CANNOT URGE USURY

Purchaser of Land Subject to Usurious Mortgage.

DECISION BY SUPREME COURT

Four Other Appeal Cases Decided Yesterday—New Method Establishing Government Corners Approved.

Where a purchaser of land subject to an usurious mortgage assumes and agrees to pay the balance due thereon, he cannot thereafter set up usury as a defense thereto.

A method of re-establishing Government corners, adopted by the United States Surveyor-General for Oregon, is approved by the Oregon Supreme Court.

A witness who is permitted to give his opinion of the value of property must have some knowledge of the subject-matter, the court being the judge of his qualifications and the jury of the weight to be given his estimate.

SALEM, Or., Dec. 8.—(Special.)—The Supreme Court today handed down opinions in five appealed cases, the most important being a suit over an usurious building and loan company contract. From this decision it appears that although the mortgagor could set up the defense of usury under such a contract, a purchaser who assumes and agrees to pay the balance due on the mortgage cannot avail himself of such a defense.

Frost vs. Pacific States S., L. & B. Co.

John B. Frost and wife, respondents, vs. Pacific States Savings, Loan & Building Company, appellants, from Multnomah County, A. L. Frazer, Judge; reversed. Opinion by Justice Bean.

This was a suit to compel cancellation of a mortgage on the ground that the amount secured thereby had been fully paid. The mortgage was given in May, 1893, by Jason J. Covey and in 1894 Frost bought the mortgaged property, assuming and agreeing to pay the balance due on the mortgage. Frost continued to make payments upon the original contract until December 9, 1898, when it was determined between him and defendant that there was a balance of $500 due. The original contract stock and mortgage issued upon the usual building and loan company plan were cancelled and new ones executed for the balance due. Frost thereafter made payments until the amount thereof, together with the sums paid on Covey's stock and mortgage aggregated enough to pay the entire debt and interest if credited upon the original loan. The defendant refused to release the mortgage, and this suit was brought. The lower court decided in favor of plaintiff, but on appeal the decision is reversed. The opinion of the court says in part:

"It is conceded that the contract between Covey and the defendant was usurious under the laws of this state, and that as between the parties thereto all payments made thereon would go to the extinguishment of the debt. The contention of defendant, however, is that Frost, having purchased the mortgaged premises and assumed and agreed to pay the amount then due on the mortgage as a part of the purchase price, is not entitled to set up the defense of usury against such mortgage, although it concedes that payments made after the renewal of the mortgage shall go in extinguishment thereof. . . .

"There is, perhaps, a want of harmony in the adjudicated cases as to whether a purchaser of the equity of redemption or one who purchases expressly subject to a mortgage can set up usury as a defense against the foreclosure thereof. But whatever the rule in that regard may be, the authorities are practically all agreed that if the grantee assumes and agrees to pay the lien as a part of the purchase price of the premises, he cannot then make such defense. The foundation of this doctrine is not that the original transaction is thereby purged of the taint of usury, but, rather, that the purchaser, by taking title subject to the mortgage and retaining out of the price he agreed to pay sufficient money to pay the mortgage, places himself in a position where he cannot allege usury without attempting to keep back part of the money which he agreed to pay for the mortgaged lands."

Whale vs. Gatch, Receiver.

C. A. Whale, vs. Claud Gatch, receiver of Gilbert Bros., respondents, from Marion County, R. P. Boise, Judge; affirmed. Opinion per curiam.

This was a suit for an accounting. About three years prior to the failure of Gilbert Bros., they entered into an agreement with Whale by which they were to purchase pianos for his trade. By the terms of the agreement they were to pay for the instruments, freight, drayage and expressage thereon, and deliver them to the plaintiff, charging him with the amount of these several items, and an additional 20 per cent on pianos and 36 per cent on organs. Whale was to sell the instruments for whatever he could get, his profit to consist of whatever sum he could realize over and above that charged him by Gilbert Bros. In most cases the instruments were sold on time and installment notes taken, by which it was agreed that the instruments remained the property of the seller until paid for. Whale turned the notes over to Gilbert Bros., and they credited him with his profit. In many cases purchasers defaulted in their payments, and the instruments were returned to Gilbert Bros. The question presented in this suit was whether Whale should be charged with the profits credited to him on sales in which the instruments were returned. The contract was not in writing, and the evidence as to the oral agreement was very indefinite, but upon the evidence as to the agreement and the course of business thereunder, the lower court held that where the instrument was returned Whale should be charged with the profits credited to him. Without reviewing the testimony the Supreme Court affirms this decision.

Rockman vs. Imbler Lumber Co.

R. D. Ruckman, respondent, vs. Imbler Lumber Company, appellant, from Union County, Robert Eakin, Judge; affirmed. Opinion by Chief Justice Moore.

