

ADMINISTRATOR IS RESTRICTED IN SUING

Proof of No Living Relatives of Decedent Required Under Employers' Liability Act.

TWO LAWS ARE CONSTRUED

Oregon Supreme Court Gives Effect to Older Law Providing Recovery by Personal Representatives and Newer Statute.

SALEM, Or., July 6.—(Special.)—An administrator of an estate cannot bring suit for damages under the employers' liability act, unless he proves to the court that all relatives of the decedent are dead, according to an opinion of the Supreme Court today reversing the decree favorable to the plaintiff in the case of Joel Niemi, administrator of the estate of Oscar Laine against the Stanley Smith Lumber Company.

Laine was killed while in the employ of the defendant, and it was alleged the accident was due to carelessness on the part of the lumber company. The suit was filed in Hood River County. According to the employers' liability act the following persons may bring suit under it: "The widow of the person so killed, his lineal heirs or adopted children, or his husband, mother or father, as the case may be, shall have a right of action without any limit as to the amount of damages which may be awarded."

Two Laws Construed Together.

The plaintiff contended that he was entitled to bring the action under section 380, Laws of Oregon, enacted in 1882, which provides that "personal representatives of a person so killed" may file suit for damages. Citing that the Supreme Court had decided that section 380 had not been repealed, Justice Benson, author of the opinion, held that this section and the employers' liability act must be construed together, "and as far as possible effect must be given to the provisions of each." The opinion continues: "A special provision for a certain class of cases will take that class out of the general terms used in either statute. Thus, the employers' liability act provides by whom an action for the wrongful acts or omissions enumerated therein shall be instituted, and, as to a death arising therefrom, it is exclusive of section 380, as long as any of the beneficiaries named therein survive, since the terms of that section are general. It is conceded that there can be but one recovery, and therefore to hold that the one who first appeals to the courts may thereby bar the other would be to open the gates to an indecent scramble for precedence in beginning an action and would render it possible for a designing party to have himself appointed administrator of the decedent's estate even before the widow and orphaned children had learned of the calamity which had overtaken them."

Relatives Outrank Administrator.

The court held that in case of no relatives such as enumerated in the employers' liability act the administrator would be the proper person to sue.

Following are the other decisions today:

Martin Francisovich versus James Walton, Jr., appellant, appealed from Clatsop County; opinion by Justice Benson.

William R. Kelly versus A. W. Weaver et al., appellants, appealed from Lane County; opinion by Chief Justice Moore; ex-Judge Harris' judgment for plaintiff affirmed.

Evanson, appellant, versus Grand Ronde Lumber Company, appellee, from Union County; action to recover damages for death of Andrew Brydson; opinion by Justice Moore; affirmed.

Edna versus Columbia County Lumber Company, appellant, appealed from Columbia County; action for personal injuries; opinion by Justice Burnett; Circuit Judge Campbell's judgment for plaintiff reversed.

Charles T. Toose, appellant, versus Willamette Valley Southern Railway Company, appellee, from Clackamas County; involving title to land; opinion by Justice Burnett; Circuit Judge Campbell's judgment for defendant reversed.

George E. Griffith, appellant, versus Willamette Valley Southern Railway Company, appellee, from Clackamas County; involving title to land; opinion by Justice Burnett; Circuit Judge Campbell's judgment for defendant reversed.

Alice McKay versus Donald McKay, appellant, suit for divorce, appealed from Crook County; opinion by Justice Burnett; Judge Bradshaw's judgment for plaintiff affirmed.

Sarah L. McNeil versus Edwin C. Holmes, appellant, appealed from Multnomah County; suit to recover money paid account of land; opinion by Justice Harris; judgment of Circuit Judge Cooke for plaintiff affirmed.

F. A. Barton, appellant, versus School District No. 2, appellee, from Clatsop County; action for alleged breach of contract; opinion by Justice McBride; ex-Circuit Judge Benson's judgment for plaintiff affirmed.

United National Bank of Bandon, appellant, versus C. A. Manassa et al., appealed from Coos County; action to set aside deed of assignment; opinion by Justice Harris; judgment of Circuit Judge Cooke for defendant affirmed.

