

THEORETICAL HASSING CASE HELD TO OMB

Justice McBride Rules That "Irresistible Impulse" Not Recognized by Law.

DEFENSE'S ARGUMENT HIT

Opinion Declares Slayer Who Has Knowledge of Right and Wrong Is Capable of Governing Conduct by This Ability.

SALEM, Or., Oct. 23.—(Special.)—One theory of law which has puzzled many courts and has been set down by many as untenable, and by others has been partially approved, will have no future bearing in Oregon if the strict rule of precedence is adhered to, because of the recent opinion by Justice McBride of the Oregon Supreme Court in the Hassing murder case.

Under the doctrine as expounded by attorneys for the defense, a slayer might know right from wrong, but would be insane from an irresistible impulse to commit a crime, which impulse with his capacity for right and wrong, would at the same time be so strong as to make it a physical impossibility for him to commit the act in question.

Justice McBride entirely overthrows this theory and holds that the law recognizes no "irresistible impulse" to kill such as that set up in the insanity plea of the defense, and evidently, from his interpretation of the Oregon statutes, such opinions will hold for all times unless expressly changed by a legislative enactment.

"The instructions requested were properly refused," writes Justice McBride. "They present the 'irresistible impulse' doctrine at its very worst and entirely ignore the difference between an impulse to kill, arising from mental disease or from sudden and sufficient provocation, and an impulse to kill from anger or a wicked and furious desire for revenge. Whatever may be the rule in other jurisdictions, we are of the opinion that the test of insanity in this jurisdiction is the capacity to distinguish between right and wrong."

"The intent of this statute is to establish a conclusive presumption that a person having sufficient mental capacity to know that an act is wrongful and unlawful is capable of governing his conduct by that knowledge and of resisting any impulse to violate the law."

Single Case Cited. "The only case in which our law recognizes any irresistible impulse to kill is in section 1897, L. O. L., which provides: 'If any person, with malice, express or implied, and without deliberation, upon a sudden heat of passion, caused by a provocation apparently sufficient to excite a passion to resistible, voluntarily kill another, such person shall be deemed guilty of manslaughter.' This phase of the case was fully presented to the jury on the general charge and in so presenting it the court was quite as favorable to the defendant as the evidence warranted, since in this case there was no sudden heat of passion and no provocation."

Moral Phase Only Considered. "It is submitted that these writers and judges, in adopting their opinions, have dealt with man's moral responsibility as between his Creator and himself, rather than his legal responsibility as a member of our community. It ought to be plain that if every case tried should involve an investigation of the defendant's ancestry and environment with a view to his principal object is to protect society, and the only practicable working theory upon which it can proceed is to assume that every man, who knows right from wrong, can observe the right and avoid the wrong."

of Portland, which involve the constitutionality of legislation enacted in Oregon under the initiative and referendum act. Both cases will be argued together early next year.

The court also granted a motion to advance the case of the Southern Pacific vs. the Oregon State Railway Commission, which is now set for argument January 23, along with other cases which involve the question of the extent to which states may go constitutionally in regulating railroad rates within their limits.

GRANT LEAVES FOR CAPITAL. Broadway Bridge Case Has Been Set Ahead by Supreme Court.

City Attorney Grant will leave tomorrow morning for Washington, D. C. to argue the city's side of the famous Klernan-Dunaway Broadway bridge obstruction suit in the United States Supreme Court. The case is to be heard the week of October 30.

ROGUE RIVER PIONEERS CELEBRATE GOLDEN WEDDING AT ASHLAND.

ASHLAND, Or., Oct. 23.—(Special.)—Mr. and Mrs. William M. Mathes, pioneer residents of the Rogue River Valley, celebrated their golden wedding anniversary at their home in Ashland this evening.

HARBOR PROMISED ROAD. FEDERAL LIGHT & POWER COMPANY WILL BUILD.

ABERDEEN, Wash., Oct. 23.—(Special.)—The Federal Light & Power Company, owners of the Grays Harbor Railway & Light Company, also identified with a large number of Western companies, will build an interurban line from Grays Harbor to Raymond, on Willapa Harbor, and will also construct a line from the harbor to Puget Sound, was made known by C. K. Durbin, general superintendent of the New York company, today.

OREGON CITY, Or., Oct. 23.—(Special.)—Despite the presence of large signs on Seventh street, clearly indicating to automobile drivers the direction they should take, Harry Brandt and Albert Mautz, in a rig, were run down Sunday evening by a large machine filled with passengers bound for Molalla. The machine was on the wrong side of the road.

BANK TONE HEALTHY

State Examiner Tells of Washington Institutions.

COMMERCIAL IS VISITED

Meeting of Depositors to Consider Proposed Trade in Seattle Property Will Be Held in Vancouver Wednesday.

VANCOUVER, Wash., Oct. 23.—(Special.)—The banks in the State of Washington are now in better condition than I have ever known them to be, said C. I. Reigan, State Bank Examiner, today.



ASHLAND, Or., Oct. 23.—(Special.)—Mr. and Mrs. William M. Mathes, pioneer residents of the Rogue River Valley, celebrated their golden wedding anniversary at their home in Ashland this evening.

