CITY LOSES SUIT

Portland Cannot Collect Street Assessment.

REMONSTRANCE WAS IGNORED

Oregon Real Estate Company Not Liable for Cost of Improvement—Case Arises Under Charters of 1898 and 1898.

Section 156 of the Portland Charter of 1898 does not authorize the collection of a street assessment made under the charter of 1893, where the owners of a majority of the property affected remonstrated against the improvement but the Council disregarded the remonstrance.

Where a deed has been executed in escrow and the grantee has performed all the stipulations so far as he was permitted by the grantor, he is entitled to the delivery of the deed.

SALEM, April 27.—(Special.)—The Supreme Court today handed down decisions in two appealed cases, affirming one and reversing the other. The City of Portland loses its suit against the Oregon Real Estate Company for the collection of an assessment for street improvements. The decisions are as follows:

Portland vs. Oregon Real Estate Co.

City of Portland, respondent, vs. the Oregon Real Estate Company, appellant, from Multnomah County. M. C. George, Alfred F. Sears, Jr., and J. B. Cleland, Judges. Reversed and remanded. Opinion by Justice Wolverton.

This was an action at law instituted under section 156 of the Portland charter of 1898, to collect the amount assessed against abutting property of defendant for repairs made upon an elevated roadway. On July 22, 1897, the Common Council, by ordinance, declared it necessary to make the repairs, and directed that the costs be assessed upon adjacent property in the manner provided in sections 114 and 115 of the charter of 1893, under which the Council was then acting.

The defendant company, owner of more than half the property affected, remonstrated, but the Council ordered the repairs made. Defendant brought suit to enjoin collection of the assessment and the courts decided the proceeding void. This action was then brought under section 156 of the charter of 1898, which provides that when any assessment heretofore made for street improvements shall be found to be invalid or uncollectible for any reason the city shall have power to bring an action in the Circuit Court against the owner of the property against which the assessment was charged. In the court below the defendant demurred to the complaint, which, being overruled, judgment was given for the city, and defendant appealed.

The opinion of the Supreme Court recites that under the charter of 1893 a remonstrance by the owners of more than one-half of the property affected should stop all proceedings for an improvement, and that said improvement should not be proposed again for six months, except upon petition of two-thirds of the property-owners. It is then held that the Legislature intended by the provision relating to remonstrances to give the property-owner a right to prevent the levying of an assessment against his property. If the power conferred by section 156 be construed to permit the Council to collect an assessment in a case where this remonstrance was filed, then the property-holder is shorn of his right. It is held that effect should be given to all the provisions and that there is no repugnance.

"In the first place, the city is given a remedy whereby it may require the adjacent property to answer for the cost of improvements or repairs made in its streets or avenues, and a mode is prescribed by which the Common Council may acquire jurisdiction to assess the cost to such property. If it has proceeded irregularly in the acquirement of such jurisdiction, or its proceedings were so defective in other respects as to invalidate them, then section 156 provides an additional remedy whereby the assessment may be collected despite the invalidity of the proceedings, after such invalidity has been declared and adjudged. These are remedies provided for the city. Now, on the other hand, the charter has accorded the property-holder his remedy to defeat the proceedings, and consequently the assessment, through the instrumentality of the remonstrance. These remedies should not be confounded or confused. Nor should we mistake a prescribed essential in the mode of procedure by which the remedy is involved, for the remedy itself, or, vice versa, the remedy for such an essential; and it is a fallacy to say that the absence of a remonstrance is an essential to the acquirement of jurisdiction by the Common Council, for, if no remonstrance be filed, the jurisdiction which may have been previously attached is not disturbed, and the improvement may be made. A refusal of the Common Council to consider the property-owner's valid remonstrance is not in any sense a defect in the mode by which it may acquire jurisdiction, but is rather a denial of the right to remonstrate, or of the remedy accorded him for defeating the assessment."

The case is remanded, with direction to sustain the demurrer, and for such further proceeding as may be proper.

Hilgar vs. Miller.

Minerva E. Hilgar and Amanda Bates, appellants, vs. J. W. Miller and wife, respondents, from Jackson County, H. K. Hanna, Judge; affirmed. Opinion by Chief Justice Moore.

This was a suit to set aside a deed given in escrow by Jacob G. Grossman, of Medford, in favor of J. W. Miller. The deed covered lots 11 and 12, block 66, in Medford, and was deposited in the Jackson County Bank, to be delivered immediately after Grossman's death, provided that Miller faithfully cared for Grossman and furnished him food, clothing and medicine and gave him decent burial at death. The deed was deposited May 9, 1899, and Grossman then went to live with Miller. On July 1, 1899, he went to the Soldiers' Home, at Santa Monica, California, where he remained until the time of his death, August 17, 1899. The expenses of his burial were borne by the Soldiers' Home. The deed was then delivered to Miller.