W. A. Mascoli et al., appellants, versus Murray et al., appellees, from Multnomah County.

GRAND ARMY MAN AT REST

Funeral of David O. Leavens, Who Died Suddenly, Takes Place.

Funeral services of David Oliver Leavens, 73 years old, and an active member of the Oregon City Grand Army, who died suddenly Sunday at Good Samaritan Hospital from an acute attack of pneumonia, were held yesterday morning from Erickson's chapel, being concluded at the Portland Crematorium. The funeral was held under the direction of the Oregon City Grand Army. Mr. Leavens was born in Bethel, O., and came to Oregon 25 years ago. He is survived by the following children: W. M. Leavens and F. E. Leavens, of Portland; Mrs. Mamie Wallace, Seattle; Mrs. Rose Wallace and Mrs. R. T. Twombly, Willamette, Or.; and Alma E. Leavens, of Corvallis, Or.

PYTHIAN PICNIC SUCCESS

2000 From Corvallis Lodge and Others at Bellfountain Park.

CORVALLIS, Or., July 6.—(Special.)—Lodge No. 11, Knights of Pythias, of this city, and several members of other organizations elsewhere held a big picnic at Bellfountain Park, 18 miles south of Corvallis. The Knights of Pythias committee worked for weeks to make the picnic the success it was. Fully 2000 persons attended the affair. The programme consisted of addresses by several prominent men. Rev. Mr. Sherman gave the invocation. Frank Grant, of Portland, spoke on the "Fraternal Organization of the Lodge." Professor E. T. Reed, of Oregon Agricultural College, gave the patriotic address. Superintendent Cannon, of Benton County, read the Declaration of Independence. George Denman, of Corvallis, was master of ceremonies.

Two vocal selections were given by Miss Lena Tarter, of Corvallis, with Miss Blount, of Oregon Agricultural College, as accompanist. The Corvallis fire department and Bellfountain bands gave concerts.

A programme of sports was given in the afternoon. The feature of the afternoon was a race, which was won by the Corvallis boys. There was a ball game also between Corvallis and Bellfountain, Corvallis winning.

The batteries were Punk and Howland for Corvallis and Coon and Bristol for Bellfountain.

Bellfountain school children gave several drills. Automobiles and carriages took the larger part of the crowd to the park. Others came on a special train over the Southern Pacific.

All present enjoyed themselves and many expressed the hope of attending a similar event next year.

AMERICAN CONSCRIPTION PLEA

Efficiency, Rather Than War Purpose, Is Advocated by Speaker.

EUGENE, Or., July 6.—Conscription for its own sake, not necessarily for war but for national efficiency in either war or peace, was advocated here in the Fourth of July address delivered at the University of Oregon by J. Duncan Spæth, who holds the chair of English at Princeton University, which was formerly held by Henry Van Dyke, our Minister to Holland.

Dr. Spæth's topic was "The New Patriotism." He urged that every American young man should be drafted for a year's service. He held that what the young man needed was discipline, a trained mind and muscle. He also said the United States should formulate a policy which would prevent the kind of victory each of the European belligerents had planned for itself.

Parade Is Held at Woodland.

WOODLAND, Wash., July 6.—(Special.)—The big celebration of the Woodland lodge of Grangers here Saturday, followed by a ball was largely attended. Fireworks were not allowed in the city limits. The parade Saturday had many notable features.

Pacific County Celebrations Held.

SOUTH BEND, Wash., July 6.—(Special.)—Raymond, Ilwaco, Ocean Park, North Cove, Holcomb and Frances held monster celebrations in Pacific County from Saturday to Monday. It was Raymond's turn to celebrate and South Bend helped.

ABLE MAY GO TO FARMS

GOVERNMENT WORKING ON PLAN TO RELIEVE UNEMPLOYMENT.

Federal Financing of Workers Taking Up Land Is Probable Basis of Proposed Credits Bill.

WASHINGTON, July 6.—An inter-departmental committee named by Secretary of the Interior Lane and Secretary of Labor Wilson is at work on a plan to relieve unemployment under which the Federal Government would finance workers desiring to take up farm land. A complete programme with preliminary drafts of necessary legislation is to be framed before Congress meets in December, to be proposed in connection with a rural credits bill which the administration is expected to press at that time.