This was an action to recover $600, the reasonable value of the use of an engine and boiler for one year, and the sum of $250 for damages thereto. The trial resulted in a verdict for plaintiff in the sum of $385. The principal rule of law involved is shown by this quotation from the opinion:

"Though it has been repeatedly held that the opinions of witnesses are in general inadmissible, there are many exceptions to the general rule, which deviations therefrom permit the introduction of this species of evidence on the ground that its omission might otherwise result in many instances in defeating justice. . . . Necessity generally renders opinion evidence admissible to prove the value of property, the character of which and the universality of its use determine whether a witness, called to estimate its worth must possess special skill or experience, or only common knowledge, in respect to such property, to entitle him to appraise its value in the presence of a jury. . . . No rule of law can definitely prescribe the degree of information required to render a witness competent to express an opinion concerning value, but it must appear that he has some acquaintance with, or knowledge of, the subject-matter, the court being the judge of his qualifications and the jury of the weight to be given to his estimate. As the worth of property may be proved by opinion evidence, so the value of its use may be established in the same manner."

Trinwith vs. Smith.

H. Trinwith, appellant, vs. Don A. Smith, respondent, from Marion County, R. P. Boise, Judge; affirmed. Opinion by Justice Wolverton.

This was a suit to settle a disputed boundary. The lower court appointed a commission to establish the line, and the report of the commission having been approved, plaintiff appealed. In affirming the decision the Supreme Court cites the law as follows:

"United States Government surveys of public lands are undoubtedly conclusive upon all persons owning or holding with reference thereto, and corners and monuments so established cannot be altered, whether properly placed or not, and must remain, when ascertained, the true corners or monuments by which to determine the boundaries. . . . In any attempt to re-establish an original survey the purpose should be to follow in the footsteps of the surveyor as nearly as possible. . . . The rule adopted by the General Land Office for the re-establishment of interior section corners is laid down as the same as that for the re-establishment of corners common to four townships, in which two conditions are to be recognized: (1) Where the position of the corner is made to depend upon two lines at right angles to each other, and (2) where the original corner has been made by measurements on one line only. In the first case, the re-establishment is accomplished by running the line north and south of the missing corner connecting the nearest identified corners, and placing a temporary corner at the proportionate distances, and by running a line east and west, setting a temporary corner in a similar manner. Then, by running through the first temporary corner a line east (or west), and through the second north (or south), as the relative positions may suggest, and the intersection of the two lines thus projected will mark the position of the corner to be restored. This method has the sanction and approval of Martz vs. Williams, 67 Ill., 308, and is the one suggested by the United States Surveyor-General for Oregon for the settlement of this controversy. Where the second condition exists, the restoration should be effected by proportionate measurements on the single line between the nearest identified corners on opposite sides of the missing one."

The line established by the commissioners is held to be as near equitable as can be made under the circumstances.

Kitchen vs. Holmes.

Olevia E. Kitchen, respondent, vs. W. H. Holmes, appellant, from Marion County, George H. Burnett, Judge; affirmed. Opinion by Justice Bean.

This was a suit to recover money loaned. The defense was that the money was not loaned to plaintiff, but to her husband, since deceased, and that the debt is the property of his estate. Jury trial was had, and the verdict was for plaintiff in the sum of $840. No new rule of law is laid down in the Supreme Court's opinion affirming the decision.

Rehearings Denied.

Motion to recall mandate in Flouring Mills vs. Lord was overruled and petitions for rehearing was denied in the following cases: Milliorn vs. Clow, Carter vs. Wakeman, Ross vs. Portland, State vs. Meldrum, Williamson vs. Lumber Company, Leve vs. Frazier.

AFTER RESERVOIR SITES.

Speculators in Malheur County Acquiring Valuable Rights.

ONTARIO, Or., Dec. 8.—(Special.)—For weeks there has been a systematic hunting of reservoir sites throughout Eastern Oregon. It developes here today that when the Government committee gets at its work in this arid region it will find every available reservoir site taken by some one who has an eye to business. The real irrigator who has the country's interest at heart is confronted with the fact that the Government will have to buy off some ambitious person who has foreseen the possibilities in the reservoir business, and who has either a surveyor's stake stuck in the site, for which he asks an enormous sum, or, on the other hand, there is a blueprint filed in the County Clerk's office, for which a fortune is being demanded before the Government will have clear sailing to do something for the region.

The Malheur irrigators have called a meeting for December 20, at which time it is hoped that the irrigation feature of this region will be launched in a tangible form, and that any stumbling blocks in the road of the National Government may be removed before delays are experienced.

The Ontario meeting is for the purpose of clearing away any fog that may be overhanging the motives of the great majority of the men who have the work in hand, and to further guarantee fidelity on the part of Malheur County by expressing disapproval of any promoter who is aiming to "hog" the Eastern Oregon reservoir sites.

In this connection it has been stated that reservoir sites alone are not the best way of reclaiming the Malheur County lands. That a canal may be brought from Snake River at even a less expense than the doubtful reservoirs could be made is now freely admitted by those who have had an opportunity of knowing. This leverage is to be worked steadfastly to influence amicable business with those who have already drawn a picture of some supposed reservoir site, and are now demanding exorbitant sums for their alertness.