The plaintiffs in this suit are heirs of Grossman. They alleged that Grossman was incompetent to enter into a contract; that he was deceived by Miller, and that Miller did not faithfully perform his agreement. The suit was decided in the court below in favor of defendant. On appeal the Supreme Court holds that the evidence shows that Grossman was mentally capable of making the contract; that Miller performed his agreement so far as Grossman permitted; that Grossman went to the Soldiers' Home of his own accord and not because of any neglect on the part of Miller, and that Miller, having performed his agreement so far as permitted, he was entitled to the deed. Upon the objection made by the heirs that Miller permitted Grossman to be buried at public expense, the opinion says:

"That his body was consigned to earth by representatives of a nation grateful for sacrifices made by its defenders in times of peril, and that the sepulchral rites were performed by comrades whose common experience of danger and privation united them in a bond of sympathy, demonstrates that he received the greatest honor and the most loving tribute that could be paid to a loyal soldier. If he had died at Medford his body could not probably have been given better interment, and, as the costs of travel, residence and burial, though not defrayed by Miller, were not imposed as a charge upon Grossman's estate, the plaintiffs, as his heirs, suffered no injury."

E. and E. R. Mendenhall, respondents, vs. Rush Mendenhall, appellants, from Multnomah County; motion to dismiss appeal overruled. Opinion by Justice Wolverton.

J. P. Schorling, respondent, vs. City of Harrisburg, appellant; rehearing denied.

J. H. Baum, appellant, vs. Rainbow Mining, Milling & Smelting Company; rehearing denied.

CRESCENT CITY MILL STRIKE.

Both Sides Are Obstinate and Say They Will Not Give Way.

GRANT'S PASS, Or., April 27.—News came in by yesterday's stage from Crescent City that the strike in that place in the lumbering mills of Hobbs, Wall & Co. has reached a more serious stage than was at first anticipated and may yet result seriously for all of that community. Both sides are obstinate and firm in the stand they have taken, and declare they will not give way. It is believed now that the only way in which the trouble can be settled is for the mill company to accede to the wishes of the labor union.

The strikers have made ample preparation for the close-down. They have purchased supplies of flour, sugar and coffee and all other necessaries. Kerosene and candles are now in great demand at Crescent City, as the electric light plant has been obliged to close down, not being able to get wood for fuel, having depended upon its supply from the sawmills. As the only two steamers that make the Crescent City port are owned by the two lumber companies, it is likely they will tie them up during the strike. But here again the strikers have made provision for a possible emergency, and are prepared to put on an independent steamer in case the two now plying between there and San Francisco are taken off. Dairymen and farmers are allowed to receive and ship products as heretofore, so that all in all the strikers are prepared for a long siege and have matters pretty well in their own hands.

SPOKESMAN-REVIEW WINS SUIT.

Spokane's Ex-Postmaster Fails to Recover for Alleged Libel.

OLYMPIA, Wash., April 27.—(Special.)—The Spokane Spokesman-Review has won in an action brought by ex-Postmaster James F. Leghorn, of Spokane, to recover for alleged libelous articles printed printed by the Spokesman-Review in November and December, 1901. In the articles in question it was stated that Leghorn had taken $100 from a special postal fund and converted it to his own use. Leghorn admitted having taken $100 out of a postoffice fund one day, but declared that the transaction was occasioned by immediate need for the money which he could have obtained from his own resources had the bank not been closed for the day, and which he did obtain the next day and returned to the postal fund. The Supreme Court declares that the truth of the newspaper's assertion was proved by Leghorn's own testimony; that if he had been unfortunate in obtaining the money to replace the shortage, he could not have successfully have defended himself against a charge of embezzlement. The action is dismissed.

SUPERINTENDENTS' MILEAGE.

Law Is Upheld by the Supreme Court of Washington.

OLYMPIA, Wash., April 27.—(Special.)—A case involving the constitutionality of the law providing for the payment of mileage to County Superintendents of Schools in the discharge of their duty was decided by the Supreme Court today and the law upheld.

T. N. Henry obtained a judgment against the County of Thurston for mileage as School Superintendent and the county appealed. The contention between the Superintendent and county was originally over the proper method of computing the distance traveled, but the Supreme Court refused to consider any other question than the constitutionality of law, for the reason that the amount of the judgment was less than $300.