The committee, which includes officials of the General Land Office, the Reclamation Service and the Department of Labor, was appointed specifically to consider means of broadening the scope of the Federal Employment Bureau in the Department of Labor, and it had the co-operation of officials of the Postoffice Department and the Department of Agriculture.

The plan now under consideration contemplates a system of farm credits, operating through the Department of Labor, which would enable workers in congested cities to take up agricultural land on Government reclamation projects, or public lands, on easy-payment loans.

President Wilson in a message to the final session of the last Congress rejected the impossibility of the passage of a rural credits bill at that time, and it has been generally believed that he will recommend some action on the subject next winter.

LEBANON DRAWS PRIESTS

Class Confirmed and Church in Nearby Town Dedicated.

LEBANON, Or., July 6.—(Special.)—Sunday and Monday were Catholic days in Lebanon. The church in the prominent men of the clergy of that denomination were here than ever before assembled in Linn County at one time. A large choir was confirmed in the Lebanon church Sunday by Archbishop Alexander Christie.

The new St. Matthew's Church on McDowell Creek, 12 miles east of Lebanon, was dedicated Monday by Archbishop Christie. Among the prominent clergy assisting and assisting in the two services were Archbishop Ailey, of Portland; Rev. Mr. Hildebrand, of Oregon City; Rev. Father Henry, of Albany; Rev. John Moran, of Eugene, and Rev. Father Raymond, of McMinnville.

Auto Accidents Two at Dayton.

DAYTON, Wash., July 6.—(Special.)—But two casualties resulted from celebrating the Fourth in this community, but they happened on dangerous grades leading to Tumbler, where hundreds of cars had to pass on narrow roads to get out of the canyon.

One of the accidents Sunday at Good Samaritan Hospital from an acute attack of pneumonia, were held yesterday morning from Erickson's chapel, being concluded at the Portland Crematorium.

Mrs. E. H. Mulder Dies at Centralia.

CENTRALIA, Wash., July 6.—(Special.)—Mrs. E. H. Mulder, wife of a prominent business man of this city, died suddenly at the family residence here Sunday of a stroke. She is survived by her husband, a son, William Henry Mulder; her mother, Mrs. W. H. Thompson; one sister, Mrs. Tom Morris, of Pe Ell, and one brother, B. H. Thompson, president of the Lincoln Creek Lumber Company.

Crops Near Monroe Mature Fast.

MONROE, Or., July 6.—(Special.)—The corn wheat of the past week has ripened the grain and hay in this vicinity rapidly and the prospects are good for an early harvest and a fine crop. Farmers are more busy getting in their first crop of hay with continued fair weather they will have a bountiful supply.

Woman Hurt as Two Autos Crash.

SOUTH BEND, Wash., July 6.—(Special.)—Iwaco had one accident July 6. E. L. Long and wife, of Portland, stepped aside to let three automobiles pass on a turn of a road. Two machines collided and drove Mrs. Long into a barbed wire fence, cutting her face badly.



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DO YOU know a little house-mother—or a big one—whose appetite is a bit droopy in hot weather?

There's always a refreshing appeal in Kellogg's Toasted Corn Flakes with ripe fruits or berries—a little cold milk poured in at the side of the dish, and sprinkle the berries with powdered sugar—but not the golden flakes. All by themselves they have the coaxingest flavor.

There is a thought here for all of us perhaps—breakfast, luncheon or supper, or before going to bed—better than so much meat these summer days.

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MANY GET POSITIONS

Normal Schoolteachers Fill 95 Engagements.

EARNING CAPACITY LARGE

Estimates Made That Those Who Have Secured Instruction Work Will Be Able to Earn \$75,000 During Coming Year.

MONMOUTH, Or., July 6.—(Special.)—Within 20 days after graduation the June class of the Oregon Normal School, comprising 123 students, the largest in the institution's existence, has secured positions for 95 of its members in the public schools of the state. Commencing early in the second semester frequent calls come to President Ackerman from Oregon School Boards asking for next year's teachers, and throughout the remainder of the term contracts were signed while the standard normal course yet remained uncompleted.