YAKIMA FRUIT UNION.

Manager's Report Shows Association Members Received $39,191 76.

NORTH YAKIMA, Wash., Dec. 7.—The Yakima County Horticultural Union held an important meeting in the City Hall last Saturday, at which time Manager J. M. Perry made a financial report of the business done by the union during the season. The report was to have been made several weeks ago, but owing to the failure of the manager to get final results from a few shipments of fruit, it was delayed.

The report shows the following shipments of the different kinds of products by boxes: Apples, 24,330; peaches, 20,384; pears, 6561; prunes, 17,370; plums, 1312; apricots, 1417; blackberries, 185; cantaloupes, 5541; melons, 33,519; tomatoes, 1280; crabapples, 738; grapes, 9328. Altogether the union handled in the past four months for association members 88,853 boxes of fruit and 33,519 watermelons, an average of 88 0boxes per day. It paid in cash to association members during that time $39,191 76 net over all freight and commission charges. The highest sum paid to an individual grower was $1981 69, the lowest sum $3 90.

ELECTRICAL STRIKE STILL ON.

Vancouver Telephone Company Secures Nonunion Linemen.

VANCOUVER, B. C., Dec. 8.—The strike of the Electrical Union against the telephone company is still in effect, although the company is now giving a partial service with nonunion operators. After 10 days of strike many of the instruments and some sub-lines are out of repair. This morning eight nonunion linemen began the work of repair. The strikers charge that these nonunion linemen have been brought hither from Seattle in violation of the alien labor law. Several conferences between the directors of the telephone company and the union representatives have so far failed to effect an arrangement whereby the strikers will return to work. An outcome of the controversy is the application to the City Council this evening of 20 prominent business men for a charter for a new telephone company.

TURNER TAKES HIS LIFE

WELL-KNOWN ALBANY MAN COMMITS SUICIDE.

After Protracted Spree, He Goes to His Bedroom and Blows Out His Brains.

ALBANY, Or., Dec. 8.—(Special.)—After several days heavy drinking John Turner, ticket agent of the Corvallis & Eastern Railroad, committed suicide at his home in this city at 12:45 o'clock today by shooting himself through the head with a revolver.

Turner had been putting in the forenoon settling up his accounts at the various stores in town, and shortly before noon remarked to a friend that he did not owe any man a dollar. But he did not seem in his usual good spirits, seemingly being the subject of an attack of melancholy, and was drinking considerable. Shortly after 12 o'clock Turner started home, and went to an upstairs bedroom. At about 12:45 P. M. his family was startled by hearing the report of a revolver. Upon going upstairs, they were confronted by the awful sight of Turner's massive form stretched in a reclining posture on the bed, weltering in a pool of blood, which flowed from bullet wounds in the head. The dead man was in his shirt sleeves and had removed his collar and tie.

The shooting was done with a heavy, long-barrel Colts revolver, 38 caliber. Turner, after stretching himself on the bed, near the edge, had with his right hand placed the end of the revolver against his left temple, so near that the powder from the explosion burned the hair. After firing the fatal shot the hand dropped to the side, the wrist being bent so that when the revolver was released by the relaxing fingers, it laid by the side of the deceased, pointing toward his head.

The bullet entered the left temple, above the line with the eye, at the margin of the hair, and about two inches in front of the ear. The ball passed through the head, coming out even with the top of the right ear, and about one-half of an inch back of it. The ball lodged in the pillow, beneath the head of the deceased, where it was later found by the coroner's jury.

No cause for Turner's action can be definitely assigned. The Corvallis & Eastern officials report that he was always a trusted employe, and there is no shortage in his accounts with them. On the dresser in the room was found two notes, one addressed to William Faber, proprietor of the Albany brewery, and the other follows:

"Fluelia—May God watch over you and my child. Any bills or notes come to you with my name to them, they are legitimate. Pay them all. Have Elks and Woodmen care for me, my wife and my child. JOHN."

The note was written on the back of a programme for a musical recital, and was so scrambled and run together as to be hardly intelligible.

Coroner Fortuneler was at once notified. He empaneled a jury and held an inquest in the room where the suicide was committed, before the body had been touched. A verdict of suicide was rendered in a very short time. The jury was composed of: Fred Dawson, foreman; A. M. Hammer, J. A. Howard, J. K. Davis, Cooper Turner, W. E. Kelly.

John Turner was one of the best-known men in Albany. He came here about 10 years ago from Milan, Mo., and entered the employ of the Corvallis & Eastern Railroad Company as ticket agent, which position he has since retained. He was noted for his jovial disposition and was the greatest "josher" in the city. He left a wife and daughter.

AIKEN'S SECOND TRIAL.

Charged With Killing Chinaman—Much Trouble Securing Jurors.

