READ THE WANT ADS READ THE DISPLAY ADS

The weather-Occasional rain tonight and Wednesday.



VOL. VI. NO. 263.

OREGON, TUESDAY EVENING, JANUARY 7, 1908.—FOURTEEN PAGES.

PRICE TWO CENTS.

Mandamus Proceedings Will

Be Filed in Effort to Force

the Sailor Boarding-House

Commission to Render De-

Jost Brothers Declare Com-

missioners' Dilatory Ac-

tions Compel Them to Seek

Legal Aid-Board Repeat-

Jost brothers expect to institute man-

damus proceedings to compel the sailor

boarding-house commission to act upon

their petition for a license to operate a

The suit will probably be brought to-

merrow in the state circuit court, the

complainants asserting that the board is

forcing them to take the step. Four

weeks ago the petition for a license

been given no satisfaction by the board.

He believes some action should be

taken, either granting or refusing him

sailor boarding-house in this port.

Charles Jost declares, and still be

Say Kelly Not Inter

was filed with the co

the desired authority.

edly Refused to Act.

cision on Petition.

SCHUEBEL TO SUCCEED BRISTOL

DECISION WILL HAMPER ATTORNEYS

May Have to Depend for Conviction on Evidence Dealing With Prior Contracts Only-Indictments Under Homestead Act.

Francis J. Heney and the department of justice will have to limp into the fray on Monday next when the trial of the John Hall conspiracy case is taken up for consideration by Judge Hunt in the federal court, according to the opinion of many Portland attorneys. The United States supreme court in remanding the Williamson case for a new trial has delivered an upper cut to the prosecution of the remaining land cases which these attorneys main-tain will take much of the strength out of Prosecutor Heney's counters against the defendants yet to be tried.

Other Cases Affected. With the exception of one or two un-important cases all the remaining in-dictments are for conspiracy to defraud the government out of public land. If the prosecution should follow its previshow that after entrymen filed on public lands they made contracts with the deferenced as soon as title passed. In the past cases testimony has been introduced by Mr. Heney to show that these men who filed on the land contracted before the filing and also that they had understandings from that their respective schools in the morning fice. In the past cases perhaps two thirds of this evidence dealt with the contracts carried out after the first filing and at the time of the final proofs.

What Court Molds.

The supreme court in its decision.

The supreme court in its decision holds that the trial judge erred in allowing testimony on a matter not set out in the indictment, but also that it lay in the power of the men taking up the land to contract to sell it after the first papers had been filed.

Because of this ruling, therefore, many attorneys believe that Mr. Heney's cases have been stabbed deep and will be greatly weakened. It is contended that in all conspiracy eases yet to be true then he will have to depend for conviction on evidence treating of prior contracts alone; or, in other words, of conviction on evidence treating of prior contracts alone; or, in other words, of contracts by which defendants agreed to pay claimants for government land before these men filed their claims upon the land. Since in the past trial perhaps two thirds of the evidence of contracts related to acts done in furtherance of the contract after the first flings had been made, it is the belief of attorneys that Mr. Heney will be greatly weakened by the decision of the supreme court.

Officials' Contention. Some government officials, however, contend that the decision will in no wise hinder Mr. Heney. They point out that the Williamson indictment was drawn under the timber and stone act, while the conspiracy indictments have been drawn under the homestead act, which they contend is different in its provisions and will not bring Mr. Heney under the ruling of the supreme court.

That part of the supreme court's decision which deals directly with the question at issue is as follows:

We cannot perceive how, under the statute, if an applicant has in good faith compiled with the requirements of the second section of the timber and stone act and, pending publication, of notice, has contracted to convey, after patent, his rights to the land, his so doing could operate to forfelt his right.

When the context of the statute is brought into view, we are of the opinion that it cannot see possibly held without making by judicial legislation a new law, that the statute exacts from the applicant a reiteration at the final hearing of the declaration concerning his purpose in acquiring title to the land, since to do so, would be to construct the statute as including in the final hearing that which the very terms of the statute manifest were intended to be excluded therefrom. It remains to see, whether it was in the power of the commissioner-general's office to exact rules and regulations by which an entryman would be compelled to do that at the final hearing which the act of the statute and regulations by which an entryman would be compelled to do that at the final hearing which the act of the statute on Page Two.)

PROGRAM FOR THE LAND CASES.

Government witnesses to be summoned between now and the end of the week, in time for their appearance in court Monday morning.