AMNER, who was recently reappointed to that position by Governor Hay. Mr. Mohundro was in Vancouver for a few hours today and visited the Commercial Bank of Vancouver.

PIPE TO BE RETAINED. It is expected that Lloyd Du Bois, receiver of the Swank & Co. stock, will declare a 20 per cent dividend within a few days.

MARSHFIELD MINE SOLD. Millco Development Company Will Sell Coal.

MARSHFIELD, Or., Oct. 23.—(Special.)—The Millco mine, on the east side of the bay opposite Marshfield, which for the past two years has been developed by J. A. Ward, has been sold to the Millco Development Company, a new corporation organized by local men.

VARSITY CASE ON TODAY. Hearing of Referendum Controversy to Be Renewed at Salem.

Oregon referendum cases will begin before Judge Galloway in Circuit Court tomorrow. The cases were originally brought in the equity court here to appoint Secretary of State Glavin to place referendum petitions on the ballot, these petitions being directed against appropriation bills passed at the last session of the State Legislature.

ROW SPLITS COUNCIL. DEPOSED CHEHALIS MEMBER REFUSES TO BE DEPOSED.

CHEHALIS, Wash., Oct. 23.—(Special.)—Charles Dieckman, the second Councilman, took his seat in the Council as usual tonight upon the advice of his attorney, which in the end caused the meeting to be broken up, as Councilmen West and Callison refused to do business with Dieckman sitting with them.

WOOD EXHIBIT IS MADE. John Day Headquarters of National Forest Gathers Collection.

JOHN DAY, Or., Oct. 23.—(Special.)—The headquarters of the Malheur National Forest at this place in preserving the exhibit made at the Grant County Fair and will make it permanent.

LAW WANTED FOR PRIMARY. Spokane "Progressives" Ask for Presidential Preference.

SPokane, Oct. 23.—The Spokane Progressive Republican Convention today endorsed the movement for a special session of the Washington Legislature to enact a law giving a vote on Presidential preference.

CHRISTMAS LAKE INCORRECT. LAKEVIEW, Or., Oct. 23.—(Special.)—Captain O. C. Applegate, of Klamath Falls, who was for seven years superintendent of the Klamath Indian reservation, and is authority on many incidents of development and history in this part of Central Oregon, hopes that



The habit of being well dressed is one of the most valuable business assets. Fresh Gloves and one of our special Vests give the correct finish. Gloves from \$1.00 to \$2.50. Vests for business or dress, \$2.00 to \$5.00.

RAINCOATS, SUITS AND OVERCOATS, \$10 TO \$35. Today—See the window display of "Lion" special \$20 Suits, Overcoats and Raincoats. They are wonders at this price—none better.

LION CLOTHING Co. Gus Kuhn Prop. 166-170 THIRD ST.

WOMEN TO SERVE ON BOARDS. CENTRALIA, Wash., Oct. 23.—(Special.)—At a special meeting of the City Council of Kelso yesterday afternoon the election boards for the primary election of November 7 were appointed.

SUDDEN DEATH. Often Caused by Acute Indigestion, Sufferers Should Carry Mi-o-na.

WATERMANS. Waterman's pens are famous for their durability and quality. They are made in the United States and are available in a wide variety of styles and finishes.

INTERESTING

Sale-Specially-Priced. Hallow'e'n Cards, Stationery, Fountain Pens, Bath Brushes, Alcohol Stoves, Etc. A Day of Real Bargains

Table with 2 columns: Sundry Bargains and Stationery Bargains. Lists various items like bath brushes, gloves, and stationery with prices.

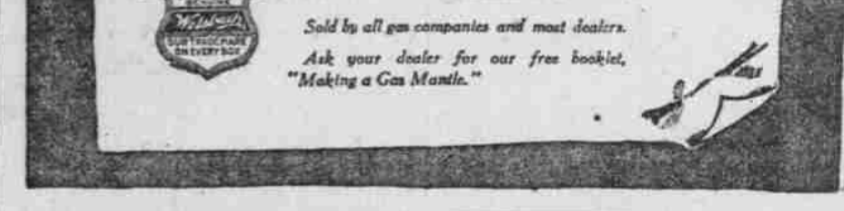
Chamois Vests, worth to \$4.00, special... 69c. Electric Belts for the relief of Rheumatism, Liver, Kidney, Stomach and all nervous diseases.

Woodard, Clarke & Co.

Out-of-town folk, mail us your orders. Our Cut Rates pay More Than Cost of Carriage.

Warning!

Some gas mantles are being sold which are not genuine Walsbach. The direct loss to our business through such sales is small—but the loss of confidence on the part of the disappointed buyer is not a small matter either to him or us.



You Needn't Share Cuba's Great Loss

Van Dyck Quality Unaffected. By Big Tobacco Crop Failure. Soon you'll begin to notice the scarcity of good Havana tobacco.

VAN DYCK "Quality" Cigars

At your dealer's. M. A. GUNST & CO.—The House of Staples—Distributors.