HILLSBORO, Or., Dec. 8.—(Special.)—The trial of James Aiken, charged with killing a Chinaman at Raleigh last Fall, for which he was convicted, sentenced, taken to the penitentiary and then given a new trial by the Supreme Court, began here this morning. The state is represented by District Attorney Allen and his deputy, E. B. Tongue, while Aiken's counsel are Hon. S. B. Huston and H. T. Bagley. All day was consumed in the selection of jurors, and many were excused and challenged because of fixed opinions as to defendant's guilt. Prospective jurors were closely questioned as to whether they had read former accounts of the crime and trial as reported in the columns of The Morning Oregonian and the Hillsboro Argus. Late this evening court adjourned until the Sheriff could bring more jurors from the country. Judge McBride cautioned the jurors already chosen against reading the papers until the case was finally concluded.

BACK FROM FOREST RESERVE.

Supervisor Bartrum Has Been Establishing Survey Lines.

ASHLAND, Or., Dec. 8.—(Special.)—Forest Supervisor S. C. Bartrum, of the first district of Oregon, has returned from a hard trip to the southern portion of the Cascade forest reserve. For some weeks he has been engaged in running out the old survey lines between Klamath reservation and the forest reserve, and surveying blocks of land that have been settled upon within the reserve. A number of people so situated were found who were not aware that they were upon the reserve. One of the principal objects of the present survey is to establish a clear line of delimitation between the forest reserve and those lands which are subject to entry by settlers so that no future misunderstanding will occur. The work that has been begun at Fort Klamath will be continued to all parts of the district.

NEW PAPER FOR OREGON CITY.

E. E. Brodie and Davis Bros. to Publish a Semi-Weekly Paper.

OREGON CITY, Or., Dec. 8.—(Special.)—Articles of incorporation will be filed in the office of the County Clerk tomorrow by Edward E. Brodie, David Davis and A. E. Davis as incorporators of the Record Publishing Company. The object of the corporation will be to conduct a newspaper in Oregon City. Arrangements have been made by the incorporation to begin in about two weeks the publication of a semi-weekly newspaper. A type-setting machine has been purchased and the other material necessary for the publication of an eight-page paper will be installed this week. The paper will be called the Clackamas County Record, and its politics will be straight Republican.

STANFORD REFUSES UTAH.

Declines Request for Debate on Account Financial Difficulties.

SAN FRANCISCO, Dec. 8.—The intercollegiate debating committee of the Stanford University has received a communication from the University of Utah asking for an intercollegiate debate between the two universities. The proposition has been rejected on account of the financial difficulties entailed last year in bringing a debate team from the University of Washington, and also because of numerous similar debates already scheduled for the present year.

DECKHAND'S NARROW ESCAPE.

Falls From Harvest Queen, and Is Rescued Unconscious.

ASTORIA, Dec. 8.—(Special.)—While the steamer Harvest Queen was in the lower harbor this afternoon trying to make fast to a vessel, one of the deckhands fell overboard. The wind was blowing a gale at the time, and the man, weighted down with rubber boots and oil clothing, could not keep himself above water, and the steamer could not come to his assistance. Captain James Keating was near by with his launch Elk, and, seeing the man in the water, headed his boat for him. The man sank out of sight before the launch reached him, but Captain Keating reached down under the water, grasped the man's clothing and raised his head above the surface. The man was unconscious and unable to help himself, but Captain Keating is a man of unusual strength, and succeeded in getting the drowning man on board. It took some time and hard work to revive him, but it was successfully accomplished.

BIG IRRIGATION SCHEME.

Canadian Pacific Has Plan to Water 2,500,000 Acres.

VANCOUVER, B. C., Dec. 8.—A special from Montreal today says:

Among the proposed improvements at the executive meeting of the Canadian Pacific Railway today is included the irrigation of 2,500,000 acres of semi-arid lands between Calgary and Medicine Hat. The expense will be enormous, water being conveyed from the Bow River to the plain at a cost of $3 an acre. The plan promises success.

May Divide Yakima County.

SUNNYSIDE, Wash., Dec. 8.—(Special.)—A mass meeting was held last week in response to an invitation from the Board of Trade of Prosser to co-operate in demanding of the next Legislature a division of Yakima County. Dr. C. W. Chamberlain was elected chairman, and H. E. Perrin, secretary. A resolution was passed that the chair appoint a committee of five to take care of Sunnyside's interests in the event a bill for dividing the county should be introduced in the next Legislature. This resolution passed unanimously. A motion by H. D. Dory was then passed to invite all the precincts involved in the proposed new county to meet at Sunnyside, December 18, at 10 A. M., to confer on the question of county division.

Astoria United Workmen.

