

THREE RECOURSES FOR BROKEN HEART

DEFINED IN THEORY BY ATTORNEY IN THE HERYFORD-MCCARTY BRANCH OF PROMISE DEMURRER ARGUMENT—SERIAL TRIAL COMING SOON.

Three courses are open to a woman after her heart has been broken by the peridy of man—that is, if she takes the same view as does Attorney John M. Gearin. Mr. Gearin, who is counsel for James L. Heryford from whom Birdie N. McCarty seeks to obtain \$70,000 for breach of promise, argued against Thomas O'Day in the United States circuit court this morning in a demurrer to the amended answer, and it was during the course of his remarks that the former said:

"The breach of a marriage contract leaves three courses open to the injured person. The first—and perhaps the better one—is that she may say, 'You have wronged me and now refuse to make me your wife. Go, I am glad to be rid of such rubbish.' The second is, 'You have broken my heart and only gold can mend it. Give me the cash until my wounded feelings are forgotten.' The last is—provided the man changes his mind and agrees a second time to marry her—I will take you for better or for worse, and thereafter peace reigns."

The main defense set forth in the amended answer is that Birdie McCarty expressed a willingness to marry Heryford after he is alleged to have refused to live up to his contract and that after the case was brought up in open court and the defendant signified his intention of taking the woman to be Mrs. Heryford she refused.

Judge O'Day held this to constitute no defense and the court inclined to his belief, admitting that such an act would serve only to mitigate the circumstances and could not serve as an absolute defense, but he finally overruled the demurrer.

The suit is to be tried in the federal court for the second time at the next session of the petit jury.

Miss McCarty secured a verdict for \$25,000 damages, but Judge Bellinger set it aside and ordered a new trial. Heryford is a prominent cattle man of Southern Oregon and the plaintiff was at one time a school teacher and met Heryford while instructing the young.

OPINIONS BY THE STATE SUPREME COURT

(Journal Special Service.)

Salem, Feb. 2.—The supreme court late yesterday afternoon decided the following cases:

Rebecca Turney, respondent, vs. the Southern Pacific company, appellants, from Clackamas county; McBride, judge, affirmed. Opinion rendered by Justice Bean.

W. W. Ladd, administrator, respondent, vs. L. B. Mills, appellant, from Douglas county; Hamilton, judge, affirmed. Opinion rendered by Justice Bean.

B. S. Kerns, appellant, vs. J. P. Lee, respondent, from Klamath county; Benson, judge, affirmed. Opinion by Justice Bean.

John H. Dight, receiver, appellant, vs. Simcoe Chapman, respondent, appealed from Multnomah county; Frazer, judge, affirmed. Opinion by Chief Justice Moore.

Minnie Case Day, respondent, vs. P. A. Lindstrom, appellant, from Clackamas county; McBride, judge, reversed. Opinion by Justice Wolverton.

City of The Dalles, respondent, vs. Mary E. Hallock et al., appellants, from Polk county; Burnett, judge, affirmed. Opinion by Justice Wolverton.

City of Dallas, respondent, vs. R. P. Boise et al., appellants, from Polk county; Burnett, judge, affirmed. Opinion by Justice Wolverton.

Laura E. Froman, appellant, vs. Thomas Froman, respondent, from Linn county; Bolton, judge, reversed. Opinion by Chief Justice Moore.

A. N. Smith et al., appellants, vs. F. K. Arnold, administrator, respondent, from Multnomah county; Cleland, judge, affirmed. Opinion by Justice Wolverton.

Timon Ford, executor, plaintiff, vs. A. G. Gilbert et al., defendants and respondents, from Clackamas county; Bolton, judge, affirmed. Opinion by Chief Justice Moore.

E. G. Bolter, respondent, vs. J. H. Garrett, appellant, from Crook county; Bradshaw, judge, reversed. Opinion by Justice Moore.

MADAME HUMBERT TO DRAG DOWN OTHERS

(Journal Special Service.)

Paris, Feb. 2.—Madame Humbert today appeared before the parliamentary commission appointed to investigate the Humbert affair. The scene was theatrical, as usual. She was dressed in a fashionable costume, bold and defiant. She made vague assumptions against the high in public life, and declared she would produce documents to support the charges. She said some most important papers disappeared from the custody of Minister Justice Valle, because his name was attached. She will be given an opportunity to produce the documents.

NEWMAN - BIGELOW WEDDING.

(Journal Special Service.)

Beaverton, Or., Feb. 2.—Albert H. Newman and Edith L. Bigelow were married at the residence of the bride's parents near Beaverton, January 29. Rev. F. S. Clems performed the ceremony. The young people are well and favorably known in this community, where they have hosts of friends.

