blights on the development of the state. In a few min-utes they turn the product of 200 years into a smoking ruin. Timber is the chief asset of Oregon and Washington. It is as great a wealth-producer as any in the

Land cfearing by homesteaders is dangerous to timber areas. How to effect a remedy is a puzzle. Laws which would restrict the privilege of using fire to clear off land would surely arrest the industrial growth of the country. Besides, it is doubtful if any law could be devised to The market for timber lands is quiet.

homesteaders be prohibited and that they be required to burn their slashings in

The plans of timbermen thus far are only tentative. But ere long their discussions will evolve a definite proposal. A conference of timber-owners has been suggested; also a circular letter and a petition from this class of landholders to the Legislature.

MUST LOG BURNT AREAS. Railroads Needed in Districts of Washougal and Lewis Rivers.

What to do with the burnt-over timber districts of Washougal and Lewis Rivers is a subject that will require the early attention of the owners of lands in those sections. It is a very important matter and may require another railroad north of the Columbia. Unless the timber is logged off within the next five years and unless a beginning is made at the work immediately, the owners will stand for very heavy losses.

A well-known timberman, who repre sents heavy interests in timber on the Washougal and East Fork of the Lewis Rivers, said yesterday that fires in those districts swept over forests that con-tained no less than 5,000,000,000 feet of lumber. He said that on the headwaters of the Washougal the stands of timber in private ownership aggregate between 600,000,000 and 700,000,000 feet. This is in the hands of five companies which have not yet done any cutting. F. W. Leadbetter is the only person who is now logging there. As much timber is still held by the state and National Governments. It is back from accessible places, and there-

Over the entire expanse of 1,500,000,000 feet of standing timber on the Washougal River fire has run. The devouring element also left its track on the high divide between the Washougal River and the East or South Fork of the Lewis River and north of that stream to the West or North Fork. The destruction in this district was more complete than

anywhere else in the Northwest.

To get out this burned timber before it has deteriorated will require the construction of railroads. The grade of the Portland, Vancouver & Yakima Railroad reaches the northwest part of the burnt district. Sixteen miles of the road is in operation and rails for 16 miles more are arriving.

But this does not reach the Washougal section. A railroad will have to be run up that river probably 25 miles. The work of saving the timber will have to begin at once in order to get it all out. The district should be logged off in five years at most. Therefore, in order to save the tween 129,000,000 and 140,000,000 feet will

The owners of the timber are expected to inspect the lands within the next month or two. It looks as if before the

hold a settler responsible for the escape of fire from his clearing. A strong gust of wind and a single spark are enough to start a forest fire, and certainly no man can be punished for the whims of the wind. Moreover, the owners of timber land care more about preventing fires than about punishing persons who let fires get away. It has been suggested that the burning over of open areas by homesteaders be prohibited and that they lis ascribed. In the next few months ownis ascribed. In the next few months owners of Northwest timber will be inspecting their holdings in order to check up their losses. The advance in valuations in the past year has been between 30 and 50 per cent.

Boss Farmer Killed by Indian.

NAPER, Neb., Oct. 9.-Edward C. Taylor, a white boss farmer and teacher at the Indian school on the Rosebud Reser-vation, near Bonestils, and Johnnie Shaw, an Indian policeman, were shot and killed by George Bear, an Indian, in a dispute over the refusal of Taylor to allow the Indians to sell wood outside the reservation. Bear was captured.

PORTLAND-CHICAGO.

Seventy hours is the time of the "Chi-cago-Pertland Special" from Portland to Chicago. Leaves Portland every day at 9 A. M. Ticket office Third and Wash-ington, O. R. & N. Co.

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