The law was assailed on the ground that it was class legislation and also that it violated the 14th amendment to the Federal Constitution, for the reason that persons affected by it are not treated alike under like circumstances.

Committed to the Asylum.

OREGON CITY, Or., April 27.—(Special.)—Theodore W. Fouts was committed to the insane asylum this afternoon by County Judge Ryan. This morning he gathered a crowd around him by his denunciations of State Senator George C. Brownell, Deputy District Attorney J. U. Campbell, City Attorney A. S. Dresser and other prominent Republican politicians, whom he believes were trying to do him injury. Then he went to the Court House and raised a disturbance in the Circuit Court room. Dr. J. W. Norris, County Physician, examined him, and he was adjudged insane. Fouts has been in the asylum before. He was formerly Justice of the Peace in this precinct, and had been Circuit Court bailiff.

River Drivers Win Strike.

LA GRANDE, Or., April 27.—The strike of the river drivers on the Grand Ronde was settled Saturday by the company granting all the demands of the men. The men are to have full time since the strike began at the regular wages of $3.50 per day and board, this to include wages and expenses for the six days spent in town while on strike. Manager Murphy has pleased the men by freely accepting their terms and acknowledging that their claims for full time were just. The men struck because at the upper camp water was low and they were laid off every other day and were refused full time. When these men went out all the men on the river, 116 all told, went out in sympathy.

Campaign Opened by Socialists.

ALBANY, Or., April 27.—The campaign for the special Congressional election has at last begun in this city. For the first time in history a political campaign was begun in Albany by the Socialist party. Yesterday afternoon the Socialists held a public meeting in the Courthouse and speeches in favor of Socialism were delivered by Hon. M. W. Wilkins, of Lorin, Cal., and Hon. J. W. Ingle, of Corvallis, Socialist candidate for Congressman. Mrs. C. B. Harritt, traveling Socialist reader, was also present. The speeches were appreciated by a fair-sized audience. Socialist literature was distributed throughout the city Saturday and yesterday.

Changes at the Presidio.

SAN FRANCISCO, April 27.—Lieutenant-Colonel Grimes has received orders and will leave in a day or two to take command of the artillery district of Puget Sound. Colonel Grimes' removal from the Presidio causes a change in the ranking officers at that post. Next in rank to the Colonel is Lieutenant-Colonel Garrard, and as he has been ordered to the Yosemite, the command of the post falls on Major Charles W. Hobbs until the arrival of Colonel Rodney. Colonel Rodney has received a leave of absence of one month and ten days and is not expected until June 1.

Chamberlain's Stomach and Liver Tablets Are Just What You Need

When you feel dull after eating.
When you have no appetite.
When you have a bad taste in the mouth.
When your liver is torpid.
When your bowels are constipated.
When you have a headache.
When you feel bilious.
They will improve your appetite, cleanse and invigorate your stomach and regulate your liver and bowels. Price 25 cents per box. For sale by all druggists.

HAD HIS HANDS FULL

BAKER CITY DRUG CLERK CAPTURES A SWINDLER.

And in Doing So Has an Interesting Time in the Rear of the Establishment.

BAKER CITY, Or., April 27.—C. W. Hoff, whose real name is supposed to be Hoffman, is in the County Jail here on the charge of obtaining money under false pretenses. The officers think he is a clever forger and swindler who has been operating in the Northwest for some time. Yesterday afternoon he went to Levinger's drug store and bought a small bill of drugs, for which he tendered a check for $5. He was given $3.25 in change. The clerk became suspicious telephoned the bank officials and learned that the check was worthless.

Hoff did not take the drugs when he bought them, but called last night to get them. The clerk, C. S. Blackman, told Hoff the check was not good and he would have to refund the money. Hoff made a dash for the front door, but Blackman headed him off. Hoff then ran for the back door and Blackman caught him in the back room, throwing him to the floor. In his struggle to get up, Hoff kicked the bung out of a barrel of alcohol and Blackman had to hold his hand over the bunghole and hold down his man at the same time. The drug man was exceedingly busy until a policeman arrived and took the swindler to jail.

Hoff had several signed checks on his person when searched. He had also passed one of his checks on Mike Hoff, a saloon man, whom he beat out of $10. The officers are looking up the man's record and feel sure they have a much-wanted individual. It is certain that he has operated in Sumpter recently.

STRICKEN FROM THE DOCKET.

Judge McBride Dismisses Sixteen Cases at Oregon City.

