

SAYS MAYOR HOLDS OFFICE ILLEGALLY

Attorney Logan Questions Residence of Dr. Harry Lane Before Election.

STAYED AWAY TWO YEARS

If Contention That Law Has Been Violated Is Correct, Mayor May Be Ousted at Complaint of Any Citizen.

If the contentions of Attorney John F. Logan are anywhere near correct, and the State Supreme Court takes the same view of the situation, Harry Lane is in illegal possession of the Mayor's office, and can be ousted at any time some disgruntled taxpayer takes the notion into his head that the municipality needs a change in its administrative affairs.

According to Logan's theory, Dr. Lane is a usurper, for the reason that he was not a resident of this city for two years preceding the election that carried him into the office, as provided by the city charter. It is alleged that in 1902 Mr. Lane ran against Henry E. Ginn for State Senator, and within a few months after his defeat left for Alaska and was gone two years. It is claimed that during his absence in the Far North he made many mining locations wherein he alleged he was a citizen of Alaska, and in any event that he was gone from here fully two years, returning in time to run for office in June, 1905. Section 25 of the charter under which all officers of the city government are elected, provides as follows:

A MILD MANNERED LION

A. A. G. and Harry Murphy Hold a Session With Famous English Cartoonist.

BY ARTHUR A. GREENE.
TOM BROWNE, not the Hughes hero, much less a hero at all, according to his own somewhat phlegmatic English way of thinking, was a guest at the Oregon yesterday. This particular Tom Browne is a lion nevertheless, perhaps the best-known and most widely discussed of London cartoonists.

Murphy and I caught him at the very last quarter of an hour he had at his disposal before train time, but in those few minutes he took time to make an atrociously likeness of The Oregonian's almost handsome artist and to talk as much as one could expect of a typical Briton.

Mr. Browne is an agreeable gentleman, a fine-looking, athletic chap with clean, clear blue eyes and blonde hair. He may be 35, but I should say no older.

Companionable enough, but not a good interviewer. I found him a difficult subject and gathered but little from him. He has just completed a several months' contract with the Chicago Tribune, where he took John McCutcheon's place while the latter was gallivanting out in Asia-somewhere east of Suez. The salary the Tribune has been paying him would make a railroad president look up and observe, but the opinion prevails that Mr. Browne has not been entirely happy in his American work. He doesn't understand us, and a very keen understanding is necessary to the successful making of newspaper cartoons. And then the task of following McCutcheon was a pretty tough one. He couldn't have selected a more difficult one. He is now on a tour of the West, and, after visiting California, will return to his native fogs.

During the course of our interview I gathered that he hates Chicago, hates the American woman, thinks Portland a pretty good town and would not write a book of his impressions when he returns home. He will, however, issue a volume of his American drawings.

He abhors our "funny supplements" and is not overly well impressed with American black and white artists, particularly the humorous ones. He told me he was surprised to find that the artists he met in New York had never heard of McCutcheon, but that everybody "as in anybody," both there and in London, knows "our Homer" Davenport and his work.



Tom Browne's Sketch of Harry Murphy.



TOM BROWNE, FAMOUS ENGLISH CARTOONIST, BY HARRY MURPHY.

No person is eligible to any office of the city, except as otherwise here provided, who at the time of his election or appointment is not a citizen of the United States and a resident voter of the City of Portland and entitled to the privileges of a taxpayer.

According to the constitution and laws of the State of Oregon, and who has not resided in the City of Portland for three years next preceding his election or appointment within the territory embraced within the city at the time of such election.

Logan declares that the word reside, as used in the charter provision, applies strictly to the physical presence of a person in the place, and that the intent of section 25 is to prevent carpetbaggers from holding any local political position.