Sherman County has engaged the largest number as the result of a visit early in April by County Superintendent Fagan, who returned with contracts signed for many rural schools. Graduates' salaries will range from \$70 to \$125 a month and some rural schools are to pay \$100 a month for their teachers.

The earning capacity of the entire class, it is estimated, will total \$75,000 during the coming year. A fair percentage has had teaching experience and already has fallen into line for a rise in salary.

Thirty-seven per cent of the positions taken are in rural schools, where the graduates will seek to eliminate the monotony of country instruction

and create a desire among the pupils to make their life work on the farm. "Positions for the remaining 28 of the class are in a stage of contemplation. They must await the decision of the teachers themselves," said President Ackerman. "All will be located in a short time. More calls are arriving and the question is to supply in some way a fair portion of the present demand for trained teachers."

An early survey conducted by the administration office shows positions to be as follows:

Betha Allen, grade teacher, Forest Grove; Hilda Anderson, grade teacher, La Grande; Lillian Averill, rural school, Klamath County; Clem Cameron, rural school, Multnomah County; Myrtle Chandler, grade school, La Grande; Floye Clodfelter, rural school, Sherman County; Mamie Conley, rural school, Sherman County; Stella Haan, grade teacher, Newberg; Henrietta Jordan, grade teacher, Corvallis; Bessie Kennard, grade teacher, Alsea; Ella Kennard, grade teacher, Falls City; Helen Leighton, grade teacher, Astoria; Jessie McCann, ungraded room, Hood River; Rhoda Newkirk, grade teacher, Alsea; Bessie Palmer, rural school, Marion County; Margaret Rice, rural school, Wasco County; Helen Thompson, grade school, Tualatin; Bessie Thorpe, grade school, Portland; George Winners, rural school, Sherman County; Martha Ailey, rural school, Tillamook County; Marie Anderson, rural school, Sherman County; Gertrude Andrews, rural school, Benton County; Edna Ayers, grade teacher, Dallas; Cynthia Baird, grade teacher, Dallas; Beulah Balders, grade teacher, Salem; Frances Bartlett, grade teacher, Springfield; Hester Banta, rural school, Lane County; Barbara Bolter, rural school, Lane County; Bruce, grade teacher, Eugene; Della Bryant, rural school, Douglas County; Gladys Horn, rural school, Klamath County; Bessie Ince, grade teacher, Marshfield; Mamie Jackson, grade teacher, Seaside; Jackson, rural teacher, Sherman County; Augusta Kratz, grade teacher, Perrydale; Ethel Klann, grade teacher, Tillamook; Hilda Lorenson, rural school, Washington County; Florence McDonald, rural school, Wasco County; C. L. McCarty, rural school, Sherman County; Lida May McCarty, rural school, Sherman County; Maudie Mettler, rural school, Crook County; Maudie Mitchell, grade teacher, Crook County; Gertrude Buehler, grade teacher, Albany; Hamie Burkhead, rural school, Sherman County; Beatrice Chanay, grade teacher, Tillamook; D. E. Cooper, junior high school, Selem; Louise Copenhagen, grade teacher, Wendling; Lily Crapsen, grade teacher, Baker; Rustie Crapsen, rural teacher, Sherman County; Edna Dammann, grade teacher, Sumpter; Ethel Davis, grade teacher, Gold Hill; Irene DeArmond, grade teacher, Vale; Esther Mickelson, rural school, Sherman County; Minnie Merrill, rural school, Halsey; L. J. Mordock, teacher, Salem; Ger-

trade Parker, rural school, Klamath County; Sylvia Peterson, grade teacher, Salem; Edie Phillip, rural school, Douglas County; Gertrude Pollock, grade teacher, Salem; Lucina Randall, rural school, Sherman County; Alma Richter, rural school, Portland; Myrtle Hobbs, rural school, Coos County; Geraldine Raeb, grade school, Wendling; Doris Sawyer, rural school, Sherman County; Ruby Skinner, grade school, Lakewood; Fredens Denney, grade teacher, Marion County; Ella Dillard, rural school, Klamath County; Mabel Doughty, rural school, Marion County; Clarence Eagy, principal of high school, Arlington; LeVice Hamilton, rural school, Sherman County; Donna Henry, rural school, Clackamas County; Marie Smith, grade teacher, Burns; Virginia, Marjorie Speed, grade teacher, Halfway; Merle Stearna, rural school, Clackamas County; Orla Steinberg, grade teacher, Astoria; Helen Thomas, rural school, Klamath County; Myrtle Tripp, grade teacher, Marshfield; Cora Turndike, grade teacher, Bluff School, Salem; Mathilde Vest, grade school, Wallace; Margaret Whaley, rural school, Sherman County; Byron White, rural school, Clackamas County; Jewish Willa, rural school, Polk County; Della Zimmerman, grade school, Redmond.

