

FOR A NEW HEARING

HARNEY COUNTY MURDER CASE SENT BACK TO TRIAL.

Major Lee Moorhouse receives decision from Supreme Court in case of State of Oregon against George S. Miller and James Colwell—Guilty of Murder in Second Degree—Killing Was Over Ownership of a Colt.

Major Lee Moorhouse, deputy clerk of the supreme court, this morning received a decision from the court, in the case of the state of Oregon against George S. Miller, James Colwell and Bert Bailey, jointly indicted for the murder of J. W. Curtis, in Harney county, on March 22, 1902.

In the trial, Bailey was discharged and Miller and Colwell were found guilty of murder in the second degree. The supreme court reverses the decision of the trial court and grants the defendants a new trial on legal technicalities explained at length in the decision. Judge Morton D. Clifford, of Grant and Harney counties, was the trial judge. J. K. Weatherford represented the appellants and the supreme court opinion, remanding the case back for a new trial, is rendered by Justice Wolverton.

The case in question is one of great prominence in Eastern Oregon. Three stockmen of Harney county, George S. Miller, James Colwell and Bert Bailey, went on the night of March 22, 1902, to the premises of J. W. Curtis, near what is known as the Narrows, in Harney county, to recover a colt, which they alleged was stolen from Miller by Curtis. Curtis had warned Miller not to come on his premises, and the three defendants went after dark, with the intention of turning the colt out of Curtis' pasture and driving it away.

In the evidence it developed that Miller was armed with a shotgun, and was met by Curtis, before he reached the corral where the colt in question was held, and ordered off the premises. Curtis was armed with a 22-calibre rifle, and in an altercation Curtis was shot by Miller, and instantly killed. The plea set up by Miller was self-defense, himself and Colwell testifying that Curtis was shot while he was shooting at the defendants with the 22 rifle. Photographs were introduced in evidence, showing that several shot entered Curtis' body from behind, and in the side, proving that he was shot while going from the defendants, thus weakening the plea of self-defense.

One of the principal reasons upon which the new trial was granted, however, was that prejudicial questions were asked by the state, in the cross-examination, thus causing influences to act on the jury in forming a verdict, which were unjust to the defendants, and one other reason cited in granting the new hearing was a portion of the instructions of Judge Clifford, which was to the effect that danger of life must be present, plainly apparent and urgent on the instant, to warrant the plea of self-defense, whereas the supreme court holds that the appearance or

Your grocer is glad to return your money, if Schilling's Best is not good-enough for you. It isn't his money.

FREE GIFTS

On Wednesday, December 16th, and Monday, December 21st, with every 50c cash purchase of Glassware or China we will give one Child's Set, PLATE, CUP, and SAUCER.

See display in our window.

C. ROHRMAN
COURT STREET

hint of danger, or reasonable ground for belief that danger exists, is sufficient support for the plea of self-defense.

SAMUEL ADKINS DEAD.

Passed Away After Short Illness With Pneumonia.

Samuel Adkins died in this city yesterday afternoon about 4 o'clock, after a short attack of pneumonia. The deceased was well known in the city, having been here and in the vicinity for many years. He was 45 years of age at the time of his death and was a native of Springfield, Mo., having come to this state in his early manhood.

The body is now at the undertaking parlors of M. A. Rader, awaiting the arrival of his sisters, who are residents of Portland. They will be in the city this evening, and will make arrangements for the burial.

NEW SEATS.

O. R. & N. Adds New Ones to Its Depot Accommodations.

The O. R. & N. company has put in a lot of new seats in the depot, which adds much to the convenience of the traveling public. The seats are of slat work with iron divisions, which make it impossible for one person to take all of the room on one bench for himself. There are now plenty of seats for all who may wish to find them, in the waiting room.

TOURNAMENT AT HEPNER.

Eight Events Scheduled, With Added Money.

The Heppner Rod and Gun club is making arrangements for a tournament to be held at that place on Christmas day. Eight events are scheduled to take place, with added money for each event of from \$10 to \$15. This, with the entrance fees added, will make an average of about \$25 to the purse.

Auction Sale of Stock.

Pursuant to an order of the court, the stock of the T. D. Gaddis candy store, on Court street, was sold at public auction this morning and was bid in by W. D. Fechter, the owner of the fixtures of the place. The store was closed some time ago on an attachment suit by Bishop & Co., of Portland, and the stock was ordered to be sold on account of its perishable nature. It brought \$45.

Will Visit in Ritzville.

Mr. and Mrs. J. H. King will leave this evening for Ritzville, where they will spend the holidays as the guests of their son, W. W. King and daughter, Mrs. Dan Scott. Mrs. King will also meet at this time a sister, Mrs. William Williamson, of Humboldt, Neb., whom she has not seen for 23 years.

Guardianship Petition.

A petition was filed in the probate court this morning by Mrs. Agnes Rainville, asking for letters of guardianship in the case of her daughter, Maggie Rainville, who is the heir to a piece of land by the death of her father. The petition was granted and letters were ordered to be issued by the clerk.

Dr. Lieualien in Town.