The question of the legality of Mr. Lane's title to the office of Mayor arose in connection with the mandamus proceedings of James McDonald, bailiff of the Municipal Court, who brought suit to compel the chief executive to sign his salary warrant for \$75. It is contended that the recent sweeping decision of Judge Gantenbein, declaring that the Council has power to create offices and appoint incumbents, was the outcome of the suit brought by McDonald to compel the Mayor to sign his \$75 monthly salary warrant. Mayor Lane had objected to so doing, for the alleged reason that he considered the action of the Council was an infringement upon his appointive rights.

If the Supreme Court affirms the decision of Judge Gantenbein, it will result practically in clothing the Council with full power to create offices and appoint incumbents of the Municipal Civil Service, declares Logan, and enable it, under section 36 of the charter, to abolish all civil service positions and install persons of its own selection, after creating new offices covering the same official duties. For example, he holds that the office of bailiff of the Municipal Court, which was created by the Council, which body also named McDonald as its incumbent. What is to prevent it from abolishing the police department entirely, asks Logan, and creating such offices as "inspectors," "city constables," "municipal marshals," or anything else that would fill the bill, and putting its own appointees in their places?

Section 13 of the charter says that "the Mayor shall appoint all officers of the city whose election or appointment is not otherwise expressly provided for in this charter, or by law," and Logan maintains that the concluding words have special reference to the powers of the Council to fill various offices of its own creation with men of its own selection.

His ideas upon the subject have created a profound sensation around the Courthouse and City Hall, and it remains to be seen just how far the Council may go in revolutionizing municipal appointments should Judge Gantenbein's ruling be upheld by the higher court.

Jury: Chris Kelly, C. W. Tracy, William Sales, Charles Rice, S. F. Osburn, F. H. Kearney, John Strucker, Martin Olson, David Cole, Elias Kelly, H. F. Taylor and Sydney A. Baker.

It is alleged in the complaint that on August 20, 1905, while Newton Keck and Jerome J. Sullivan, the deceased, were driving on Powell street they were run down by an electric car, which was coming toward them at a speed of between 20 and 30 miles an hour, causing the animal to bolt and attempt to cross the track directly in front of the car. Both men were thrown out, Sullivan being injured so badly that he died within a few hours.

Defendant's answer sets up that Sullivan and Keck were driving a fractious horse at a rapid rate of speed, in the direction of an approaching electric car, and that the animal sprang directly in front of the latter, causing the accident.

Damages to the extent of \$5180 are claimed by the administrator, Giltner & Sewall are attorneys for plaintiff.

while the defendant corporation is represented by Dan J. Malarkey and E. B. Seabrook.

ASKS CUSTODY OF DAUGHTER

In Addition to Divorce, Mrs. Austin Wants Care of Child.

Jennie E. Austin began a suit for divorce in the State Circuit Court yesterday against William Henry Austin, alleging cruelty and drunkenness as the grounds for a legal separation. In a separate affidavit Mrs. Austin declared that her husband was about to leave the State, taking with him their 3-year-old daughter, Lucille, and she asked for an order of court restraining defendant from so doing and directing him to deliver the child into the custody of the mother. Upon this showing Judge Sears granted petitioner's prayer for the custody of the child pending divorce proceedings, and later in the day Austin, accompanied by Deputy Sheriffs Kelly and Bird, called on his wife and delivered the girl into her hands.

The couple were married in this city February 15, 1902, and the complaint recites that defendant began a systematic course of inhuman treatment almost from the very commencement of their married life, which has gradually increased in severity during the past two or three years. She insists that he has developed into a common drunkard, and has frequently called her names "too vile for publication in the complaint," in addition to unjustly accusing her of being unfaithful.

Beach & Simon are her attorneys.

Mr. Browne said a very flattering thing about Portland to the effect that our people look much more intelligent, genteel and a whole lot "smarter" than those of Chicago. Said he noticed this on the streets and in the hotel grill. But then he doesn't like Chicago.

Alexander McDonald, a pressman, residing with his parents at sixteenth and Montgomery streets, was yesterday committed to the State Insane Asylum at Salem by Justice Reid, acting for Judge Webster during the latter's absence. He has a mania for breaking up the furniture of the house, and otherwise conducting himself in an improper manner.

