

POOL AND CASE LUCKY.

Verdict Set Aside in the Train-Robbery Case.

Oregonian, June 23.
Judge Bellinger yesterday, in the United States district court, announced a decision setting aside the verdict in the case of John Case, James Pool and Albert Pool, convicted in December last of holding up a mail train on the Southern Pacific. The decision is very elaborate, occupying 25 typewritten pages of legal cap, and the effect of it is to set aside the verdict.

The first three pages are taken up with a succinct statement of the facts connected with the stoppage and robbery of the train, which occurred on the night of July 1, 1895, in Cow creek canyon, for which John Case and James Pool were found guilty, Albert Pool being acquitted. A motion was made for a new trial on grounds of newly discovered evidence, and that the evidence was insufficient to sustain the verdict. A summary of the decision follows:

The Pool boys lived with their father on the South Umpqua, some 27 miles from the place of the robbery, in a section devoted to cattle raising, and Case usually made his home with the Pools. The Pool boys have been frequently arrested and have been convicted of such an offense. Case shared their bad character, and, it is understood, had been in the penitentiary for a crime committed previous to taking up his residence in Douglas county.

The testimony of eight witnesses, nearly all trainmen, is relied upon to identify Case as the person who went through the train robbing the passengers. These witnesses are Wai'e, the engineer; Grey, fireman; Donahue, express agent; Herrmann, mail agent; Norman, a brakeman; Burnett, colored Pullman porter; Pictner, telegraph line repairer, and Arronzo, a passenger.

Eleven pages are occupied with a careful review of the testimony of these witnesses, which as a whole, is pronounced reasonably consistent with the facts; but omitting the opinions of Burnett, Herrmann and Norman, there is nothing in the facts themselves testified to by any of the witnesses identified Case. The robber, in his disguise, has a totally different appearance from that of the defendant in court.

The testimony in this case does not tend to similarity, but rather in the opposite direction. Nearly every witness on both sides makes the robber's hair light, while it is dark. The unlikeness in the voices of the robber and the defendant is attempted to be accounted for on the theory that the robber talked in an assumed voice. To do this for more than an hour under the circumstances, without lapsing into his usual manner of speaking, involves such difficulties as to make it improbable.

The mask found at the scene of the robbery, and at the preliminary examination placed on Case with a view to his identification, answers the description worn by the man who robbed the train. It is torn from the mouth to the left eye-hole, which was not noticed in the mask worn during the robbery. It tends to make it easier to see the end of the nose of the person upon whom the mask is placed, and yet in its present condition the features of Case were completely disguised by this mask, when it was placed upon him in the courtroom, in a favorable light. Whether this is the identical mask worn by the robber or not, such an experiment in daylight and under conditions otherwise favorable demonstrates the untrustworthiness of opinion evidence in a case like this. The circumstantial evidence relied upon to connect the defendants with the crime charged is next considered and reviewed at length.

The two men seen by Samuel Dyer, one of them leading an iron-gray horse, whom witness could not identify, the camp found the morning after the robbery in the field of Chris Ledgerwood; the tracks of men and a horse, which the prosecution claimed were made by the robbers in going from the camp to the robbery and returning; the finding of some dried beef or venison, part of a sack, calico strings and some gray hairs that correspond with those in the tail of a gray mare belonging to the Pools; the shoes found at the Pools' home belonging to James Pool, which fitted exactly the tracks above-mentioned, and the shoes found in the bundle carried by Case, when arrested, and which fitted other tracks, were all carefully considered, as well as the testimony of several persons who met the prisoners in various places about the time of the robbery.

The camp and the tracks mentioned were discovered July 2. The arrests were made on July 4, and the comparison of the shoes with the tracks by witness Quine was not made till July 8, and no explanation of the delay is given. There was a heavy rain about Riddle and vicinity on the 4th; yet a large number of witnesses living in that section were positive that it did not rain on July 4, or there was so little as to be made no account of; while an equal number were equally positive that there was a heavy rain during the day. In regard to this the court said:

any evidence derived thereafter from antecedent footprints in plowed ground or the traveled highway.

In regard to a strip of sacking found by Quine, which appears to have been torn from a sack found in the camp at Ledgerwood's place, it was deemed very remarkable that Quine, at the end of a 25-mile journey, should lag behind his companions to secretly hunt for evidence, and find this strip in a fence corner. It is a story too improbable for belief. Even if the testimony in relation to the comparison of tracks had been reasonable and consistent, the character of this story is such as to involve all the testimony relied upon to connect the defendants with the camp in Ledgerwood's field in grave suspicion.