Dr. Fred Lieualien, of Portland, is in the city for a holiday visit with relatives and friends. Dr. Lieualien is a former resident of Adams, but is now located at Portland.

Visitors From Canada.

Miss Mary Walker, of Hamilton, Ontario, Canada, arrived in Pendleton last evening to visit with her aunt, Mrs. A. M. Snyder, of Jefferson street.

Inflammatory Rheumatism.

John McCourt, of the firm of Balle-ray & McCourt, is in the grip of an attack of inflammatory rheumatism, and is partly confined to his home.

THE WHOLESOME CRESCENT



Egg-Phosphate

BAKING POWDER

The remarkable increase in consumption demonstrates its superior merits and wholesomeness.

ONE POUND 25 CTS

MEETING TONIGHT

NEXT TO LAST SESSION OF PRESENT COUNCIL

Final Report of Sewer Committee Will Be Heard—Many Applications for Liquor Licenses and Questions of Licenses for Transients Will Be Considered—Unfinished Business of Different Kinds.

The city council will meet this evening for the next to the last time that the old members will have a seat in the deliberations of the body. There is not much of interest that will come up, but there are many things of small moment that the old members will have to look into before they turn over the business of the city to those who are new in the management.

The report of the committee on the sewer will be heard this evening, and the work will be adopted. All has been found to be satisfactorily done, and there is no doubt but that it will be accepted by the council. There are many applications for liquor licenses to be acted on at this meeting, and some other routine business.

The ordinance fixing the licenses for all business requiring a license is still in the bosom of the license committee, and will in all probability be brought out this evening for final passage. There are one or two other ordinances to be acted upon before the council closes up the unfinished business of the year.

The recorder will bring up considerable unfinished business this evening which should be acted upon by the old council before it goes out of existence, in the way of bills and accounts that have been ordered to committees for investigation and never reported back. There are several of these, and they should be acted upon by the men who are familiar with their nature and cause. Other matters of a like nature will be considered at this meeting and the next. In fact, about all that the present council has of importance to do is to conduct a small house cleaning campaign in order that the incoming members shall have an even start with their business.

K. OF P. ENTERTAINMENT.

Very Enjoyable and Attended by About a Hundred People.

The Knights of Pythias entertained their wives and friends, and the friends of their wives last night at their hall. About 100 people were present, and a most enjoyable time was had, the principal entertainment of the evening being progressive whist. At this game Colonel J. H. Raley and Dr. Marie Equi won the first prizes, the gentleman's being a very neat cribbage deck in a leather case, while the lady was presented with a copy of "Bitter Sweet," bound in burnt leather.

Dr. T. H. Henderson and Robert Renn were the winners of the booby prizes, one being a present of the much played game of Jack Sprat, and the other a designation of the three fates, consisting of a picture of a very poor hand at cards, an empty cup and an opium pipe showing the three vices to be shunned by all.

An enjoyable musical and literary program was presented during the evening, and the guests voted the knights to be royal entertainers.

SETTLED AMICABLY.

Preproperty in Question Decided to Mrs. Staags and Contest Withdrawn.

The final settlement of the estate of Alfred Staags, deceased, came up in the probate court this afternoon and was settled amicably to all concerned.

The contest in the case had been brought by the widow, who objected to the provisions of the will, which gave her an interest in the property as long as she remained unmarried. The widow objected to this provision for the reason that she had children by a former marriage, and therefore, would not feel like improving or maintaining the property at her expense when it would do her children no good after her death.

The heirs in the estate decided the property in question to Mrs. Staags, and the contest was settled out of court.

OLD SETTLER DIED.

Mrs. Nancy Wilkinson Passed Away Near Alba, Aged 86 Years.

Mrs. Nancy A. Wilkinson died at her home near Alba, yesterday morning, from an attack of heart failure. Mrs. Wilkinson was an old resident of the county, having lived near Alba for many years. Her husband was a well known farmer of that part of the county for a number of years, and died several years ago. The deceased was 86 years of age at the time of her death.

There are three sons surviving—William M., Spence and Joseph Wilkinson—the latter of whom is the proprietor of the Mountain Home, a summer resort about half way between this city and Teal Springs. The funeral will be held tomorrow morning at Pilot Rock, at 10 o'clock, the burial to be made in the cemetery at that place.

PLOWING IN PROGRESS.

Rain is Welcomed by Farmers in the Cold Springs Country.

H. J. Miners, of the Cold Springs district, was in the city today on business and reports plowing yet in progress in many places in that locality. The rain of the past week has been welcomed by the farmers who are enabled to finish up their fall plowing. Usually the ground is too dry to plow at this season of the year, but this

year is an exception and a large acreage will be plowed.

The soil in that district will stand more rain than in many parts of the county, and while the same amount of rain in other districts would have been a hindrance to farming, it was just what was needed there.

CHURCH BENEFIT.

Very Enjoyable and Profitable Affair at Presbyterian Church.

A church full of people greeted the ladies of the Presbyterian church last night when they gave their entertainment, which had been prepared under the supervision of Mrs. C. J. Smith. It was given for the benefit of the church, and was most successful, netting the management \$51.