DEATH OF JACOB GIESY.

(Journal Special Service.)

Aurora, Or., Feb. 2.—Jacob Giesy, an old pioneer of Marion county, died here yesterday afternoon. Mr. Giesy was proprietor of the Aurora hotel and had long been considered one of the most popular citizens of the place.

BLIZZARD IN NEW YORK.

(Journal Special Service.)

New York, Feb. 2.—A blizzard is raging today and the weather is near zero. This morning a man was found frozen in a hallway, where he had gone for shelter.

Heart Disease

may be cured by strengthening the heart veins, enriching the blood and improving the circulation.

Heart Cure. Safe and sure. Sold on guarantee. Send postal for book on diseases of the heart and nerves today.

DR. MEDICAL CO., Elbert, La.

CHAPLAIN SMITH WHO MADE RECORD

(Journal Special Service.)

Vancouver, Wash., Feb. 2.—Judging from the appearance of things, there is perhaps no man in the Nineteenth infantry more deeply loved by both officers and men than Chaplain S. J. Smith. The exertions that have the last week been put forth by the soldiers in the preparations for making the lecture to be given by the chaplain tonight a success, illustrate a devotion that any leader in the army would cherish. This genuine love and attachment of the men for their chaplain is accounted for in the praises that are freely given by them wherein each man that has been through the Philippine war with the chaplain has some personal encounter to be remembered.

The Nineteenth infantry men saw some severe service in the Philippines and in all the campaigns the chaplain was not only active in his religious work, but all the while aiding the men whenever he happened to find them in difficult or dangerous positions. It was

through his ceaseless watchfulness that the Filipinos dreaded the appearance of the chaplain if they were caught in an attempt to take advantage of some straggling or lone soldier. It was a noted fact among the American troops that if any soldier was caught on alone the native civil once in the Philippines would accept the slightest pretext to use them with unwarranted harshness.

Bruel Actions.

Should a man be caught by the native police out late at night and he had no assistance near at hand, it was no uncommon occurrence for the native police to seize the unfortunate man and club him severely. It is said that the chaplain was not long in learning this state of affairs, and having the welfare of the men at heart, took upon himself the duty of looking after these stragglers, and the several encounters he had with the police in preventing bloodthirsty attacks on the boys in blue, caused him to be feared by these would-be assassins.

In support of these claims made by the privates, Major J. A. Watrous, U. S. A., in the Manila Times, makes mention of a similar circumstance.

A Romantic Story.

"Late one night," writes the major, "soon after the chaplain's arrival in the Philippines, while returning to his lodgings he was joined by the chaplain. On the road they met three soldiers who were very weary. One was so weary that he fell by the wayside, and his comrades were too weary to help him up, and seeing the two officers, passed out of sight as quickly as possible. After passing a few steps beyond the prostrate soldier, the chaplain said, 'I cannot go to bed and leave the poor boy there. Oh,' replied the major, 'he is comfortable; he will sleep until morning; let him rest.' An assertion that the major states he has always since disapproved. Mr. Smith returned to the poor fellow, knelt by his side, and worked with him until the soldier opened his eyes. The soldier's first request was not to be left there, and the chaplain did not leave him, but remained with him until he was sober enough to walk home, which was 2 o'clock in the morning. This man, as well as a large number of his comrades have since become total abstainers—thus not only saving the man from a possible fateful assault by native police, but curing him of a growing cure."

In the chaplain's letter tonight many of these scenes as well as various others in which the Nineteenth participated will be illustrated.

ONE OF THE BEST SEASONS EXPECTED

(Journal Special Service.)

Baker City, Or., Feb. 2.—That there are some good things in store in Eastern Oregon, and that there are Eastern capitalists who believe in Eastern Oregon has been thoroughly demonstrated during the past few days by the arrival here of C. B. Stanley of the firm of Voegele, Stanley & Cornell, Cadillac, Mich., who has associated himself with Mr. T. M. Anderson of California in the purchase of the Uncle Sam group of quartz claims on First creek in Malheur county. Mr. Stanley returned to Baker City yesterday with Mr. Anderson from the mine at which he interviewed by a Democrat man said:

"This is my first visit to this part of the West. Mr. Anderson, my partner, is an old mining man and is thoroughly familiar with this country. The Uncle Sam group consists of 10 full claims and a fraction, situated four miles east of the city of Malheur, and all its appearances is an ideal proposition—at least I am satisfied with my investment."