ASTORIA, Dec. 8.—(Special.)—Seaside Lodge, No. 12, Ancient Order of United Workmen, of Astoria, has elected the following officers to serve during the coming term: Past master workman, Patrick Shea; master workman, Nick Bosler; foreman, John McCue; overseer, O. F. Morton; recorder, F. D. Winton; financier, Thomas Dealey; receiver, J. E. Higgins; guide, M. F. Handesty; inside watchman, Dr. C. C. Rosenberg; outside watchman, Edward Edling; trustee, William Kelly; librarian, John A. Montgomery; medical examiners, Drs. Tuttle, Estes, Pilkington and Cordiner.

Bad Man Arrested at Payette.

PAYETTE, Idaho, Dec. 8.—(Special.)—Officer Al Young yesterday arrested Bob Jones, who a few days ago sold a bridle and saddle to Alex Coston, receiving $28. The next morning he stole the bridle and saddle and skipped, but came back yesterday and tried to pass a bogus check for $45 drawn on the First National Bank of Vale, Or., on three business houses here. He failed at this, but succeeded in passing one for $25 on James A. Lauer, who sold him a watch. He was trying to work Ben Reed when caught. Lewis Orrell assisted the officer in arresting Jones.

Lodge Officers at Payette.

PAYETTE, Idaho, Dec. 8.—(Special.)—The Modern Woodmen of America held an election last night and elected the following: Frank H. Cram, V. C.; C. W. Giesler, W. A.; S. J. Cole, B.; H. Koelkenbeck, C.; Charles Hartung, E.; C. A. Walton, W.; Cyrus Williams, S.; J. B. Burns, manager for three years.

Petition to Pardon Jake Sheets.

SALEM, Or., Dec. 8.—(Special.)—Governor Geer has received a petition for the pardon of Jake Sheets, who was received at the Penitentiary in the latter part of 1901 on a three years' sentence for burning the jail at Joseph, Wallowa County. It is alleged in his behalf that he was intoxicated when he committed the crime.

Caught by Falling Tree.

VANCOUVER, Wash., Dec. 8.—(Special.)—C. H. Price, of Lewisville, was caught by a falling tree last Saturday evening, and narrowly escaped being crushed to death. He was taken to a neighbor's house and medical assistance summoned. It is thought he will recover.

Newburg Delegates Lose Their Way.

M'MINNVILLE, Or., Dec. 8.—(Special.)—A carriage-load of Y. M. C. A. delegates lost their way last night on the road from Newberg in a stump patch. Early this morning they found their way back to Newberg with a broken single-tree. The crowd was a sorry looking lot.

River High at Independence.

INDEPENDENCE, Or., Dec. 8. — The river is higher today than it has been at any time this season, and a few more feet will put it over the embankment on the Marion County side. Large sawlogs have been swept away from their moorings, and are going down stream.

Fined for Illegal Hunting.

VANCOUVER, Wash., Dec. 8.—(Special.)—James Robinson was fined $5 and costs by Justice Haines today for hunting on O. M. Hidden's premises without permission.

Albany Fire Department Election.

ALBANY, Or., Dec. 8.—(Special.)—The election in the Albany Fire Department today resulted in the selection of Quincy Propst for Chief, and Fred Hochspier for assistant.

Fortune Telling

does not take into consideration the one essential to woman's happiness—womanly health. There is many a woman whose future seems absolutely unclouded who is marked by her own condition for future disappointment and distress.

The woman who neglects her health is neglecting the very foundation of all good fortune. For without health love loses its lustre and gold is but dross.

Womanly health may be retained or regained by the use of Dr. Pierce's Favorite Prescription. It establishes regularity, dries the drains which weaken women, heals inflammation and ulceration and cures female weakness. It makes weak women strong, sick women well.

Sick women are invited to consult Dr. Pierce by letter *free*. All correspondence held as strictly private and sacredly confidential. Address Dr. R. V. Pierce, Buffalo, N. Y.

"I have taken six bottles of Dr. Pierce's Favorite Prescription," writes Miss M. Fyfe, of Orilla, Simcoe Co., Ontario, "and two bottles of the 'Pleasant Pellets' as you advised for congestion of uterus, ovaries, and weakness, and can safely say that your medicine has been the means of restoring me to good health again, which I had not had for over three years, until taking your medicine. I thank you very much for your kind and prompt attention to my letter asking advice."

"Favorite Prescription" has the testimony of thousands of women to its complete cure of womanly diseases. Do not accept an unknown and unproved substitute in its place.

Dr. Pierce's Pleasant Pellets clear the complexion and sweeten the breath.

NEW OREGON CODE ISSUED

COMPILATION BY JUDGE BELLINGER AND W. W. COTTON.

Authorized by Legislature to Replace Present System—Distribution of 1000 Copies.