OREGON CITY, Or., April 27.—(Special.)—With one swoop, Judge McBride this morning struck from the Circuit Court docket 14 equity cases and two law cases which have been hanging fire and have encumbered the docket for years. It has been the custom here for attorneys to file suits and then leave them to their fate. The custom is exasperating to Judge McBride, and several times he has warned the attorneys if they persisted in refusing to prosecute cases after they had been on the docket for a long time he would have them stricken off. The cases taken from the docket this morning were:

Eliza J. Thompson vs. Dougles W. Williams et al., the H. R. Dunlway Lumber Company vs. James Thompson, Fleischner, Mayer & Co. vs. J. J. Fowler et al., Charles Risley vs. J. N. Olds, S. T. Stevens vs. G. B. Labor et al., the City of Portland vs. Frank E. Thomas, George McNear vs. George Gustian, H. E. McGinn vs. Alonzo Hunter, Elli Lewelling vs. Sophronia Lewelling, F. S. Dunning vs. Paul A. Ozane, Floviba Kinbel vs. W. Kinbel, Oliver Wiley vs. Jennie Wiley, Frances B. Jones vs. Maria Jones, Bertha Armbuster vs. Florion Armbuster, W. Carey Johnson vs. O. F. Hubbard et al., Columbus Implement Company vs. A. W. Shipley.

The suit of J. S. Boyer vs. Willard Austen came up for trial in the Circuit Court this afternoon, but the defendant failed to appear, and Judge McBride granted a motion of the plaintiff's attorneys for a judgment on the pleadings. The defendant gave Seth Austen a note for $400 December 24, 1896. Austen transferred the paper to Boyer, who brought suit February 10, 1902. The case was tried on a plea in abatement in June last year and the defendant was allowed to answer by filing a plea in bar. At the November term it was set for January and continued until this term, with the stipulation that the defendant would pay the plaintiff $15 before the case came to trial. Unless the case is reopened the judgment will probably be filed tomorrow.

The custody of Earl and Jeptha Smith, the minor children of J. S. and Annie Smith, has been given to the mother. She had obtained a divorce from her husband and since that time he has had the care of the children.

TRANSPORTING PUPILS.

Problem Involved in Consolidation of School Districts.

ST. HELENS, Or., April 27.—(Special.)—The matter of consolidating the Marshland and Hazel Grove school districts with that of Clatskanie under the provisions of the new school law is being seriously considered. The Clatskanie Grange has taken the matter up and a committee was appointed to ascertain the cost of transporting the pupils living in the Marshland and Hazel Grove districts to the Clatskanie school by team daily. The purpose is to ascertain whether or not the cost of transporting the pupils from the two schools will offset the expense of employing an additional teacher in the Clatskanie school, which would be necessary in the event that consolidation becomes a reality. The advocates of the measure say the pupils of the outlying schools would have the advantage of being properly graded, and would likely be under the surveillance of better teachers than under the present plan. It is contended that three wagons would be sufficient to convey the pupils from the two districts named to the Clatskanie school.

BAKER CITY ODDFELLOWS.

Celebrate 84th Anniversary of the Founding of the Order.

BAKER CITY, Or., April 27.—(Special.)—The Oddfellows of this city and surrounding country, together with the ladies of the Rebekah Degree, celebrated the 84th anniversary of the founding of the order in the United States this afternoon. The members, to the number of 250, headed by the White Swan Band, marched to the Opera House, where a large audience awaited them. The programme was made up of a number of musical and literary selections. The formal address was delivered by Hon. J. D. Flenner, of Boise, Idaho, a prominent Oddfellow of that state. Mr. Flenner reviewed the history of the order briefly, then followed with an oration, based on the tenets and teachings of Oddfellowship. The celebration closed with a grand ball at Armory Hall.

ACQUITTED OF MURDER.

Jury Indorses Kelley's Plea of Self-Defense.

BUTTE, Mont., April 27.—James W. Kelley, the newspaper man accused of the murder of Dr. Henry A. Cayley, was today found not guilty. Kelley shot Dr. Cayley in his (Kelley's) room on the morning of October 12, last. He went home and found Dr. Cayley in company with Mme. Ruth La Bonta, who also occupied Kelley's room. In a dying statement, Cayley said Kelley was lying in wait for him and shot him. In his defense, Kelley claimed the room was in darkness when he entered and a man commanded him to get out. Thinking he was to be attacked, he fired.

The jury was out an hour.

Kelley was attended by a large number of friends when the verdict was reached and received hearty congratulations.

PORTLAND-VANCOUVER SERVICE.

