## Full Text of Decision in Reed Will Case

Supreme Court of Oregon Decides That the Late Amanda W .Reed Had Not Acquired Permanent Residence in Pasadena, Cal.

reflex death and her will care entitled by the death and her will care entitled by the testants again to the following of the heavy of of the h

in the Supreme Court of the State of Ore 20 to the contract of the can have only one domicil and the law 12 to the can have only one domicil and the law 12 to the can have only one domicil and the law 12 to the can have only one domicil and the law 12 to the can have only one domicil and the law 12 to the can have only one domicil and the law 12 to the can have only one domicil and the law 12 to the can have only one domicil and the law 12 to the can have only one domicil and the law 12 to the can have only one domicil and the law 12 to the can have only one domicil and the success of the sulf and the law 12 to the can have only one domicil and the fact of an ideal Amanda W. Reed, proponent of said amanda W. Reed, proponent of said will, and T. L. Ellot. c. B. Bellinger, C. A. Boiph and Martin Winch, as trustees of the series on behalf of said will, contestees and said. This is a contest on the circuit Court for Multino-man. County of the will of Amdana W. Beng, C. A. Gibson and William M. Gregory, for appellants.

Angen, C. A. Gibson and William M. Gregory, for appellants.

Angen, C. A. Gibson and William M. Gregory, for appellants.

Angen, C. A. Gibson and William M. Gregory, for appellants.

Angen, C. A. Gibson and William M. Gregory, for appellants.

Angen, C. A. Gibson and William M. Gregory, for appellants.

Angen, C. S. Beed was the widow of S. G. Reed, deceased, and died without entildren. Her will was executed September 4, 1801, in this died to be in the contest on the will of Amanda W. Beed, who have contested on the recommendation of the contest on the county of the county o

HE full text of the Supreme Court decision in the Reed will case, one result of which was to assure the founding of the Reed Institute in Portland, follows:

In the Supreme Court of the State of Oregon.

In the Supreme Court of the State of Oregon.

In the matter of the estate of Amanda W. Reed, deceased.

Contest of will and application for probate thereof in solemn form.

Emily Pickering, Sarah A. Robertson, Abigail Baxter Wood, John H. Wood, W. H. Fanon, Heien Faxon Passmore, Emma Wood Brainard, Harry A. Wood, Corline Wood, Stella H. Wood and Helen B. Wood, contest and appellants, v.a. Martin Winch, executor of the last will and textment of the law creates between an individual and a particular place or country, and each case is not of itself proof of a change of demicil is not presidence as index of itself proof of a change of domicil in the dependence and more than one home, in the ordinary acceptance of those terms, but he ordinary acceptance of these terms, but he ordinary acceptance of those terms, but he ordinary acceptance of those terms, but he ordinary acceptance of those terms, but he ordinary acceptance of these terms, but he ordinary acceptance of those terms, but he ordinary acceptance of these terms, but he ordinary acceptance of these terms, but he decisions, a person may reside for pleasure an swone. Within the principle of law declared in the decisions, a person may reside for pleasure an swone. Within the principle of law declared in the decisions of interior and the law of its into the case and intention and the law of its into the case and intention and the law of its into the case and intention and the law of its into to its into of itself proof of a change decision. In the case accompanied b

To Change One's Domicil,

cannge his domicil at pleasure, but a change of domicil involves intention as the dominant factor.

To Change One's Domicil.

To constitute a change of domicil, three things are essential: First, residence in another place; second, an intention to shandon the old domicil, and third, an intention of acquiring a new one, or, as some writers express it, there must be an animus non revertendi and an animus manendi, or animus et factum: Berry vs. Wilcox, 48 Am. St. Rep. 706; Hayes vs. Hayes, 74 III. 312, 212; Moorhouse vs. Lord. 10 Fl. L. C. 272.

The factum is the transfer of the bodily presence and the animus is the intention of residing permanently or for an indefinite period. A change of domicil, therefore, involves a question of fact and intent. The fact is easily proved, because it is shown by the mere transfer of the bodily presence from the old to the new place of abode, but the latent with which the change are from the old to the new place of abode, but the latent with which the change in made is to be determined from the character of the residence, its object and purpose, in connection with the other ovidence in the case. Residence in a particular place is a fact obvious to the senses and cannot be easily mistaken, but its value in fixing domicil is unimportant unless accompanied with an intent of remaining permanently or indefinitely, or, as it is sometimes said, with no present intent of removing therefrom. Residence alone, however long continued, will not effect a change of domicil. On this point the authorities speak with practically one voice.