"On the 10 claims there has been 322 feet of development work done by half a dozen different shafts on the different claims. So far as opened the ore ledges or veins average five feet in width in a granite and porphyry formation. The ore is free milling and averages from samples taken and assays made clear through the property \$20 to the ton. We have assays from \$70 to \$155 to the ton and picked samples go up into the thousands."

Will Begin Development.

"We will begin development of the property on a large scale at once and as soon as the weather opens will begin the erection of a 20-stamp mill on the ground, which we expect to have in operation before next October. We will incorporate the property within the next few weeks, but it will be a close corporation and no stock will be put on the market, although a number have applied for an opportunity to invest."

There is every reason to believe that the season of 1904 will be one of the greatest and most prosperous mining seasons in the history of Eastern Oregon. It is known that two or three of the most prominent mining men interested in Eastern Oregon will return from the East in the next few days and that they have a dozen large deals partially consummated which they expect to close at once. This will mean the circulation of considerable money in

the community.

AT THE BAKER.

The Pollard Lilliputian Opera company bids fair to pack the Baker theatre every night this week. This popular organization is remarkable in its ability to present in a clever manner a score of bright and pleasing operas. Tonight "The Belle of New York" tomorrow and Thursday, "The Geisha."

"CHARLEY'S AUNT."

Tomorrow and Thursday nights, with a popular price, will be the ever popular Baker stock company, which will be seen at the Marquam Grand theatre in the delightful comedy, "Charley's Aunt." Special prices will be the order in the evening and popular prices at the matinee Thursday.

"DEVIL'S AUCTION."

The 22d consecutive year of Charles H. Yale's "Everlasting Devil's Auction," which comes to the Marquam Grand theatre next Friday and Saturday nights, February 5 and 6, with a popular price matinee on Saturday, will be a probably destined to have a wide use in placer workings where the ground is heavy. A hose taps the pipe line near the giant and conveys to the derrick the water under pressure which furnishes the power. The length of the hose admits of moving the derrick over a considerable territory, while the pipe line may remain stationary. Last year a derrick of this pattern was installed in the upper workings and proved a thorough success. Mr. Terry has now very handsome specimens of coarse gold taken from the upper workings. The gold of the lower ground is finer in size, but the yield at both mines is fully equal to the best expectations of the operators.

PAUL GILMORE.

The clever actor, Paul Gilmore, supported by an excellent cast will be next at the Marquam Grand theatre next Monday and Tuesday nights in his latest success, "The Mummy and the Humbling Bird."

SALEM

(Journal Special Service.)

MOBILE—Salem subscribers will please take notice that the Journal agency has been transferred to E. E. Davis, 190 state street, who will receive subscriptions, complaints, payments, etc.

THE CARE OF THE STATE'S INSANE

(Journal Special Service.)

Salem, Feb. 2.—The board of trustees for the state insane asylum met at the capital yesterday afternoon in monthly session for the purpose of receiving the Superintendent's report for the month of January. The report was read and allowed, Superintendent J. F. Calbraith, in speaking of conditions at the asylum, says in his letter of transmittal:

"The general health for January has been about as usual, with the exception of a few cases of diarrhoea and dysentery. This case developed early in the month and was immediately quarantined, has recovered and we do not expect any further spread of the disease. The case of smallpox reported last month has recovered."

"We have transferred 16 of the Alaskan patients to the sanitarium at Portland, and expect to transfer those remaining during the present month."

"The farm work for the month has consisted of hauling, grading, ditching, plowing, repairing fences and harvesting vegetables. The mechanical departments are working on the lavatories and general repairs."

The number of patients are: Male, 975; female, 411; Total, 1,386.

The report of the average expenses shows for the month, \$10,119 9-10; per capita daily, \$0.32 9-10.

The cost of supplies for the departments is \$7,837.20.

Reform School Report.

The reports of the reform school, the blind school and the mute school were also filed and received yesterday. The board for each of these institutions audited bills incurred during the month and heard the reports of the respective superintendents. In the case of the reform school, three boys, Lee Dice, Frank Grove and Fra John Thompson, were paroled upon the recommendation of Superintendent N. H. Koenig.

Two boys who had heretofore escaped had been returned during the month. They are: Charles Daniels, who escaped April 13, 1902, returned January 21, 1904; and John Goodell, escaped August 27, 1903, returned January 27, 1904.

Opens Office at Condon.

D. R. Parker, deputy in Attorney General Crawford's office, has resigned and gone to Condon, Gilliam county, where he will open a law office in partnership with G. W. Parman. Mr. Parker has been in General Crawford's office for a year, and was a very efficient assistant to the attorney general. The vacancy thus occasioned was filled by the appointment of I. H. Van Winkle, a young lawyer of this city, who began his duties yesterday.