New Time Card Goes Into Effect on Electric Line.

VANCOUVER, Wash., April 27.—(Special.)—The new timecard on the Portland & Vancouver electric line went into effect this morning. The travel on the line has become very large and is increasing rapidly. The cars will hereafter run until midnight each night in the week instead of only Wednesday and Saturday nights, as formerly. Two crews are on the ferryboat which plies across the Columbia. One crew will work ten hours and the other eight. The citizens are much pleased over the company putting on the new cars, and doubtless the extra travel will more than compensate for the expense.

SUICIDE OF A FARMER.

Sublimity Man Hangs Himself With Baling Wire.

SALEM, April 27.—(Special.)—Theodore Odenthal, a farmer, aged 51 years, committed suicide at his home at Sublimity Saturday night by hanging himself with a piece of baling wire. He leaves a wife and seven children. He was a well-to-do farmer, having come to Oregon from Nebraska a year ago, after selling his property there for some $25,000. Saturday evening he was in Stayton and returned to his home about 9:30 o'clock at night. After putting his team in the barn and unharnessing them, he took a piece of wire six feet long and wound it three times around his neck. He then twisted the ends around a ladder five feet above the ground and by drawing up his legs he threw his weight upon the wire and choked himself. As he had money in his pockets, had no enemies and was always of a cheerful disposition, his act can be accounted for in no other way than by assuming that he was temporarily insane. Coroner Clough visited the scene but deemed an inquest unnecessary.

Though he had resided here but a year, Odenthal had formed quite a wide acquaintance. He transacted considerable business in Salem and took an active part in public affairs in the community in which he made his home. He aided in preparing the charter for the incorporation of the town of Sublimity, and when the charter was passed by the last Legislature he was named as City Recorder.

Miss Susan W. Moore, president of Women's Lewis and Clark Club, of Baker City.

BAKER CITY, Or., April 27.—(Special.)—Miss Susan W. Moore, who was chosen president of the Women's Lewis and Clark Club, of this city, has resided here for a number of years. Until two years ago she was a teacher in the public schools of the state. She taught school in Portland for several terms. She is a sister of Frank L. Moore, one of the leading members of the bar of this city. She is vice-president of the Alpha Literary Society and as a member of that society has been one of the main supports of the free public library, of which she is one of the board of managers.

Miss Moore's election to the presidency of the Lewis and Clark Club is purely a case of the office seeking the person. She was not present at the meeting and was not aware of her new honor until called on to furnish her photograph for The Oregonian.

Miss Moore is heartily in accord with the aims and purposes of the club, and will do all in her power to promote the interests of the Exposition in this city. She is an earnest worker and usually accomplishes what she undertakes to do. She is a good organizer and possessed of good executive ability. Associated with Miss Moore are a number of earnest, capable ladies, who will heartily second her efforts in behalf of the Lewis and Clark Centennial.

Circuit Court at Fossil.

FOSSIL, Or., April 25.—(Special.)—The Spring term of Circuit Court for Wheeler County adjourned yesterday, after a five days' session. As Judge Bradshaw and District Attorney Menefee had been exposed to smallpox by coming in contact with Orion Kinersly, when he was making his escape from Shaniko, their places at this session were filled by Judge W. R. Ellis, of Pendleton, and Fred Wilson, of The Dalles.

The case of John P. Glick was continued for the term, to give him time to prepare a competent defense. Glick killed James I. Jones on the 8th inst., and has been indicted for murder in the first degree.

Al Morely, of Oregon City, and Bert De Ford, of Morrow County, were found guilty of larceny from Minor & Gilliam's store at Spray and were sentenced by Judge Ellis to two years each in the penitentiary. Sheriff Keeton started for Salem with Morely and De Ford today.

NORTHWEST DEAD.

Chicago Banker Dead in Montana.

BUTTE, Mont., April 27.—A Livingston dispatch to the Inter-Mountain says: Dwight L. Wing, banker and broker, of Chicago, was found dead in bed here this morning at the Albemarle Hotel. He had just purchased some placer mines in Emigrant Gulch and was here to superintend starting the work. He has relatives in Peoria, Ill., and Chicago, who have been notified. The deceased was a member of the firm of S. E. Wing & Co., of Chicago, Philadelphia and New York.

Death of Aged Minister.

TACOMA, April 27.—Rev. Tobias Larsen, prominently identified with the Pacific Lutheran University at Parkland, near Tacoma, is dead, aged 73 years. He had been in the ministry in Wisconsin and Minnesota for 23 years before coming to Washington ten years ago.