In Jopp vs. Wood, 4 DeG, J. & S. 616, Turner, L. J., asys: "Though the residence may be decisive as to the facture, it cannot when looked at with reference to the animus, be regarded otherwise than as an equivocal act. The mere fact of a man residing in a place different from that in which he had been began to be accessive as the sole domicil. There must be fore domicil of origin is presumed to continue until a new one is acquired.

And Mr. Justice Rapallo says

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at that time Mrs. Reed told him distinctly that Portland was their permanent rest-dence and that "they had always claimed Portland as their home; that the matter had been incidentally discussed with relation to the removal or change of residence of Captains Thompson and Ainsworth, Mr. Reed had spoken of that, and stated that their permanent home was in Oregon"; that he frequently visited Mrs. Reed at Pasadena professionally at her request, and on several occasions suggested that it might be better for her to consult some resident lawyer, and offered to recommend some one for that purpose, but that she invariably replied: "I don't wish to do that. It is so hard to make people here understand that I do not belong here. My interests, what I have, my affections'-I would not be sure that she said my home—but that was the significance of it, was in Oregon and not in California"; that he had many conversa-tions with her with regard to the disposition on the part of the people of Pasadena to induce her to aid in public charities and nterprises and that on more than one occasion she told him that "they did not understand that she was not interested in those things, not belonging to them, or not belonging there, but in Oregon. She put in juxtaposition a good many times and principally in urging her objection to having an advisor there, and transferring a portion of her business there, and it came up in repard to her bank account, as to having a bank account or an office there, she always answered that her office was here and her business was here and her affections were here": that she always spoke of Oregon as concerned he never had a suspicion that it was claimed by anybody that Portland was not her permanent home; that every expression of hers to him, whether drawn out for

to that effect. James Patterson, a resident of Pasadena, who became acquainted with and frequently visited the Reeds after their removal to that city, testified that Mr. Reed was regarded as a temporary resident and that he came to Pasadena for his health; that after Mr. Reed's death Mrs. Reed frequently reone occasion he suggested to her that she had lived in Pasadena long enough to be-come a Californian, and she replied: "Oh, no; I will never become a Califor

a legal standpoint or in a social way, was

nian; Oregon is my home. I was raised there and grew up with the country." Miss Stevens, who was the maid of Mrs. Reed from January, 1900, to October, 1902, testified that Mrs. Reed always spoke of planning to make visits to Oregon, as they frequently did. Mrs. Reed would say: we are going home this Summer"; that in April, 1994, she told witness that her phy-sician thought that the climate at Pasa-dena did not agree with her and that it might be necessary for her to make a change, and she said, "If so, I will go back to my home in Pertland."

Never Called Pasadena Home.

Mrs. Martin Winch, who was regarded ractically as a daughter by Mrs. Reed, and with whom she talked frankly and freely, testified that the Reeds went to California on account of Mr. Reed's health; that after death, except during the Summers of 190 and 1903; that witness always understood that Mrs. Reed's permanent home was in Portland and nover thought anything else that Mrs. Reed slways kept up her dues in the Ladies' Relief Society and in the Uni-tarian Church, of which she remained a member, and when solicited to contribute to Pasadena charities, she would say: "That is not my church. My church is in Fort-land. I give to my church just as I always did"; that Mrs. Reed loved Carmelita dearly, but always spoke of it is Carmelita, and wit ness never heard her refer to it as home or manner say that Pasadena was her hom and Oregon people, and witness had fre-quently heard her say that the people of the would not take the same interest in their charities and secuni affairs as she did in Portland, but she said: "That I do not do, Portland is my home. That is where I am interested, and what I want to do I want to do there"; that when people would come to her in Pasadena and solicit contributions she would say: "Why, I have no business here. would say: "Wby, I have no business here. My business, my office is in Portland and as witness knew Portland is the place she always speke of as her permanent home. Mr. Martin Winch, a nephew of Mrs. Roed

and her confidential agent and business man ager, and that of her husband during the latter part of his life, and who consequently was familiar with her intentions, testified that he always looked upon Mrs. Reed's residence in California as temporary and thought that she regarded it the same; that he never heard anything to the vontrary and never supposed that she had any permanent residence but Portland.

esidence but Portland.