COMMITTED TO ASYLUM

Measles was recently discharged from the Police Department on a charge of violating the rules by accepting money from Allen & Lewis for a detective duty performed for them. Yesterday he filed with the Civil Service Commission a communication in which he states that he never had legal training in the department, having been illegally appointed, and does not consider himself discharged. He declares, however, that he has no intention of attempting to re-enter the police service.

CASE IN HANDS OF JURY

Men Charged With Conducting Pool-room Will Know Fate Today.

The case of the People against Martin Ready and James Hicks, who were arrested July 1 last, under warrants charging them with conducting a pool-room at Fifth and Alder streets, was tried yesterday in Judge Frazer's court and submitted to the jury in the evening. Up to midnight no verdict had been returned, and in case any agreement is reached the findings of the body will be sealed and presented in court this morning. It was the general impression around the Courthouse at a late hour last night that the jury would disagree. It is composed as follows: E. A. Clark, presiding; Antonio Scharf, E. T. Deeming, H. D. Lensch, Simon Bayer, Thomas F. Kerns, Andrew M. Anderson, W. S. Lauthers, Gus P. Keller, I. C. Kelly, Otto Salinger and W. A. Montgomery.

Assistant District Attorney G. C. Moser conducted the prosecution, while Ralph E. Moody appeared for the defense.

Considerable difficulty was experienced in securing a jury on account of the liberal views of some of those drawn.

TRIALS ARE POSTPONED.

Land-Fraud Cases Will Be Resumed About December 1.

According to a signed telegraphic statement of Francis J. Honey received here yesterday the land-fraud trials are not likely to be resumed before December 1, instead of October 13, as previously arranged. In discussing the matter Mr. Honey said:

Circumstances have arisen which make it impossible for me to commence any land-fraud trials before December 1 at Portland.

I also advised Judge Beckett, when he was here a few days ago, that I have considerable work to do preparing briefs on behalf of the Government in the land-fraud cases which have been appealed to the Circuit Court of Appeals, including the Williamson-Generiggs cases, which were argued here by Benjamin Wilson, Bristol and myself last Friday. I am also occupied in examining witnesses on behalf of the Government in the taking of depositions on behalf of the defendants in the Hyde-Benson case, which is to be tried in Washington, D. C., next January. In addition to these matters, and my private business, I am engaged in arbitrating the question of wages and hours between the United Railroads and their employes, in settlement of the strike which occurred here last month.

It is my intention to return to Portland December 1 and to remain there until I finish the remaining land-fraud cases.

Becketts Bankrupt to Avoid Debt.

Charles E. Thornbrus, a laborer of this city, has adopted a novel method of getting rid of an unwelcome creditor. He borrowed a sum of money from J. M. Kerr, who has an office in

POLICE TAKE FEES AND BREAK RULES

Charges Preferred Against Chief Gritzmacher by John A. Mears.

CHIEF ALLOWED PRACTICE

Head of Department Says Ousted Detective Is Doing Characteristic Thing in Making Statements Without Foundation in Fact.

In a communication filed with the Police Committee of the Executive Board, John A. Mears, ex-secretary to Captain of Detectives Bruin, declares that there have been wholesale violations of the rules of the police department prohibiting the acceptance of money, other than salary, by policemen, and charges that this has been done with the full knowledge and consent of Chief of Police Gritzmacher. Mears closes his letter by the request "that proper action be taken against Captain Gritzmacher, at present acting Chief of Police."

Mears declares he has examined the records at the Courthouse and has ascertained that many policemen have drawn from Multnomah County since January 1, 1906, an aggregate of \$300 for witness fees in criminal cases. He declared in an interview, after filing his communication, that Chief Gritzmacher had told the officers it would be all right to accept fees.