Irwin Rittenhouse, of Washington, District of Columbia, who assisted in gathering the evidence for Heney and Neuhausen, to arrive in Portland tomorrow.

Francis J. Heney wires T. B. Neuhausen from Tucson, Arizona, that he will reach Portland Saturday to prepare for Hall trial on Monday morning.

Judge Hunt reserves apartments at Portland hotel for three weeks, beginning Sunday.

Documentary evidence has been placed in shape by T. B. Neuhausen for use by Heney in Hall and other cases. Judge Wolverton waiting to hear from Heney before calling jury to try cases.

William J. Burns, government detective, who assisted in former trials, supposed to be headed for Portland to take part in the Hall case.

Accident Ties Up Entire Offspring of Ruler of Guate-Streetcar System of the City for an Hour.

Because of an accident to the Cazadere power transmission line of the Portland Rallway, Light & Power company this morning the streetcar system

This morning the streetcars went lame at 20 minutes to 8 o'clock, and not a car moved in the city until nearly 10 minutes after 8 o'clock. The tieup occurred at the worst possible time for the school teachers, as nearly all of them were on cars on the way to their schools.

lisher Will Make Active Campaign for Congress.

(Special Dispatch to The Journal.) Pendleton, Or., Jan. 7 .- T. T. Geer will retire today from the active editorial management of the Pendleton Tribune and will be succeeded by W. F. Guion, who will assume full control as editor and publisher. Geer retires in order to place his personal affairs and business interests in shape to permit his conduct of his campaign for the nomination for congressman from the Second district, to which he will devote his entire time.

LINER MOUNT ROYAL MAKES QUEENSTOWN HARBOR WITHOUT AID

Queenstown, Jan. 7 .- The Canadian liner Mount Reyal, which had been giv-en up for lost, today entered the harbor under her own steam. The capialn re-ported that the ship had encountered

(United Press Leased Wire.)
Queenstown, Jan. 7.—The Canadian or Mount Royal, which had been given up for lost, today entered the harborder her own steam. The captain reder her own steam. The captain reder that the ship had encountered agreeable weather from the very be-

mala Wants Damages for Being Knocked Down.

(United Press Leased Wire.)

San Francisco, Jan. 7 .- Fifty thoufinancial salve which D. Cabrera, son

tell's son making ducks and drakes of a large wad of greenbacks in the vicinity of Barbara coast, and introduced himself to the young man. The pair engaged an automobile and proceeded to do the town. On completing the task they went to the apartments at \$17 Mason street, at the invitation of Whittell. There they encountered the elder Whittell, and after several hasty words the latter struck Cabrera on the mouth, knocking him down a flight of stairs and inflicting severe injuries.

FROM PAPER AT WASHINGTON

Pendleton Tribune's Pub- Legal Giants Appear Before

sistant, Purdy, appeared in behalf of the government.

The corporations contend that one clause of the Hepburn act releases them from any penalties that might grow out of violations of the Elkins law. The government takes the stand that this clause was inserted to preserve the old methods of procedure in cases then pending in the United States supreme court. The clause has not been referred to as a "sleeper," but it is supposed that it was inserted without debate in congress.

POLITICAL PRISONERS ARE GIVEN FREEDOM

(Special Dispatch to The Journal.)
San Salvador, Jan. 7.—The president has issued a proclamation granting amnesty to all political prisoners and giving permission to return to the country those banished, as well as citizens, who fled to avoid arrest for treason; also declaring the state of siege raised and relegating to forgetfulness all past dissensions.

JAPS MAY BUILD NEW NAVY FOR SPANIARDS

Tokio, Jan. 7.—Japan has just launched the cruiser Isutki of 14,620 tons, to make 22 knots. The entire work is Japanese.

As a sequel to Japanese success in shipbuilding, our minister in Madrid has proposed to the Spanish government to have the snips projected for the Spanish navy built in Japan, where the work can be done equally well with any European concern, and at a much lower figure of cost.

AS POWER

President Roosevelt Sends Name of Oregon City Man to Senate, Ignoring All but One of the Oregon Delegation.

Junior Senator Victorious Over Fulton and Colleagues-Nomination Is a Surprise Even to Successful Candidate.

(Washington Bureau of The Journal.) Washington, Jan. 7.—President Roosevelt has nominated Christian Schuebel of Oregon City district attorney of Oregon on the recommendation of Senator Bourne.