The contestants have the testimony of umorous witnesses as to alleged declarations made by Mrs. Reed concerning her some and some letters written by her to elatives and friends. In many of these let-ters Mrs. Reed expresses her appreciation of the climate at Pasadens, its flowers and fruits, and in some of them refers to Car-melita as home, but ther is nothing in any of them to indicate that she used the word ome in any other sense than as referring to temporary residence. It is not nece o cite authorities or enter into an argumen o show that the word home is very fre-uently used with reference to a place othe han the legal and permanent domicile, bu it would be quite natural for Mrs. Reed, who manifestly enjoys her beautiful residence in Pasadena, to refer to it as her home in a casual conversation and in friendly letter The oral testimony consists principally of the evidence of interested witnesses, who undertake to relate statements alleged to have been made by both Mr. and Mrs. Reed to the effect that they never intended to return to Portland to live; that Pasadena was their home and that they expected to live there during the remainder of their lives made many years ago and in the course of

with the acts, and are faithfully reported, they often serve to turn the scale; but it is otherwise, if they are contradicted by the acts and general conduct of the person making them. The peovish outburst of a person of irascible temper, or the careless expression of one whose habits are unstable and whose purposes are vacillating are cartical. whose purposes are vaciliating, are entitled to less weight than the deliberate utterances of a person of known firmness of character. So, too, expressions in conversations are of less value than repeated declarations made to proper persons, or declarations in the usual course of business. Mere declarations that a person prefers a residence in one country to another, it has been said, will not be regarded by a court, except in a nicely balanced case."—Jacobs, Domicil, sec-

nicely balanced case."—Jacobs, Domicil, section 455.

Within the rules thus laid down, the declarations and statements made by Mrs. Reed to the witnesses for the proposents are manifestly entitled to more weight than those made to the witnesses for contestants. Mrs. Reed's relation to them was such as made them proper persons in whom to confide, and with whom to converse frankly with regard to her affairs, and to whom she would be likely to reveal her intentions. Mr. Dolph was her legal advisor and a friend of long standing, a man to whom she would naturally disclose a man to whom she would naturally disclose her real purpose and intent, and especially so when it was necessary for him to be informed in regard to that matter in order to advise her intelligently and safely in her business affairs Mrs Winch was to her as a daughter, with whom she talked freely and frankly. Mr. Winch was her nephew and business agent, and would certainly have known of any intent on her part or that of her husband to change their domicil from Portland to California, and yet he testified that he never know or heard of any contemplated change. Mr. Patterson was a friend, and Miss Stevens was her maid. These witnesses were all in positions to know more of Mrs. Reed's intent and purpose than other witnesses in the case. They are all dispose to advance by exaggeration or distorting the truth. Indeed, Mr. Winich, who is a nephew of Mrs. Reed, and one of the legatees in the will, would find his interest largely increased if the contestants could succeed. Decree Is Affirmed.

The time, eccusion and manner of making the declarations to these witnesses, the fact that such declarations were frequently repeat-ed and always consistent with each other and with the solemn declarations made by her in her several wills and written instruments. strongly corroborate the inference as to read-dence to be drawn from Mrs. Reed's acts and conduct. They were not expressions let drop in mere casual conversations or contained in friendly letters, but, as eaid by Chase, J. in Cruger vs. Pheips, 47 N. Y. Supp. 61: "Were made when there was no controversy, and cover such a long period of time as to preclude the idea of their being made with reference to property rights, and they were so deliberately and frequently made as to preclude the lifes of carelessness or inadvertence. They are circumstances which, with the deliberate acts of Mrs. Reed, indicate clearly that her intention was to retain her domicile in Port-land, and to dispose of her property according to the laws of this state, and the showing made by the contestants is not such as to re-quire a court to defeat her expressed desires as to the devolution of her property by hold

## BEATEN BY THE INDIANS

The Dalles Football Gladiators Meet Defeat at Chemawa.

Manager Stubling and The Dalles football team spent yesterday in this city. They were on their way home to The Dalles from Chemawa, where they met the Indians in a game Saturday. Dalles men were well pleased with the treatment they received at Chemawa, but were disappointed at not being able to defeat the Red men, Immdiately after the commencement of the game McCoy, The Dalles' speedy fullback, circled the Indian end and got away on a clear field, but tripped on the 29-yard line owing to the heavy mud. The first half was played in the Indians' territory and the second in The Dalles'. Sanders, Smith and White Bear saved the day for the Indians. A return game will be played New Year's day in The Dalles. While here

Manager Stubling made arrangement with Multnomah for a game here Christ mas with the club's second team. While the Multnomah seconds will have as advantage in weight of about 15 pounds to the man, they will do well to on the speedy aggregation from Easter:

Owens and Rader, of Willamette, acted as officials at Chemawa and were satisfactory to both sides. Kerron Boyd and McArthur will be the officials for the Christmas game

BILLIARD MATCH THIS WEEK

Thirty-seven Entries Listed in Big Multnomah Club Tournament.