Chief of Police Gritzmacher was shown a copy of the communication filed by Mears, and said it was "in keeping with the Mear's style of doing business." He emphatically denied knowing of the acceptance of witness fees in criminal cases by members of the force, and declared it was new to him if they had done so. "That communication sounds like Mear's," said Chief Gritzmacher. "I never told the officers to accept witness fees in criminal cases, but what I did tell them to do was to take fees for their services as witnesses in civil suits. If any officer has accepted witness fees in criminal cases, I do not know it, and they have done so without my consent. That would be strictly against the prescribed rule of the department, and if I am a ruler, which specifies that in cases where the fee is not for a witness, they shall accept no fees."

The communication addressed to the Police Committee by Mears is as follows:

I have the honor to call your attention to a condition in the police department, and one which has been brought to the attention of the Acting Chief, who has approved the same. It is the matter of officers receiving witness fees in cases where such officers are called in the Circuit Court to testify. This is a case where the law does not prohibit, but which the rules and regulations (unless suspended) do expressly prohibit.

I have examined the records from January, 1906, to the 9th inst, and find that the general officers have received a total of 94 days' pay as witnesses, or nearly \$300, without mileage. I took the matter up and heard the Acting Chief of Police say that it was all right for officers to receive the fees, he making the statement to Captain Bruin. I can furnish the list for each individual officer should you so desire.

I therefore ask that this matter be investigated in order that the proper action may be taken against Captain Gritzmacher, at present Acting Chief of Police.

Yours respectfully,
JOHN A. MEARS

Mears was recently discharged from the Police Department on a charge of violating the rules by accepting money from Allen & Lewis for a detective duty performed for them. Yesterday he filed with the Civil Service Commission a communication in which he states that he never had legal training in the department, having been illegally appointed, and does not consider himself discharged. He declares, however, that he has no intention of attempting to re-enter the police service.

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THANKSGIVING DELINEATOR

CONTAINS ALL THE FASHIONS

STORIES BY

The Author of "Elizabeth and Her German Garden"
The Williamsons
Violet Coen Bary Pain
Harriet Prescott Spofford

BUTTERICK PATTERNS

For November
Ten Cents and Fifteen Cents

NOW ON SALE FIFTEEN CENTS

FOR SALE BY MEIER & FRANK CO., LIPMAN, WOLFE & CO.

THE BUTTERICK PATTERN STORE

LIPMAN-WOLFE & CO.
Portland's School of Style
Agents for The Delineator and All Fashion Magazines.

the Macleay building, and because the latter assigned the promissory note covering the indebtedness to G. A. Brown, of Portland, Thornbrus has filed a petition in bankruptcy with the Clerk of the United States District Court, setting up as his sole liability the claim of Assignee Brown for \$97.78. He also declares that suit has been commenced against him in the East Side Justice Court to recover the amount. Petitioner makes oath that he has no money with which to pay the filing fee in the Federal Court, and this was sufficient to secure the filing of the document without cost. As his attorney's fees embrace practically all the expense of his financial coup, he has probably made something by the transaction.

Ex-Merchant Bankrupt.

James L. Van Winkle, formerly a merchant of Grass Valley, Sherman County, Or., but now residing at 231 Second street, Portland, yesterday filed a petition in bankruptcy with the Clerk of the United States District Court. He owes \$3830.75, and has assets amounting to \$5825, only \$75 of which he claims to be exempt.

Fraternal Society Organizes.

Articles of incorporation of the Union Provident League were filed with the County Clerk yesterday by R. A. Macleay, Pherson, J. L. Mitchell, E. W. Pierce, G. T. Tremmald, M. Morehead and W. C. Gibson, its supreme officers. The organization is a fraternal institution, and was established for the purpose of maintaining fraternal benefits. It has property valued at \$1200, and Portland is its principal place of business until otherwise designated by the Supreme Union or supreme Executive Board.

For any case of nervousness, sleeplessness, weak stomach, indigestion, dyspepsia, relief is sure in Carter's Little Liver Pills.