Dies of Blood-Poisoning.

EVERETT, Wash., April 27.—Mrs. Margaret N. Smith died today of blood-poisoning. One week ago she pricked her finger with a hatpin. The poison circulated through her system and she died in great pain.

No route across the continent offers so many attractions as does the Denver & Rio Grande. Write the Portland Agency, 124 Third street, for illustrated booklets.

ALFRED SYMES IS PAROLED

RELEASED FROM THE PENITENTIARY AT WALLA WALLA.

Closing Chapter of the Most Interesting Case in Whitman County Criminal Annals.

COLFAX, Wash., April 27.—Word was received here today that Alfred J. Symes, sent from Whitman County for 18 years on conviction of manslaughter for the killing of Constable Louis Conlee, of Lincoln County, in 1896, has been paroled from the penitentiary at Walla Walla. Symes' sentence will not expire for several years yet, after making all allowances for good behavior. Where Symes has gone and who is his "first best friend" who stands sponsor for his good behavior during parole was not learned. M. O. Reed, who defended Symes, received a letter from the warden of the penitentiary stating that his former client has been released on parole, but giving no further particulars.

Symes' crime, his flight, capture, conviction, rush to the penitentiary and the granting of a new trial by the Supreme Court, form an interesting chapter in the criminal records of Eastern Washington, seldom, if ever, equaled.

It was charged that Symes was the ring leader of a gang of stock thieves operating along the borders of Lincoln, Whitman and Adams Counties. One day in the summer of 1896 Symes went to Sprague and procured a license to marry a girl living in "The Rocks," the country in which Symes and his alleged gang are said to have operated. As he was preparing to leave Sprague Symes was arrested by Louis Conlee, a Constable, on a warrant charging him with cattle-stealing. The warrant was issued in Adams County, and Conlee started to Ritzville with his prisoner.

Both were mounted on horses, Symes' horse being tied to the horn of Conlee's saddle. The next day Conlee's dead body, containing a number of bullet wounds, was found lying by the roadside just across the line in Adams County. The country became greatly excited, and large rewards, aggregating $1800, were offered by the state and county and subscribed by the citizens for the capture of Symes. The latter had fled into Montana, where he engaged to herd sheep for a rancher. One day the rancher went to the postoffice where he saw a placard with the photograph of Symes, together with a description and offer of reward. He recognized the picture as that of his sheepherder and communicated with the Sheriff, who accompanied the rancher to his camp.

Symes was with the sheep. He was always heavily armed, and the rancher, fearing if he saw the officer, would shoot, or take to flight, went out to where Symes was alone. He engaged his herder in conversation and began whittling on a heavy stick. Watching his opportunity, when Symes' head was turned, the rancher dealt his hired man a stunning blow on the head with the stick, felling him to the earth and rendering him unconscious. When Symes recovered he found himself bound hand and foot and in the hands of the Sheriff.

He was taken to Ritzville, where, after nearly every voter in the county had been impaneled and examined, a jury was finally secured and Symes was found guilty of murder in the first degree. His attorney, M. O. Reed, of Colfax, filed a motion for a new trial. One day the joint Judge of Walla Walla and Adams Counties heard the argument on this motion, and, setting the former verdict aside, entered judgment that Symes was guilty of murder in the second degree and sentenced him to 18 years in the penitentiary. Fearing the results, as the feeling against Symes ran high, the court had Symes taken to Walla Walla within a few minutes after the sentence was given, and before the people knew what was done. Symes was on the train, bound to the penitentiary.

Both the state and defendant appealed from this ruling of the court, and the Supreme Court granted a new trial and gave a change of venue to Whitman County, where Symes was again tried in 1898, found guilty and sentenced to serve 18 years, with allowance for all time since his first sentence.

Symes claimed that he and Conlee quarreled while en route to Ritzville after his arrest, and that Conlee drew his gun and threatened to kill Symes, who grabbed the weapon, and, during the fight for its possession—both men being on horses—the weapon was discharged and the bullet struck Conlee, who continued to fight, even after Symes secured the gun, and he was compelled to kill the Constable. It was proved that Conlee had an ungovernable temper and many believed that Symes told the truth. During his trial in Whitman County Symes made many friends and sympathizers. The state put forth special efforts to convict him, employing a number of leading attorneys and putting up one of the hardest legal battles ever fought here.

MONTANA CLUB BUILDING BURNS.

Fine Building Is Totally Destroyed by an Incendiary Fire.