C. H. Bonney of Woodburn yesterday began his term as justice of the peace for the City of Woodburn for the recovery of \$31.52, alleged to be due and owing for a quantity of lumber delivered by plaintiff to the city, and the claim for which has been rejected. The suit, it is said, will set up some interesting testimony regarding the manner of conducting the affairs of that city.

TRUTH TOLD ABOUT OREGON NUGGETS

(Journal Special Service.)

Grants Pass, Or., Feb. 2.—A statement was made in the Portland Telegram a few days ago that a \$40 nugget brought in recently from the Jewell-Hayes mine on Oscar creek was the "biggest nugget that had been produced in the county. This statement is taken from the fact that it is difficult to imagine one came to get into print. Nuggets of this size and larger are no rarity in this county and excite little comment when found. There is not a coarse gold creek in the county where bigger pieces than this have not been found. The largest piece of gold found in this county came from Althouse. It was found the early days and did mine place its value at somewhere near \$3,000. This stream and its tributaries have produced many pieces that would make a \$40 chunk look small.

Galice creek has produced a \$300 piece and several which weighed \$100 and over. In 1900 Harmon & Green took out a \$58 nugget and the following year one which weighed 46. Silver creek has produced a number of \$100 pieces and in 1902 one which weighed \$110 nugget on that stream. Red Dog is credited with at least one \$100 piece, and so is Bummer gulch of the Upper Jump-off Joe country.

In 1901 K. J. Kubli took from a small tributary of the main stream on the west side from Oscar creek, a \$125 nugget, nearly five inches long.

Years ago a \$46 piece was taken from Louse creek on the ground afterward known as the "China diggings." In 1901 a \$60 nugget was brought from Upper Chetco.

Josephine and Canyon creeks, Sucker creek and its tributaries, the Dry Diggings, Powell's creek and other tributaries of Williams creek, the tributaries of Grave and Wolf creeks and, in fact, creeks and gulches in nearly every portion of the county, have produced pieces of more than \$40 value. The streams of Jackson county also have good records for nuggets, and Southern Oregon, in 1902, produced a piece of gold inferior to very few districts in the world.

Ed. F. Terry, superintendent of the Galice Consolidated Mines company, operating on Galice creek, has just completed the work of erecting a hoisting apparatus, which has been installed on the company's lower workings on that stream. This derrick is Mr. Terry's own contrivance, and is the most practicable and successful water power hoist in existence, and is probably destined to have a wide use in placer workings where the ground is heavy. A hose taps the pipe line near the giant and conveys to the derrick the water under pressure which furnishes the power. The length of the hose admits of moving the derrick over a considerable territory, while the pipe line may remain stationary. Last year a derrick of this pattern was installed in the upper workings and proved a thorough success. Mr. Terry has now very handsome specimens of coarse gold taken from the upper workings. The gold of the lower ground is finer in size, but the yield at both mines is fully equal to the best expectations of the operators.

EUGENE

(Journal Special Service.)

NOTICE—The Eugene agency of The Oregon Daily Journal is at the bookstore of Allen H. Eaton, whose subscriptions to go by mail carrier will be received.

MAN IN JAIL HAS A SERIOUS TIME

(Journal Special Service.)

Eugene, Or., Feb. 2.—In the police court Saturday Albert Prince and R. Benson were fined \$10 and \$15 respectively for being drunk and disorderly. Benson was placed in jail about 1 o'clock Sunday morning and Prince a few minutes afterward. Before Prince arrived Benson had set fire to the bedding in the room in which he was confined and it did not begin to blaze until after Prince had been locked up in the cell. Shortly afterward a patrolman heard cries coming from the jail, and, unlocking the outer door of the jail to investigate the cause, which was pouring out of the cell which Prince was occupying. The man was found lying on the floor in an unconscious condition. The smoke had almost suffocated him. A physician was called and, after considerable work, resuscitated him.

Death of Mrs. Holloway.

Mrs. Elizabeth Holloway died at the family home at Goshen, January 30, 1904, from neuralgia of the heart. She was aged 71 years.

Mrs. Holloway was born in Maryland in 1832, emigrated to Missouri in 1841, married Ed. Keevee in 1847, and came to Oregon in 1851, located on a donation land claim near Cloverdale, Lane county. Her first husband having died, she married Samuel Holloway in 1854. He survives her. Her living children are: Silas Keevee, Portland; Mrs. Ruth Hatcher, Pilot Rock, Oregon; Mrs. Leathe Rychard, Thurston.

Successful Art Exhibit.