In recommending Christian Schuebel for appointment as United States dis-trict attorney for Oregon, President Roosevelt has once more ignored the wishes of a majority of the delegation from this state. Senator Fulton and sand dollars is the modest amount of Congressmen Hawley and Ellis were united in their opposition to Schuebel,

and by Senator Bourne.
Schuebel was employed in the paper mill at Oregon City for several years before he aspired to public office. In 1896 he was elected justice of the peace, largely through the votes of his fellow laboring men, and this office he held until 1900.

In 1902 he was appointed deputy district attorney under Harrison Allen, a position which he held for three years. So far as known, his experience years. So far as known, his experience as a lawyer practically dates from this period.

In politics, Schuebel was for several years an active populist, but later he became a Republican. It was after this political change that he became a partner of U'Ren, whose influence with Bourne is regarded as a potent factor in bringing about the nomination of Schuebel for United States district attorney.

ttorney. Pulton Was Wrong.

Unless Senator Fulton should refuse o concur in the nomination of Schuebel, Legal Giants Appear Before
Supreme Court in Effort
to Untangle Laws.

(United Press Leased Wire.)
Washington, Jan. 7.—One of the greatest legal battles ever started in the United States supreme court began today in an effort to interpert the rebate laws.

(United States supreme court began tobate laws.

United States supreme court began today in an effort to interpert the rebate laws.

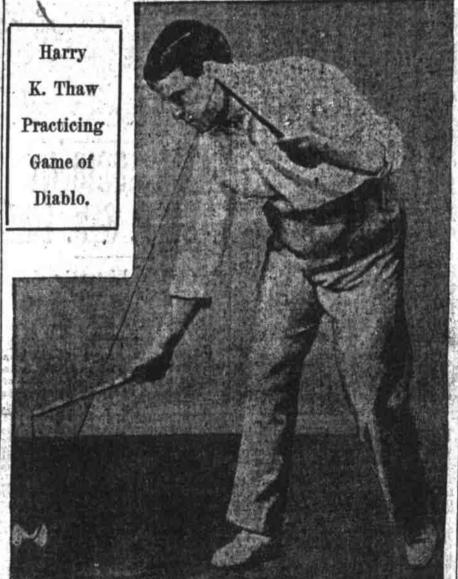
While the Great Northern railway is
most vitally interested in the proceedings, the Standard Oil company and
other vast corporations are indirectly
concerned and each one of them was
represented in court by an array of the
leading lights in the legal world. Attorney-General Bonaparte and his assistant, Purdy, appeared in behalf of
the government.

The corporations contend that one arose, Bourne flung aside this agree

(Continued on Page Eleven.)



CHRISTIAN SCHUEBEL, NEW DISTRICT ATTORNEY, TO SUC-CEED W. C. BRISTOL.



(United Press Leased Wire.)

Pittsburg, Pa., Jan. 7 .- According to a statement made by Mrs. Holman, mother of Evelyn Thaw, today, neither she, Howard Nesbit nor Miss Ida Simonton will testify in the present. Thaw trial. 'It has been common report that Miss Simonton would be one of the star witnesses for the state.

"Nothing would please me more than a verdict of not guilty in this trial," said Mrs. Holman. "Harry's wife is my daughter, and therefore of my own flesh and blood. Her happiness is mine, It would be little short of unnatural for a mother to aid in sending her own daughter's husband to the electric

New York, Jan. 7.—The examination of veniremen in the Thaw murder trial was resumed at 10:22 this morning. was resumed at 10:22 this morning.

The jurors entered the courtroom with their faces wreathed in smiles, but why no one knew. A few minutes later Harry Thaw advanced toward his seat with a springy step. In passing he stopped and chatted with Attorney Peabody a moment.

Considerable time was consumed in calling the names of the veniremen. Those who did not respond were fined \$250 each. When the examination was resumed Josiah Thaw, brother of the defendant, was the only member of the Thaw family outside of Harry who was present.

Sues City for Damages but Reduces Request to \$35 When Cured.

(United Press Leaned Wire.) Bellingham, Wash., Jan. 7.-Members of the city council are firm in the belief that there is an honest man in vinced last night when attorneys for Frank C. Meyers presented a bill to the city for \$35 for injuries received on a defective sidewalk. Meyers started suit in the superior court for damages of \$1,008. He has discovered that instead of being laid up for life he was hardly injured at all and \$35 will pay the doctor. the world. The councilmen were con-

MILD SMALLPOX

CASES SECLUDED

(Special Dispatch to The Journal.)