BUILDING FUND PIANOS

Time of Bidders Extended

As the Y. M. and Y. W. C. A. Building Fund Committee has extended its time in which to raise the desired \$350,000 until November 6, Eilers Piano House at their request has agreed to allow the public additional time in which to bid on the fine instruments now to be seen in its show windows, entire proceeds to go to help the Building Fund.

What'll You Give for—

- A \$550 Chickering
 - A \$550 Kimball
 - A \$450 Hobart M. Cable
 - A \$350 Marshall and Wendell
 - A \$250 Metrostyle Pianola
- Most people bid on the Chickering and Kimball. Don't forget that the Hobart M. Cable is a good piano, too, and also the Marshall & Wendell. What's your best offer on the Metrostyle Pianola?

CASH OR TIME

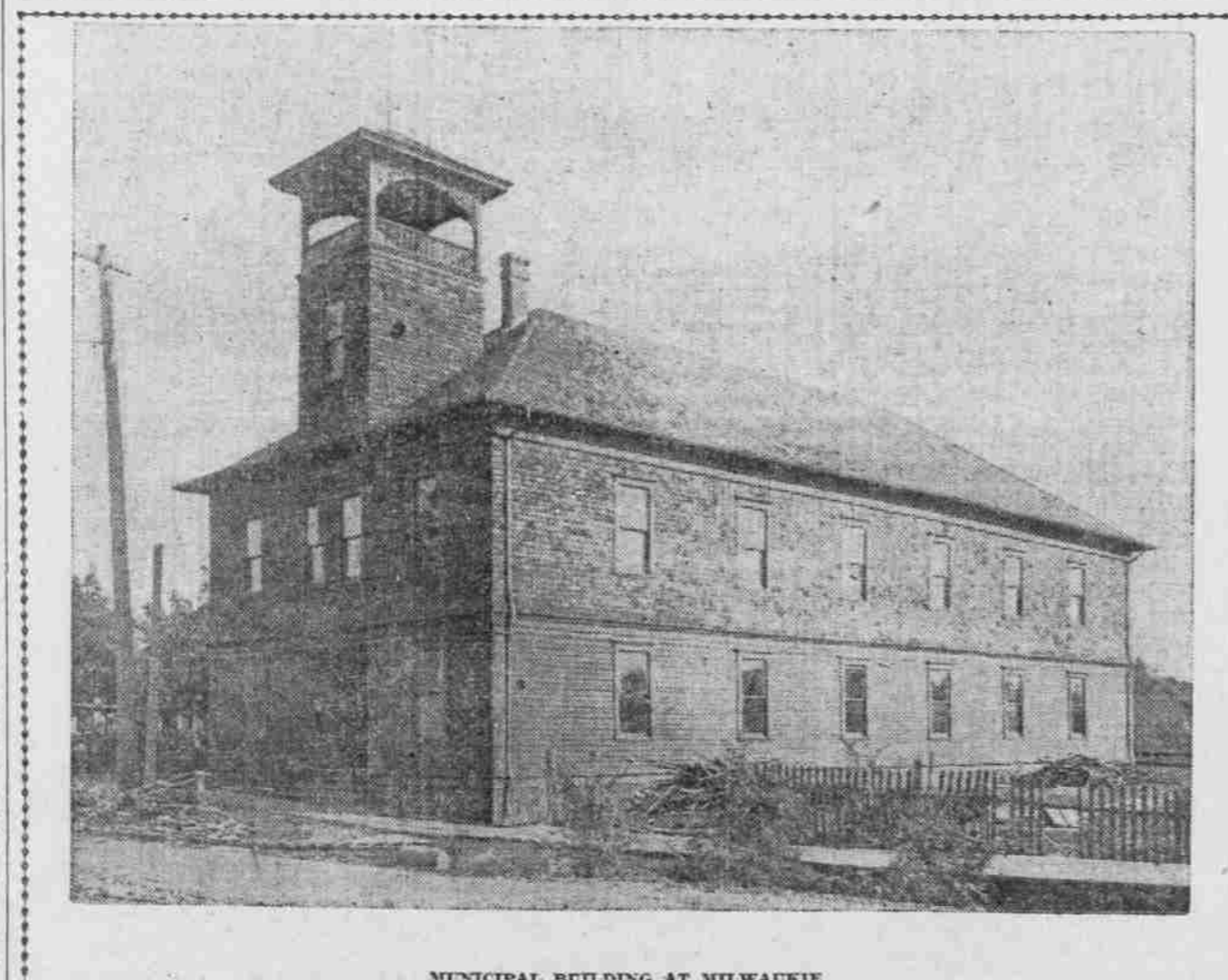
Every penny realized goes to Y. M. and Y. W. C. A. Building Fund. It costs only 10 cents to make a bid.