The art exhibit conducted last week by the public schools of Eugene in the new high school building was a big success, especially from a financial standpoint. Superintendent Beckwith and the housekeeper collected \$249 from the proceeds of the sale of tickets to the exhibit, and the sale of wares at booths which were conducted. The money will be used to buy pictures and statuary to adorn the school rooms.

Pop Sales at Eugene.

There have been a number of hop sales here the last few days. Campbell & Walker have sold to Phil Neis & Co. 45 bales of the 1903 crop at 24 cents per pound, and F. E. Dunn, 50 bales of the 1902 crop at 23 cents per pound.

ALBANY

(Journal Special Service.)

NOTICE—The Albany agency of The Oregon Daily Journal is at the store of Dawson, No. 228 West First street, where subscriptions will be received.

MYSTERIOUS BABY CAUSES SUSPICION

(Journal Special Service.)

Albany, Or., Feb. 2.—A mysterious baby appeared at the house of George H. Kelley, 715 East Tenth street, Sunday afternoon, but only the inmates of the house knew its arrival until yesterday. The family consists of Mr. Kelley, who is employed in the Corvallis and Eastern Railroad freight house; Mrs. Myrtle Goodman, who is said to be the daughter of Kelley, and a small daughter of the woman, nee Phillips, who is now an old woman. The woman was called to the Kelley house on Sunday afternoon and left a baby girl. The infant, she claimed, was born in a private house in the city, but the only woman who has recently arrived from Ashland where she was the daughter of well to do people. Mrs. Goodman accepted the gift without even asking any particulars concerning the parties and says she will keep the unfortunate way. "My rumors were in circulation during the afternoon, and the house was visited by Chief of Police McClain, Mayor Davis and Councilman Daunals, who comprise the health board, but Mrs. Goodman maintained that she obtained possession of the child in the way described. The case will be fully investigated by the authorities, as a mystery surrounds the entire event. Diligent inquiry has failed to locate any parties from Ashland who have recently arrived in the city.

Young Hoboes Sent Home.

The three boys arrested Saturday night were taken before County Judge Palmer yesterday, and after due consideration it was thought best to send the young hoboes to their homes. Transportation was provided them and they were started homeward today. Two live in Seattle, while the third is a resident of Salem. The court did not feel justified in sending them to the reform school, as they were not guilty of any crimes and as the railroad fare would be small, concluded to give them a chance to again partake of parental care.

Baker Stock Company.

The Baker Stock company of Portland presented "Jane" to a large audience last night. The veins of comedy were rich and clean, affording plenty of opportunities for laughter.

Preferred Stock Canned Goods.

Allen & Lewis' Best Brand.

BARBAROUS SURGICAL OPERATION

For the Cure of Piles.

Is not only intensely painful, dangerous to life and very expensive, but in the light of modern medical research and since the discovery of the Pyramid Pile Cure, wholly unnecessary. If you have any doubt on this point kindly read the following letter from one who knows that the claims regarding the merits of the Pyramid Pile Cure are borne out by facts.

"For a long time I suffered with blind piles. They gave me so much pain and uneasiness that they almost disqualified me for doing anything. I saw an ad. in the Atlanta Journal of Pyramid Pile Cure and ordered a 50 cent box. I used them and they gave me relief, that encouraged me and I bought another 50 cent box and they cured me. Oh, how glad that I am well again!"

"The Pyramids cured me and I am satisfied they will cure anybody else who is suffering as I was, if they will use them."

"You may use this in any way you see proper. If you have any experience with the Pyramid Pile Cure, please write me and I will be glad to hear from you. My address is: H. K. Hicks, Calhoun, Ga."

The Pyramid Pile Cure is sold by druggists for 50 cents a package, and its merit is so well known that the sales exceed those of all similar remedies combined.

Write Pyramid Drug Co., Marshall, Mich., for their little book on the causes and cure of piles, which is sent free for the asking.

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CASTORIA

The Kind You Have Always Bought, and which has been in use for over 30 years, has borne the signature of

and has been made under his personal supervision since its infancy. Allow no one to deceive you in this. All Counterfeits, Imitations and "Just-as-good" are but Experiments that trifle with and endanger the health of Infants and Children—Experience against Experiment.

What is CASTORIA

Castoria is a harmless substitute for Castor Oil, Paregoric, Drops and Soothing Syrups. It is Pleasant. It contains neither Opium, Morphine nor other Narcotic substance. Its age is its guarantee. It destroys Worms and allays Feverishness. It cures Diarrhoea and Wind Colic. It relieves Teething Troubles, cures Constipation and Flatulency. It assimilates the Food, regulates the Stomach and Bowels, giving healthy and natural sleep. The Children's Panacea—The Mother's Friend.

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