The annual handicap billiard tournament of the Mulinomah Amateur Athle-tic Club will begin this week. The list of entries numbers 37, the players being divided into six classes, according to the decision of the billiard committee, which was announced last evening.

was announced last evening.
Each player in a class will play with
every other contestant in his class in
the preliminaries, and the one losing the fewest number of games will be the winner of his class and qualify for the finals, which will be begun after the preliminaries are decided. The winner of the finals will be awarded a handsom gold medal. The second prize is a hand-

Following are the entries and official First class (100 points)-C. H. Gritzmacher, 85; C. E. Holman, 85; M. S. Mulford, 80;

William B. Streeter, 100; William S. Walter so: R. W. Wittschen, 90 Second class (75 points)—William B. Fechheimer, 70; C. L. Gilliland, E. E. Mor-gan, A. W. Morris, A. C. Peel, Lansing Stout. Third class (70 points)—P. E. Brigham 60; S. J. Harder, 70; Henry Jennings, 65 George McMillan, 65; H. E. Plummer, 60; R.

E. Herrigan, C. L. Monson, Otto Ott, J. R. Rogers, M. Ross,
Fifth class (50 points)—R. P. Knight, W. J. Lyons, Sam May, Ed Morris, O. L. Spencer, Irving Stearns. Sixth class (40 points)—L. F. Buck, E. D. Barrett, Thomas Cleiand, G. Eastham, H. T. Hudson, S. C. Moore, Roy Wennerberg.

PERSONAL MENTION.

NEW YORK, Dec. 9 .- (Special.) -Northwestern people registered today as follows:

From Portland,: Imperial, J. A. Funger; Normandie, H. W. Kingeter; Alber-marie, H. W. Scott; St. Dennis, F. D. Fuller. From Spokane: Imperial, B. C. Kingsbury; Bartholdi, W. H. Lucas, From Coos Bay, Or., Hoffman, H. Loggie, From Burns, Or.: Grand, G. W. Clevenger, From Seattle: Manhattan A. S. Nicolson, L. M. Rice, Seville, F. C Jackson and wife; Prince George, T. Granger and wife; Holland, W. J. Gearin; Imperial, H. Packard, V. E. Morris; H. H. Gaffeny, H. E. McCarty, H. H. Joeh; Astor, H. T. Granger and

CHICAGO Dec. 9 .- (Special.) -- Oregoni ins registered today as follows: From Portland-W. C. Barker, Mrs. C. C. Barker, Ada Barker, Alice Barker, at the Auditorium; F. A. Cummings, at the

Fell Off Train and Broke Arms.

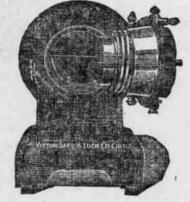
OREGON CITY, Or., Dec. 9 .- (Special.)-A transient workman who to-day applied at the paper mills for emdoyment reported to officers this morn ng that his partner, while they were stealing a ride to the city on the southbound California Overland, fell the train near this city last night and sustained a fracture of both arms.

Sheriff Beattle and Chief of Police Burns today visited the scene of the accident and found the man's hat and a roll of blankets, but no further iences of the injured man, who is re Portland, where he has friends, edical aid. The injured man's assowas unable to give his companion's name.

Head Crushed by Broken Cable.

ABERDEEN, Wash., Dec. 9.—(Spe-ial.)—John Olson, aged 21, was killed and Ludwig Ludwigson seriously inlured in Coats' camp Saturday evening. The men were operating a donkey engine, which got away from them, and the cuble snapping, hit Olson in the read, crushing his skull. Ludwig was njured in the shoulder and chest.

VICTOR MANGANESE STEEL BANK SAFE



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TRAVELERS' GUIDE.



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North Coast Limited, elec-tric lighted, for Tacoma, Seattle, Spokane, Butte, Minneapolis, St. Paul and the east... 2:00 pm 7:00 am

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:00 P. M	Express Daily, Astoria Express, Daily,	9:50 P. M.

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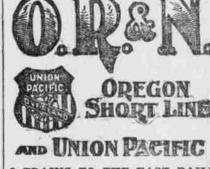
Cottage Grove passenger connects at Woodburn and Albany daily except Bunday with trains to and from Albany. Lebanon and Woodburn Springfleld branch points.

Corvalla passen. 7:30 A. M. Corvallia passon-\*4:10 P. M. Sheridan passen-\*10:20 A. M. \$5:20 P. M. Forest \$11:00 A. M. passenger. Grove

\*Daily, \*Daily except Sunday, 18:00 A. M. PORTLAND-OSWEGE SUBURBAN SERVICE AND TAMHILL DIVISION

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