The evidence for the defense was also considered at length, and, in his summary up the case, the judge said: "While the evidence does not justify the conclusion that the defendants made the camp in Ledgerwood's field, yet if they did so, it does not follow that they committed the robbery. There is no necessary connection between this camp and the crime. The camp was not in such proximity to the place of the robbery as to warrant an inference that persons camped there were the robbers. The tracks found leading to and from the railroad track were traced but a short distance, and may have been made by the robbers in going between the camp and the place of robbery. But this is mere conjecture, or at most but a doubtful inference.

The fact already mentioned, testified to by Hadley the barber, is equally conclusive. Case's hair was 'very long' (2 1/2 inches all over over the top of his head and 1 1/2 inches long behind, 'clear below where his hat would sit on his head,' as measured on July 9). All the witnesses testify as to the length of the robber's hair say that it was 'cut short.' This is a matter about which mistake or misrepresentation is impossible. Its importance is obvious. There is no attempt to dispute Hadley's statements. It goes without saying that hair that was 'cut short' on the night of July 1 had not become long on the 9th of the same month.

There are many other features of the case not necessary to be mentioned, including the discovery of tracks of men and a horse leading south from the place of the robbery, and the fact that two men and a horse were seen by the robbers in that vicinity under circumstances affording grounds of suspicion.

Quine's explanation of his reasons for the arrest of Case is the fact that some gray hairs he had brought from the camp in Ledgerwood's field were the same as the tail of James Pool's gray mare, which Case had in a stable at Canyonville, and the further fact that Case had bought a new suit of clothes, and, representing to Quine that he intended to go to a ball at Canyonville that night, started off in the direction of Napoleon Pool's home. There was nothing else to justify the arrest. Norman's description, which had been given out to all in detecting the guilty parties, in no wise fitted Case, as has been seen.

There is evidence tending to show that it was believed that the rewards that would be paid for the arrest and conviction of the robbers would aggregate \$3000 for each robber convicted. It would be very natural that this strong inducement should prompt hasty action on the part of detectives engaged in hunting the criminals. This, and the previous bad character of the defendants, is a sufficient explanation of what followed.

The case is free from doubt. There is nothing to sustain the verdict. It is against the evidence, and must be set aside, and it is so ordered."

Picnic at the Soldiers' Home.

As announced in the PLAINDEALER Tuesday, the members of the W. R. C., No. 19, gave an entertainment on the grounds at the Soldier's Home. Though the picnicers were not as numerous as was anticipated there were enough to make the entertainment a very pleasant one and was highly appreciated by all. From the beginning of the gathering in the morning till high noon the old vets and the members of the W. R. C. and others had a joyous time with croquet and bowling and pleasant reminiscence of ante-bellum days.

At 12 m. lunch was announced and the pies, cakes, chickens, ham, bread and butter, coffee, etc., under which the tables fairly groaned, began to disappear in a way that would do honor to old vets after a fatiguing march.

After lunch and the members of the corps had cleared away the fragments, C. J. Robertson, Alfy and Ormsby, trustees of the home, were called on for speeches. These gentlemen made brief speeches, abounding in eloquence, a spirit of patriotism, and praise of the women who had been so thoughtful for the old vets as to show them their appreciation of their services in the field by these tokens of their kindly remembrances.

Report of the Belleville school for term ending June 19, 1896.
Averaging above 90 in final examination were: Tommy Neal, Elsie Hedgpeth, Cydia Neal, Virgil Hedgpeth, Mamie Neal, Lena Hedgpeth, Mabel Wilkinson and Velma McWilliam. Averaging above 85 were: Fred West, Alfred Neal and Harley Wilkinson.
JESSIE BALL,
Teacher.

ENGLAND AND OUR PLATFORM.

It is too bad that England does not like the tariff, the Monroe doctrine and the foreign policy planks of the St. Louis platform. But, then, England was not consulted. Great Britain's approval was not deemed at all necessary. The platform in detail and as a whole is altogether a declaration of American principles for Americans. Naturally England would not like the tariff plank. The people of America are obliged to have manufactured goods and wares of various kinds. Their consumption of such articles is enormously great. We use to manufacture them here at home, but with March, 1893, came a new order of things. Our factories and mills were closed and our industrial operatives were sent into idleness, and the pleasure of supplying our needs was committed to England. That is one of the reasons why the so-called "mother country" is so very fond of Grover Cleveland.

But the republican party is of the opinion that, having all needed raw material at hand, we should give our workmen a chance to live well and lay up something for a rainy day by starting up our own manufacturing establishment so that our people may supply their wants with homegrown fabrics and other necessary industrial products. As we do not need two sets of mills and factories to satisfy our wants, the idea of the tariff plank of the St. Louis platform is to give our own establishments the preference. That is why England does not like that particular plank.