SALEM, Dec. 8.—(Special.)—The new Oregon Code, compiled by Judge C. B. Bellinger and W. W. Cotton, was issued today. This code was authorized by the last Legislature and hereafter will be used in the courts in the place of codes heretofore in use. One thousand copies of the code will be delivered to the Secretary of State and will be distributed by him as follows:

One copy to the Governor of each state and territory, for the use of the library of such state or territory; two copies to each of the following libraries: United States Supreme Court library, Congressional library, library of United States Attorney-General, library of Secretary of Interior, library of office of Solicitor of United States Treasury, library of Law School of Willamette University, library of college at Ashland, Portland Library, Monmouth Normal Library, Pacific University library, Willamette University library, State University library, Agricultural College library and Multnomah Law Library; one copy to each of the following persons: United States District Judge for Oregon, Judge of United States Circuit Court in Ninth District, each member of last Legislature, each County Judge, Sheriff and County Clerk, each Justice of Supreme Court, the Attorney-General, each Circuit Judge, each District Attorney, County Treasurer, County Commissioner, Justice of the Peace, and to the Governor, Secretary of State and State Treasurer; 10 copies to be deposited in the state library and the remainder kept in the office of the Secretary of State to be disposed of as may hereafter be required.

The new code is in two volumes and comprises 1850 pages. The index is very full and complete, far surpassing any of the previous codes in this respect. The index references are to sections instead of to pages as in previous codes. Each section is followed by annotations referring to both the Oregon Reports and the Pacific Reporter.

The general arrangement of the code is practically the same as Hill's Code of 1892, so that the change to the new code will cause no inconvenience. One feature of the 1902 code that will be greatly appreciated is the black type line at the head of each section indicating the subject treated in the section. This makes it much easier for one to find the law upon any subject. Besides the general laws of the state the code includes the Declaration of Independence, the United States and Oregon Constitutions, with index, the act of admission and all acts of Congress relating to the State of Oregon.

The new codes were delivered to the Supreme Judges today and will hereafter be used by that tribunal in citing sections of the statutes. The Supreme Court will refer to the code as the "B. & C. Comp.," meaning the Bellinger and Cotton compilation.

Supreme Judge Bean, when he examined a copy of the code today, said: "The compilers of this code have performed a most excellent piece of work and the code will prove entirely satisfactory to the profession. I like particularly the annotations, which are limited to Oregon cases in the State or Federal Courts, and which will, for that reason, save any confusion. The use of heavy type-heads for the sections is also much better than the small-type marginal heads previously used."

The state does not keep the codes on sale, but the law requires the publishers, Bancroft, Whitney & Co., to keep them on sale for six years at not to exceed $12 per set.

STABS HIMSELF FIVE TIMES.

James J. Mackey, of Portland, in Receiving Hospital at Los Angeles.

LOS ANGELES, Cal., Dec. 8.—James J. Mackey, of Portland, Or., lies in a critical condition at the Receiving Hospital tonight as a result of an attempt to stab himself to death with a pocket-knife. He bears five wounds, three of them superficial ones, over the heart, and the others in the abdomen. The police surgeons state that if the knife penetrated the abdominal cavity the man will die, and the outcome of his attempt will probably not be known until morning.

Mackey was arrested this morning in an intoxicated condition and released this afternoon. Soon after he climbed into a van of the Beken Van & Storage Company and was carried to the yard of that company. There he disappeared, and a few minutes later the employes of the place found him bleeding from his self-inflicted wounds.

Mackey is known here as a member of the Portland Lodge of Eagles, and is supposed to be a liquor dealer. His attempt is accounted for by his broken-down condition.

(The name of James J. Mackey cannot be found in the Portland directory, and a prominent member of the local lodge of Eagles says he knows nothing of such a man.)

MRS. SMITH COMMITS SUICIDE.

Was Suspected of Killing Her Husband at Sacramento Last Week.

LOS ANGELES, Cal., Dec. 8.—Mrs. Rosa B. Smith committed suicide in the Natick Hotel today by taking poison. She was the widow of F. W. Smith, who was shot and killed last week near Sacramento. Regarding his death, she told the following story to the Sacramento police:

"My husband and I were on our way to Sacramento after a day's fishing in the American River. About a mile from the city limits a man stopped us on the road and said: 'Throw up your hands.' I turned to run and heard my husband cry out 'Murder!' There were two shots. I ran half a mile to a house and got help. We went back and found my husband dead. He had been robbed of a purse containing about $100. My husband was a barber, and I worked with him at the barber trade."

Searching parties scoured the country in the locality of the tragedy, but no clue to the alleged murderer was found. The woman was taken into custody and questioned. She was allowed to go to San Fernando, Los Angeles County, to bury her husband, but was kept under surveillance. Ten days before the murder Smith effected a $1000 insurance on his life. Mrs. Smith left notes to relatives denying that she was responsible for her husband's death.

SCHOLARSHIP FOR WOMEN.

University of Idaho Granted $5000 for Such a Fund.

BOISE, Idaho, Dec. 8.—(Special.)—The sum of $5000 has been donated to the University of Idaho for the endowment of a scholarship for women. The scholarship is of the annual value of $300 for two years from date and $200 thereafter. It is to be awarded to one of the young women of the university at the end of the freshman year, according to the conditions established by the founder, by a committee consisting of the president of the university and four members of the faculty named by him. It will be paid in annual installments of $100 each, and is to be used by the beneficiary for completing her course in the university.