2 PLANNING VISIT KILLED

Cottage Grove Folk Hear of Deaths of Son and Nephew in East.

COTTAGE GROVE, Or., July 6.—(Special.)—Mr. and Mrs. J. D. Million have received word that their son, William Million, and their grandson, Ervin Million, were killed in an electrical storm in Kansas while on their way here to pass the summer.

The son and his nephew had been visiting relatives in Kansas. When caught in a rain storm they stepped into a barn, which was struck by lightning. As they were wet, they received the full force of the shock and were killed instantly.

Newspaper Man Assigned to Pulpit.

CLATSKANIE, Or., July 6.—Rev. S. D. Johnson, formerly of the Iowa conference of the Methodist Episcopal Church, has been appointed by District Superintendent J. W. MacDougal, to serve as pastor of the Methodist Episcopal Church of this place. Rev. Johnson comes from Drain, Or., where he has been engaged in the newspaper business, being owner and editor of the North Douglas Herald.

AUTOMOBILE TURNS FLIP

BABY UNDER CAR REGARDS BUMP ON HEAD JOKE.

The Dances Machine Throws Five Passengers Out and Lands Upright; Woman Seriously Injured.

THE DALLIES, Or., July 6.—(Special.)—It is not unusual for automobiles to overturn; they do it every day many times. But it is unusual for them to turn completely over and right themselves on their four wheels; to throw five persons out and land directly over a six-weeks-old baby, who is later pulled, uninjured and laughing, by its feet from its position under the car.

Mr. and Mrs. W. H. Duncomb and little baby, Lay Carlisle and Harry Kuck, were on their way to Shaniko yesterday in a machine. A blowout occurred just as it struck a deep bed of sand six miles north of Wasco. The car made a complete somersault, all of the occupants being thrown out.

The little Duncomb baby was thrown in the same direction which was taken by the automobile, which landed with the front of the automobile directly over the babe.

Mrs. Duncomb, who is the daughter of ex-Police Chief Cox, of Portland, suffered a sprained back, and it is feared her injury will prove serious. Lay Carlisle had his shoulder blade broken. Mr. Duncomb and Mr. Kuck escaped with a few scratches. The baby sustained a slight bump on its head.

ROCKET HURTS COTTAGE GROVE BOY.

COTTAGE GROVE, Or., July 6.—(Special.)—Little Roy Wampole, son of Mr. and Mrs. A. W. Wampole, was severely hurt in the only serious Fourth of July accident in this vicinity. While Roy was playing with some other children a rocket held by one of them went off and struck him in the eye. The lower lid was severely burned and the eyeball slightly affected, but it is thought there will be no permanent injury.

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The Food-Drink for All Ages RICH MILK, MALT GRAIN EXTRACT, IN POWDER Unless you say "HORLICK'S" you may get a Substitute

THEFT CHARGED TO YOUTH

Jack Cline Is Arrested at Monroe and Taken to Corvallis.

MONROE, Or., July 6.—(Special.)—Jack Cline, a youth who says his home is at Eugene, was arrested here by a clerk at the confectionery of Ira E. Bradley, the clerk alleging that he caught Cline in the act of robbing the cash drawer in the store.

Cline was taken to Corvallis.

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CANINES LOSE LIBERTY

Cottage Grove Ordinance Bars Dogs From City's Streets.

COTTAGE GROVE, Or., July 6.—(Special.)—Dogs have disappeared from Cottage Grove, streets the past week and visitors in the city apparently have viewed the fact as a sort of phenomenon.

The cause was the going into effect July 1 of the ordinance prohibiting dogs from running at large.

Several meetings of dog owners were