But there is another reason why England is not pleased with that plank. Under Cleveland's alleged tariff act the country is obliged to sell the best and safest government bonds in the world from time to time, and British investors do not like to have the flow of them stopped. Rothschild is particularly desirous that the regularity of their coming should not be interfered with, especially as the treasury department kindly lets him take them in at \$104 when their market value is \$119. The St. Louis tariff plank, when in operation, will furnish revenue enough without selling bonds.

Then there are these Monroe doctrine and foreign policy planks. They will throw so much dirt in Great Britain's eyes that the old bully will not be able to see Venezuela at all, much less seeing unjustly marked territory boundary lines. So, altogether, England has no cause for rejoicing, especially as the St. Louis platform is sure to be the policy of the Government after next March.—S. F. Call.

The Flinn.

ASTORIA, Or., June 22.—Probably more salmon were caught last night and this morning than in any one day for many years past, and all the canneries were compelled to limit their boats. They will, however, pack night and day as long as the supply holds out. One of George & Barker's men brought in 4200 pounds, while another employed by the Astoria Packing Company, made more money in the single night than he made up to the corresponding time last season. The river is full of fish, but there are no indications that any are coming in, and the probabilities are strong that by the end of the week small catches will be the rule. The fish are uniformly large, and some exceptionally so. One of the men captured two beautiful specimens that tipped the beam at 180 pounds.

Since the departure of the main body of the militia last night, there has been no unusual disturbance, and the city still remains comparatively quiet. Major Santenlein, with his picked command of 100 men, is still maintaining a vigilant patrol of the river day and night. It is estimated that at least 2000 boats have gone out since Saturday night, and many of them are manned by non-union men. While it is thought the run of fish this year has, perhaps, been fully up to those of last season, it is, of course, now impossible for the packers to make up the lost time, and the total pack this year will fall far behind that of any year for five or six years past.


A number of Finnish fishermen have not yet gone out, nearly all of them being dissatisfied with the action of the union in accepting the compromise. Today several hundred are reported to have sent in their resignations to Secretary Jensen, with intimations that they would have nothing more to do with the union. This decision, if adhered to, will be the means of breaking up the organization and rendering futile all further organized efforts to fix the price of salmon.

Indiana Democrats.

INDIANAPOLIS, June 22.—The Democrats of Indiana are gathering in great numbers for the state convention Wednesday. It is probable that two days will be devoted to the convention. The free-silver delegates will include 1500 of the 1780 delegates, the majority of the gold-standard element coming from Indianapolis. There is a long list of candidates for the various offices, the prospects being that B. F. Shively, of South Bend, will be the nominee for governor. The free-silver executive committee has made all arrangements for the convention. R. C. Bell, of Fort Wayne, will be chairman, and Dan McDaniel, of Plymouth, secretary. The delegates at-large will probably be Senators Ormsby and Voorhees, Judge McCabe and G. E. Menzies, of Mount Vernon. The convention promises to be the largest ever held by the party in the state.

The Stamper, alias Review, says: "A. P. A-ism has made Roseburg a hobo paradise." This is an unmitigated falsehood, for it is a fact that for the last year Roseburg has been freer from that class of the genus homo than it has been for the two preceding years. This is a fact patent to every person of ordinary observation. But the animus of the Review in making these assertions is apparent. It has a purpose in view which is as palpable to the observing as is the nose on their faces.

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Turkish Insolvency.
ATHENS, June 23.—A letter from a most trustworthy official source brought by special messenger from Canes, states that on June 19 two French officials from the Neptune, in company with the chancellor of the French consulate, were walking on the quay, when a group of Turkish soldiers began to curse them as gajours and indulged in other insulting remarks. One of the Turkish soldiers drew his sword, but was seized by other persons, who thus prevented him from carrying out his threat. The French consul protested to the governor-general, but up to the present it is not known if satisfactory excuses have been made to the French officers.

From the same unimpeachable source it is learned that the Turks are marking the shops of Christians with the sign of the cross. The Austrian consul, having noticed that the bureau of the Austrian post was thus marked, drew up a protest to the governor-general. This marking of the houses of Christians has caused intense excitement among the people, who fear that massacres are intended for Canes.

M. Delaynis has wisely called upon the most rampant of the newspapers to stop the personal violence of their attacks. Under the firm stand taken by the government, backed by the king, the public excitement is cooling down.

The impossibility of Greece actively intervening in the Cretan question is dawning even upon the more jingoistic, who see the force of Greece's position if she remains quiet, as she will do, unless the government is overturned.

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