MONTANA HOTEL BURNED.

American House Destroyed, With Loss of $20,000.

ANACONDA, Mont., Dec. 8.—A special to the Standard from Lewistown, Mont., says:

The American House was entirely destroyed by fire this morning, entailing a loss of $20,000, one-fourth of which falls on guests who lost clothing and jewelry. So dense was the smoke that many lost their way in the halls and were rescued with difficulty. Some were rescued by means of ladders.

Murderer Levy Denied New Trial.

BOISE, Idaho, Dec. 8.—Judge Stewart, of the District Court today handed down an opinion denying a motion for a new trial for George Levy, sentenced to hang for the murder of David Levy on October 3, 1901. The case is a celebrated one. The murdered man was a wealthy miser. George Levy was not a relative but a tenant of the victim.

Pioneer of Yakima Valley.

NORTH YAKIMA, Wash., Dec. 8.—(Special.)—Joel F. Powell, an old pioneer of the Yakima Valley, died at St. Elizabeth Hospital Saturday morning, after a sickness lasting about six months. He was born in the State of Indiana December 12, 1818, and 24 years ago came to the Yakima Valley.

Man Frozen in Montana.

BUTTE, Mont., Dec. 8.—A special to the Miner from Big Timber says word reached there today of the discovery of a frozen body of a man named English, an engineer employed at Cowles Mining Camp. Reports from various sections of the state to night tell of falling temperature, following a chinook today.

McBride Issues Extradition.

OLYMPIA, Wash., Dec. 8.—(Special.)—The Governor issued extradition papers today at the request of the Governor of Colorado for Benjamin H. Grey, wanted in Lake County, Colorado, on a charge of grand larceny, committed March 10, 1902. Grey is under arrest in Seattle.

Land Selection Is Approved.

OLYMPIA, Wash., Dec. 8.—(Special.)—The Governor has been notified of the approval by the General Land Office of a selection by this state of 282.66 acres of land for the grant for public buildings at the state capital. The lands are in the Olympia land district.

Ships 120,000 Pounds of Wool.

INDEPENDENCE, Or., Dec. 8.—(Special.)—Probably the largest shipment of wool ever made at one time from this place occurred last week. H. A. Douty shipped direct to Boston 120,000 pounds. The shipment made up almost 10 freight cars.

Felix Evans, of Washougal.

VANCOUVER, Wash., Dec. 8.—(Special.)—Felix Evans, age 64, of Washougal, died at St. Joseph's Hospital, in this city, last night, of senile gangrene. He left a wife, of this place, and a brother in Oregon.

Ireland Succeeds Sparling.

OLYMPIA, Wash., Dec. 8.—(Special.)—Governor McBride today appointed Russell Ireland, of Tacoma, a member of the State Board of Barber Examiners, vice Barney Sparling, resigned.

Mrs. Lake, of Fern Prairie.

VANCOUVER, Wash., Dec. 8.—(Special.)—Mrs. Olive Lake died at her home at Fern Prairie, Saturday, of pneumonia. She left a husband, David Lake, and six small children.

Meeting State Fair Board Today.

SALEM, Or., Dec. 8.—(Special.)—The State Fair Board will hold its annual business meeting here tomorrow for the election of officers.

RIVER DESERTS A TOWN

Vagaries of Missouri Deprives of Water Supply.

NEBRASKA CITY, Neb., Dec. 8.—The situation here caused by the town being cut off from a water supply, owing to the Missouri River changing its channel, is becoming serious. The electric plant has been forced to close down, and every manufacturing establishment in the city will have to close tomorrow unless relief is secured. The packing-houses are not affected, having water systems of their own. A large force of men is at work running pipes to the new channel.

It is what Hood's Sarsaparilla does that tells the story of its merit. Hood's cures.

RHEUMATISM

Rubbing with liniments, blistering, the application of plasters; in fact anything that will produce counter-irritation, is good for external treatment of Rheumatism, but these simple remedies do not reach the seat of the disease nor touch the real cause, and relief is therefore only temporary.

Rheumatism is due to Uric Acid and other irritant poisons in the blood, and as it circulates through the system, these acid poisons are deposited in the muscles, joints and nerves, and exposure to night air, cold east winds, or any sudden change in the weather, will bring on an attack which may last for a few days or linger on for months. Every battle with Rheumatism leaves the blood in poorer condition, while the corroding acids are gradually consuming the oils and fluids that lubricate the muscles and joints, and they become stiff and sometimes immovable.

Rheumatism, with its sharp, cutting pains, can never be conquered until the acid blood has been cleansed and purified, and all irritating substances neutralized and filtered out of the system, and nothing does this so promptly and effectually as S. S. S. Under the purifying and tonic effects of this vegetable remedy the blood is made pure, the general health is rapidly built up and the sufferer obtains happy relief from the torturing, nagging pains of Rheumatism.