HELENA, Mont., April 27.—Fire tonight almost totally destroyed the Montana Club building, entailing a loss of $100,000, with insurance of $75,000. It started in the seventh story and is supposed to have been of incendiary origin. Two attempts were made to burn the building last week. The fire is now under control.

(The Montana Club occupied a fine granite and brick building, the finest clubhouse in the state. Its members include nearly all the wealthy men in Montana and a larger number of millionaires than any other club in the Northwest.)

SLOT MACHINES ILLEGAL.

So Considered Even When They Deal in Merchandise.

TACOMA, April 27.—Police Justice Griffin today held that nickel-in-the-slot merchandise machines are illegal and that the owners violate a city ordinance. J. J. Greenberg, who was arrested some time ago for operating a machine, was accordingly fined $1, it being understood that the case would be appealed eventually to the Supreme Court, if necessary. The defense claims the city ordinance is unconstitutional.

SLAIN IN A VACANT HOUSE.

Missing Los Angeles Man Was Murdered for His Money.

LOS ANGELES, April 27.—George L. Mills, manager of the Syndicate Loan Company, who has been missing since last Wednesday, was murdered in an empty house at 871 West Sixteenth street. The body was found by persons who were looking at the place with a view to renting it. The body was lying face down on the floor. The hands were tied behind the back and the head crushed from behind. All the valuables had been taken from the clothing. The police are working on a clew that may lead to arrests.

Mills left his office last Wednesday afternoon about 4 o'clock in response to a telephone message. That was the last seen of him. He had been married about three months.

Refuses to Accept Resignation.

WALLA WALLA, Wash., April 27.—The City Council has refused to accept the resignation of J. J. Kauffman as Chief of Police. The vote stood four in favor of acceptance and three against. The law requires a five-seventh vote. Chief Kauffman tendered his resignation to Mayor Hunt last Thursday, and the Mayor immediately appointed ex-Sheriff A. P. Kees to fill the unexpired term. Unless the Council reconsiders the vote, Kauffman will be obliged to serve out his terms of office, which will expire August 1.

Habeas Corpus Writ for Mrs. Smith.

SAN FRANCISCO, April 27.—Judge Deshaven, of the United States District Court, granted the petition of Adelaide Lloyd Smith today for a writ of habeas corpus. Attorneys Boardman and Barnes appeared in court and presented the petition, which stated that Mrs. Smith was illegally imprisoned, being held in custody by J. H. Williams, an agent of the State of Washington. The writ was issued to be returnable tomorrow at 10 o'clock.

Tacoma Woman Weds.

NEW YORK, April 27.—Mrs. D. A. Browne, formerly of Tacoma, Wash., and A. L. Macfie, of Liverpool, England, were married today at the Hotel Manhattan in this city. Archdeacon Johnson, of Staten Island, officiated. Mrs. Browne was Miss McLaren Post, a daughter of Linus Post, of this city. Mr. Macfie is a sugar refiner at Liverpool. The couple will go to Washington and later sail for England.

Evidence of Murder.

EVERETT, Wash., April 27.—The body of a drowned man was found yesterday on the shores of Whidby Island. The face, and hands were badly eaten by fish. One pocket was turned inside out, leading to the belief that the man was murdered. The body was clothed as a fisherman.

Militia at President's Reception.

OLYMPIA, Wash., April 27.—(Special.)—Governor McBride issued instructions today for Companies B and D, First Infantry; the Signal Corps and First Infantry Band of the National Guard to report at Olympia May 22 to take part in the reception to President Roosevelt.

Coal Bunkers at Vancouver.

VANCOUVER, Wash., April 27.—(Special.)—The Northern Pacific has had coal bunkers built at its yards here and coal is being brought in from the Sound. The new engines all burn coal. The company will build larger and more expensive bunkers soon.

Death From Spotted Fever.

MISSOULA, Mont., April 27.—Mrs. F. L. Doolittle, who became ill with spotted fever as a result of a woodtick's bite about two weeks ago, died here today from the disease.

Biliousness, dizziness, nausea, headache, are relieved by small doses of Carter's Little Liver Pills.

No prizes, rebates or schemes. Just try the best 5c cigar made, "Opie."

RHEUMATISM

Tortures, Cripples and Deforms.