Junction City, Or., Jan. 7.—There has been a slight smallpox scare in town during the past few days. The only case in town was that of Merl Nichols, who was promptly quarantined. There were two cases in the country, William Calvert and David Strome's little boy, at These were also quarantined. The cases were also quarantined. The cases were of a mild form. All are getting along well. No new cases are reported or expected. Previous to the development of the smallpox cases there were a few cases of mumps, but none are being reported now.

AT BELLINGHAM LAW PROJECTED

Labor Leaders in Congress Will Prepare Substitute for Illegal Act.

Washington, Jan. 7.—There is a strong probability that before the present congress adjourns another employers' liability law will be enacted to take the place of the one that has just been declared unconstitutional by the United States supreme court. However, this is the prediction of the labor leaders in congress. The features in the La Follette law that was held faulty will be eliminated in the next act.

(United Press Leased Wice.)

Tacoma, Wash, Jan. 7.—Robert Meyer, scion of a wealthy and proment family of Hamburg, Germany, a until a month ago a student in University of Puget Sound, is in city jail charged with burglary, have been caught in the act of going through a rooming house. This is the second in the second i

Myron H. Thayer, a contractor, was being examined when Evelyn Thaw entered and greeted her husband with a smile. Thayer was disqualified for bias. After the first six prospective jurors had been examined and excused, W. H. Roberts was accepted as the tenth one. Nine-were accepted yesterday. Just before the noon adjournment counsel representing both sides agreed to the dismissal of jurors numbers five accepted in the proceedings so far. "Thave an opinion in the case," he told, Jerome. "Would it require evidence to remove it?" have an opinion in the case," he told, Jerome. "Would it require evidence to remove it?" have an opinion in the case," he told, Jerome. "Would it require evidence to remove it?" have an opinion in the case," he told, Jerome. "Would it require evidence to remove it?" have an opinion in the case," he told, Jerome. "Would it require evidence to remove it?" have an opinion in the case," he told, Jerome. "Evidence might remove it, but it certainly wouldn't change it, was his humorous reply. Everybody in the room was laughing when McCullough left the sland. The spectators were rebuked by the court of thatulking in the demonstration. The commissioners asked me about shift and Lynch and Smith were not in it; Smith and Lynch and Smith were not in it; Smith and Lynch and Smith were not in it; Smith and Lynch and Smith were not in it; Smith and Lynch and Smith were not in it; Smith and Lynch and Smith were not in it; Smith and Lynch and Smith were not in it; Smith and Lynch and Smith were not in it; Smith and Lynch and Smith were not in it; Smith and Lynch and Smith were not in it; Smith and Lynch and Smith were not in it; Smith and Lynch and Smith were not in it; Smith and Lynch and Smith were not in it; Smith and Lynch and Smith were not in it; Smith and Lynch and Smith were not in it; Smith and Lynch and Smith were not in it; Smith and Lynch and Smith were not in it; Smith and Lynch and Smith were not in it; Smith and Lynch and Smith were not in it; Smith and Lynch and Smith were not in i

Thred of Waiting.

"I have waited over four weeks for the commission to get together and I see no alternative but to bring suit in order to get them to meet. The way things look now it appears as if the legislature passed a one mans law. That law was not intentionally passed for one concern, and so far as we are concerned, our going into business would be anything but a detriment to the port. We propose to conduct the house in good shape and in accordance with the provisions of the law."

Charles Jost was formerly employed as watchman for Grant's boarding house. His brother, Harry, operated a large wheat farm in eastern Oregon for several years. The commissioners appear to have no complaint to make against the characters of the Jost brothers. Jost declares the board promised to meet several times, but each time one of the three mambers has falled to appear. The board consists of Captain Andrew Hoben, William MacMaster and B. Smith.

UNIVERSITY STUDENT EMULATES RAFFLES

KENTUCKY TOBACCO PLANTERS BURNED OUT BY WHITE CAPS

(United Press Lessed Wire.)

Cartisle, Ky., Jan. 7.—Night riders have again destroyed much property and created intense excitement in their efforts to induce certain folacce growsers to hold their products for higher prices.

Under cover of darkness late last high they dashed into Rothel. Sherbourne and Jackstown and left a trait of fire and guin behind them.