One of the features of the evening was the initial appearance of Mrs. W. H. Bleakney, the wife of President Bleakney, of the Academy. Mrs. Bleakney has appeared at many readings in the east, and is an accomplished elocutionist, and her rendition of "Ben Hur's" chariot race was a surprise and a delight to the large number of people present.

The program as given in full is as follows:

- Piano solo—Mrs. Marsten.
- "Home Song" and "My Home is Where the Heather Blooms"—Mrs. J. Ross Dickson.
- "The Chariot Race" from "Ben Hur"—Mrs. Bleakney.
- "The Sentinel Am I" and "Asleep in the Deep"—Mr. Lundell.
- "Cradle Song" and "Constancy"—Mrs. J. A. Borie.
- "The Bobolink"—Mrs. Bleakney.
- "My Queen"—Mrs. Marsten.
- "Shandon Bells"—Mrs. Bleakney.

To Visit W. S. Perry.

Mrs. Hugh McArthur, of Portland, formerly of Athena and Weston, will arrive tonight to visit with her sister, Mrs. W. S. Perry, in this city until after the holidays. Mrs. Perry and Mrs. McArthur will probably spend Christmas with friends and relatives in Weston.

Conductor Nash Laid Up.

Conductor A. P. Nash, one of the old employees of the O. R. & N., is confined to his home with an attack of rheumatism. One of his legs is so affected that he cannot walk. His run is being taken by J. L. McCrary, an extra passenger conductor from La Grande.

Elegant New Cottage.

Robert Laing has just completed an elegant cottage on Johnson street, adjoining the Chris Hanley property. The cottage is now ready for occupancy and Mr. Laing has had almost a score of applications to rent.

Lambs Sold.

Saunders Bros. sold to John Hayes of Heppner 800 head of lambs for \$1.25 per head, they to deliver them at Farnsworth's ranch, near Hardman, Mr. Hayes paying the expense of delivering—Long Creek Light.

Well That You Know.

Don't forget that for every dollar paid on account you get a ticket on the seven prizes. The Peoples Warehouse.

John Snyder, aged 23, was honorably discharged at Mare Island from the navy, after four years service for \$13 per month. He immediately left for the north and east to take charge of \$250,000 left him by his father, who recently died.

GRAND MASQUERADE BALL

December 31

MUSIC HALL

300 Costumes

from Portland

Will be on display in
JUDD BUILDING

Cash Prizes

Five dollars for the best lady character

Five dollars for the best gentleman character

Music by

KIRKMAN'S Orchestra

MASONIC ELECTION.

Full Corps of Officers Chosen by a Large Turnout of the Members.

A full delegation of the Masons were at the lodge rooms last night to elect the officers of the lodge for the ensuing term. After the routine of the meeting the officers were elected as follows:

Worshipful master, T. W. Ayres; senior warden, Dr. E. A. Vaughn; junior warden, J. B. McDan; chaplain, Rev. G. W. Rigby; secretary, Joe H. Parkes; treasurer, W. D. Hansford; senior deacon, Will Moore; junior deacon, L. Hunkler; tyler, W. W. Nye; senior steward, W. H. McCormack; junior steward, C. A. Eppinger.

T. C. Taylor, Robert Forster and G. A. Hartman were elected trustees for the lodge for the ensuing year.

The installation took place immediately following the choice of officers.

Well That You Know.

Don't forget that for every dollar paid on account you get a ticket on the seven prizes. The Peoples Warehouse.

Some of the

Suitable Gifts in Our Store

Knives for Ladies, Gentlemen and Boys. All sizes and shapes. Razors, Table Cutlery Carving Sets, Shot Guns and Rifles. The new Browning Automatic Shot Gun, a revolution in gun working. Examine this new invention.

We handle exclusively in Pendleton the Rochester Nickle Plate Ware.

THOMPSON HARDWARE CO.

621 Main St.

Closing-Out Sale

OF

35c CHINA SILVER

ALL COLORS

22c

AT THE

Busy Boston Store

Useful Presents

I have a full line of RODGERS 1847 WARE. Chafing Dishes, Tassel Mats, Carvers, Pocket Knives for men, boys and ladies, Razor outfits, nickel plated Ware, etc., that will make nice and useful presents.

Call and examine my line before buying.

TAYLOR

The Hardware Man
741 MAIN STREET

YOUR CREDIT IS GOOD

For one of our high-grade Sewing Machines. The Singer is acknowledged to be the most perfect sewing machine built. Time has proven it to be the best machine for any purpose. We would be pleased to have you take a Singer on trial. We know what the result will be, for a trial proves its merits. A small payment down and the balance in easy payments.

Office—509 College Street

P. A. LOVETANG, Manager.

NOT GOOD, NOT HERE

CHRISTMAS SPECIALS

- Celery—Large crisp bunches, 4 for 25c.
- Oranges—Large and sweet Navels, 30c per dozen.
- Cranberries—Nice New Jersey berries, 15c per quart.

GIVE US YOUR ORDER.

F. S. YOUNGER & SON