Call or send in bid today to Mr. S. E. Gilman, Account of Y. M. and Y. W. C. A. Building Fund Committee, care of

Eilers Piano House

353-355 Washington Street.

Town of Milwaukie Builds City Hall Without Going in Debt



MUNICIPAL BUILDING AT MILWAUKIE.

The Milwaukie Council met last night for the first time in the new City Hall, which has been paid for. Mayor Shindler was in the chair and the members of the Council were all present. It was reported that the total cost of the building up to the present time was \$2360 and \$58 insurance. J. M. Snyder, the contractor, was commended by Mayor Shindler for the way he had carried out his contract. All bills for the erection of the building were ordered paid off in cash.

All the money used in purchasing the lot and erecting the new hall came to the treasurer from licenses on the Milwaukie Club, which pays \$1200 per annum, and a saloon, which pays \$400 per annum. Enough money was accumulated from these sources so that not a dollar of tax money was used in the building.

Only the Council chamber has been completed and it will cost something over \$2000 to finish up the rest of the rooms. The building is 90x20, two-story. There is a fine hall on the second floor, which will be fitted up with a platform. On the lower floor there is room for the Council chamber, jail

NONSUIT GRANTED BY JUDGE

Chief Gritzmacher Wins Damage Suit Brought by Peter Johnson.

Judge Cleland yesterday afternoon granted defendant's motion for a nonsuit in the case of Peter Johnson vs. John Peterson, who sued Acting Chief of Police Gritzmacher and his bondsmen, the United States Guarantee & Trust Company, for \$2000 damages, alleged to have been sustained by plaintiff on account of his arrest and confinement in the city jail under suspicion of being the person who committed the criminal assault upon 6-year-old Mabel Lavery.

Judge Cleland decided that every police officer occupies a dual position and that for the purpose of arrests and preserving the peace, he was independent of all other officers and subject to individual liability; but for the purpose of military discipline in the orderly conduct of the police force, he was subject to the orders and under the control of the Chief of Police. The court held further that a person could be arrested on suspicion of the commission of a felony and held without a warrant for a reasonable length of time. In the present case he ruled that the prisoner had been fairly treated, and dismissed the damage suit.

The defense was prepared to show that the plaintiff had not sustained any great extent by the operation of confinement for a short time in the city prison. His record was ready to be produced, if necessary, indicating that since January, 1906, he has been convicted 15 times under the name of Peter Johnson, and the same number of times as John Peterson, for various misdemeanors in the local police court. Since March 8, of this year, it is claimed, he has been arrested eight times as Peter Johnson and five times as John Peterson for various offenses, drunkenness being the usual charge, and that he has been fined in different amounts besides being frequently imprisoned.

John F. Logan and R. G. Morrow appeared as counsel for Chief Gritzmacher and the trust company, while Harry Tankwisch represented the plaintiff.

CASE BROUGHT BEFORE JURY

Opposing Counsel in Sullivan Suit Differ Very Widely.

The case of R. F. Hosking, administrator of the estate of Jerome J. Sullivan, against the Portland Consolidated Railway Company, is on trial before Judge Gantenbein and the following