Rheumatism does not treat all alike. Some suffer torture from the very beginning, the attack being so sudden, sharp and disastrous that they are made helpless cripples in a few days, while others feel only occasional twitches of pain in the knees, ankles, elbows and wrists, or the muscles of the legs, arms, back or neck; but this treacherous disease is only traveling by slower stages. The acid poisons are all the while accumulating in the blood, and muscles and joints are filling with corroding, acrid matter, and when the disease tightens its grip and strikes with full force, no constitution is strong enough to withstand its fearful blows, and its victims are crippled and deformed, or literally worn out by constant pain. Rheumatism is caused by Uric Acid or some other irritating poison in the blood, and this is the cause of every variety and form of this dread disease. External remedies do not reach the blood, consequently do no lasting good.

THE BLOOD AND SYSTEM RULED BY ACID.

S. S. S. goes directly into the circulation and attacks the disease itself. The acid poisons that cause the inflammation, soreness and swelling are neutralized and the blood purified and cleansed of all irritating matter, and nothing is left in the circulation to produce other attacks. S. S. S. being a vegetable remedy does not impair the digestion or general health like alkali and potash remedies, but builds up and invigorates the entire system, and at the same time makes a thorough and permanent cure of Rheumatism.

SSS

Write for our free book on Rheumatism.

THE SWIFT SPECIFIC CO., Atlanta, Ga.

A Wise Woman will try and preserve her beauty. A fine head of hair is one of the highest charms.

Imperial Hair Regenerator restores Gray or Bleached hair to any natural color or shade. It is clean, durable, and ONE APPLICATION WILL LAST FOR MONTHS. Sample of hair colored free. Send for Pamphlet.

IMPERIAL CHEMICAL MFG. CO. 125 W. 23d St., New York.

Otzranta E. & W. A New Collar. Otzranta

Let the Men Wash

if they won't get you Pearline. Let them try it for themselves, and see if they don't say that washing with soap is too hard for any woman.

Where is the man who wouldn't want to have the washing made easier

This hard work that Pearline saves isn't the whole matter, it saves money, too—money that's thrown away in clothes needlessly worn out and rubbed to pieces when you wash by main strength in the old way.

Pearline's Way is Modern way.

DR. PIERCE'S FAVORITE PRESCRIPTION

CURES BACKACHE NERVOUSNESS HEADACHE AND FEMALE WEAKNESS

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.

MUST BELIEVE IT

When Well-Known Portland People Tell It So Plainly.

When public indorsement is made by a representative citizen of Portland, the proof is positive. You must believe it. Read this testimony. Every backache sufferer, every man, woman or child with any kidney trouble will find profit in the reading.

J. C. Buckler, of No. 8 East Ninth street, brick mason contractor and builder, says: "A constant soreness across the small of the back, which bothered me when stooping or straightening up, and was accompanied with a weakness of the kidneys, particularly in evidence at night, indicated that my kidneys were not performing their functions properly. I had it for years, despite all my endeavors to get relief, until one day I read about Doan's Kidney Pills, and sent my son to the Laue-Davis Drug Company's store, corner of Yamhill and Third streets, for a box. A few doses convinced me that they were going to the root of the disease, and the continuation of their use for a short time removed the pain from my back and corrected the kidney secretions. I have another box in the house, and, should necessity demand it, I shall certainly resort to the use of Doan's Kidney Pills."

Sold for 50 cents per box by all dealers. Foster-Milburn Co., Buffalo, N. Y., sole agents for the United States.

Remember the name, DOAN'S, and take no other.

C. GEE WO

The Great Chinese Doctor

Is called great because his wonderful cures are so well known throughout the United States, and because so many people are thankful to him for saving their lives from

OPERATIONS

He treats any and all diseases with powerful Chinese herbs, roots, buds, bark and vegetables, that are entirely unknown to medical science in this country, and through the use of these harmless remedies. This famous doctor knows the action of over 500 different remedies that he has successfully used in different diseases. He guarantees to cure catarrh, asthma, lung troubles, rheumatism, nervousness, stomach, liver, kidneys, female trouble and all private diseases. Hundreds of testimonials. Charges moderate. Call and see him.

CONSULTATION FREE

Patients out of the city write for blank and circular. Inclose stamp. Address

THE C. GEE WO CHINESE MEDICINE CO.

1231½ Third street, Portland, Or. Mention this paper.

Scott's Santal-Pepsin Capsules

A POSITIVE CURE

For Inflammation or Catarrh of the Bladder and Diseased Kidneys. No cure no pay. Cures quickly and Permanently the worst cases of Gonorrhoea and Gleet, no matter of how long standing. Absolutely harmless. Sold by druggists. Price $1.00, or by mail, postpaid, $1.00, 3 boxes, $2.75.

THE SANTAL-PEPSIN CO., BELLEFONTAINE, OHIO.

LAUE-DAVIS DRUG CO., Portland, Or.