SSS

Get rid of Rheumatism before it makes you a nervous, peevish cripple, or pain-racked invalid.

Write for our special book on Rheumatism, which will be sent free.

The Swift Specific Co., Atlanta, Ga.

Constipation

Inward Piles, Fullness of the Blood in the Head, Acidity of the Stomach, Nausea, Heartburn, Disgust of Food, Fullness of Weight in the Stomach, Sour Eructations, Sinking or Fluttering of the Heart, Choking or Suffocating Sensations when in a lying posture, Dimness of Vision, Dizziness on rising suddenly, Dots or Webs before the Sight, Fever and Dull Pain in the Head, Deficiency of Perspiration, Yellowness of the Skin and Eyes, Pain in the Side, Chest, Limbs and Sudden Flushes of Heat, Burning in the Flesh. A few doses of

Radway's Pills

Will free the system of all the above-named disorders.

Price 25 cents per box. Sold by all druggists, or sent by mail on receipt of price.

Radway & Co., 55 Elm street, N. Y.

HOLIDAY PIANO SALE

OPENING DAY AT EILERS'S PIANO HOUSE A HUMMER.

Weather No Damper to Enthusiasm—Fine Pianos and Low Prices Inspire Brisk Holiday Buying.

As predicted Saturday's sales brought our clubs to a close and completed the most extraordinary piano-selling ever witnessed on the Coast. Just four weeks after the opening of our co-operative clubs five hundred homes had been gladdened with fine pianos. Five hundred families had secured the means for a lifetime of enjoyment in beautiful, trustworthy instruments. Following right on the heels of this phenomenal sale comes our

Grand Holiday Display and Sale

Yesterday was our opening day. Our grand room, with its handsome tapestry hangings, portraits of composers, its Turkish corner, its rich, harmonious coloring, created a sensation among our visitors, and was unanimously declared on all sides the most artistic and complete music-room on the Coast.

This room is designed to display the finest and handsomest pianos in the world—the Weber, of New York; the Chickering, of Boston, and the Kimball, of Chicago—pianos that are way ahead of their time in tone, in construction and in finish, and whose names alone are sufficient recommendation.

The Weber Piano

Prized by all singers for its sympathetic tone quality, has again been chosen by the Metropolitan opera company for exclusive use during the entire season. Here is what one of the brightest musical stars in the world had to say concerning this piano while singing with this company:

"Among all the instruments of the renowned makers, here and abroad, I today prefer the Weber, because of its sympathetic tone quality. EMMA CALVE."

The Chickering Piano

From the fatherland of music and musicians, from the home of Wagner, of Beethoven, of Mendelssohn, of Schubert and Schumann, comes this from a composer and musician universally honored:

"It is very agreeable to me to add my name to the concert of praise of which your pianos are the object. To be just, I must declare them perfect—superlatively perfect. FRANZ LISZT."

The Kimball Piano

Whose sterling make and sympathetic tone quality has placed it among the world's greatest pianos, has praise showered upon it from all sides. The following is from one of whom all Americans are proud:

"Messrs. W. W. Kimball Co.: I can only repeat of your instruments what I said of the one in my Lond'on home—that the longer I use it the better I like it. The two Kimballs purchased for relatives give the same satisfaction, and whether in arias or songs, the piano supports the voice splendidly. I can cordially congratulate the Kimball Company. Very truly, "LILLIAN NORDICA DOME."

This Is Not All

This Christmas sale includes numerous other fine pianos, the very choicest productions of the best piano manufacturers, such as the Decker, the Vose, Hobart M. Cable, Haddorff, Victor, Crown, Bush & Gerts, Lelight, Lester, Pease, Mills, on, all in new handsome holiday casings, all with faultless action, perfect touch and exquisite tone and thoroughly guaranteed by us.

Prices

In buying a Christmas piano remember you are getting something that will not be destroyed in a day or wearied of before the holidays are over. You are getting something that grows in value the longer you have it; prized more highly the better you and the children become acquainted with it; first, for its beauty of tone and appearance, then on better acquaintance for its capacity for giving you pleasure, comfort and culture, and afterward for all the sweet and happy associations which cluster around it. The baby will like its music; so will those rollicking boys and the growing daughter will delight in it. Then, too, your friends and neighbors will come in and share your pleasure in the instrument. So, if you do put $300, $400 or $500 into an instrument, and consider the amount of pleasure you are going to get out of your purchase, and the many years it will last, you can readily see it is the cheapest investment you ever made. And you need only pay $25.00 down to secure one of these superb holiday pianos; $15.00 or $12.00 monthly completes your payments (on some the payments are as little as $6.00 and $8.00), and your piano is delivered as soon as you want it after your first payment is made. If you want it held by us for holiday delivery, we will see that it reaches you just when you want it. Eilers Piano House, 351 Washington street. Other large, busy houses at San Francisco, Sacramento and Spokane.

**NO PAIN! NO GAS!