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he Paper is Published Strictly in the Interests of Morrow County and Its

#### SEVENTEENTH YEAR

HEPPNER, MORROW COUNTY, OREGON, THURSDAY, NOVEMBER 9, 1899,

NO. 755

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Heppner, Oregon.

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Pioneer Tailor of Heppner. His work first-class and satisfactory. Give him a call May Street.

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Feed and Sale Stable

Has just been opened to the public and Mr. Gordon, the proprietor, kindly invites his friends to call and try his first-class accommodations.

Plenty of Hay and Grain for Sale Stable located on west side of Main street between Wm. Scrivner's and

A. M. Gunn's blacksmith shops. For the ladies-A fine horse and lady's sa Idle

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THE OLD SHOP! Is the place to go to get your fine pork

and lamb chops, steaks and roasts. Fish Every Friday.

Fine sugar-cured hams and bacon. Pure lea lard, kettle-rendered, old style, Highest cash price paid for at stock. Bock & Mathews.

HEPPNER-CANYON CITY THE ART OF BREWING\_\_\_\_

Stage Line -B. F. MILLER, Prop.

Cheapest and most direct route to John Day valley, Canyon City mining district, Burns and other interior points, Stages leave Heppuer Daily, Sunday excepted, at 6:30 a. m. Arrive at Canyon City in 24 hours.

Leave Canyon City at 4 p m., arrive at Hepp-ner in 24 hours connecting with trains. HEPPNER TO 20 \$1.50 55 4.00 65 4.75 15 5.50 83 6.90 102 8.00 104 8.00 Hardman

Stages connect with trains at Heppner. Note.—Having stocked up this line with new covered coaches and good teams I am prepared give first-class service to the public.

# ARLINGTON-FOSSIL Stage Line

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FARE FROM	AR	LINGTON T	0
Fossil (60 miles)			
Mayville (53 miles)	4.00.	Round trip	7.00
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Stage leaves Arlington every morning Staple and Fancy Groceries.
(Sunday excepted) at 6 o'clock; is due Fine Teas and Coffees. at Condon at 3 p. m. and arrives at Foseil at 7 p. m.
Comfortable covered coaches and care
T. R. HOWARD,

203 Washington St., Portland, Or.

MIMS RECEIVES SENTENCE.

Judge Lowell Gives Five Years and Fine of \$1,000

Judge Lowell passed sentence upon

immediately. Mims replied firmly:

fact that I am not guilty." Lowell then passed sentence.

termined.

PASSING SENTENCE ON EDWIN L MIMS Judge Lowell's language in full, as he

passed sentence, was: I shall do so in this case.

"Since the rendering of the verdict tried before a better jury. some of the jurymen who sat upon the the statute should be imposed.

verdict was reached.

ing it an expression in ordinary phrase the same aside unless there has been a of the sentiment of the entire tweive palpable failure of justice. men with whose endorsement it is pre-

A Leading Eastern Oregon Hotel

judgement, permit. Stockmen's Headquarters.

prerogative. case at this time, I take into consider or justly killing him to self defense. ation fully the recommendation of First-Ciass Sample Rooms. to the verdict, but neither my duty nor expressions of jury men to weigh no v.

neither be avoided, nor shared by Was Perfected by the

ment of the court is that you be imprisoned in the state penitentiary for the period of five years, and that you pay a fine of one thousand dollars."

DENYING THE DEFENSE'S MOTION In the motion for a new trial inter-On draught at all popular saloons

posed by defendant in this case seven grounds are presented, upon four of which counsel in their argument apparently chiefly rely, to wit: errors in law occuring at trial; misconduct of special counsel for state in commenting upon the evidence produced by the state; newly discovered evidence; and misconluct of the jury.

The first two grounds referred to involve points of law raised upon trial, wherein defendant's riguts were fully ime, and both present technical legal through the stampede of his mules. questions, debatable it is true under the would not be warranted in granting a new triel.

The affidavits before the court elimi- to help the Boer cause. ante from consideration the question of Groceries, Provisions, Glassware, Tinware and Furnishing Goods. information important to the defense. White at the front. seems to have been a frequent caller Heppiner. be seeking evidence favorable to himself 'absence of advice from the front,

and to know that what Lee now says, if | true, would be valuable evidence, makes that ground for a new trial wholly un. The Boers Capture Two Regiments and a

tenable. The fourth ground, the alleged mis- By the Associated Press. Edwin L. Mims this morning, at 9:15 conduct of the jury in returning a como'clock, having previously denied the promise verdict, presents a somewhat General White commanding the British William Hale at Dale, Umatilla county, defense's motion fer a new trial. His common and probably unavoidable in forces at Ladysmith reports that the Oregon, on September 29, returned a judgment was that Mr. Mims be con- congruity in the jury system. A strict royal Irish fusileers, a mounted battery verdict of "not guilty" Sunday, after fined in the state penitentiary for a term construction of the law will not coun and the Gloucester regiment were sur- baving been out since Saturday afterof five years, and that he pay a fine of tenance a compromise in the jury room, rounded in the hills by the Boers and noon. Mr. Townsend was, therefore, After denying the motion for a new who has ever sat upon a jury, knows capitulate. Casualties not ascertained. Sheriff Blakley opened the door of the trial, Col. Raley, for the defendant, that the great majority of verd ets are stated that further time would be in some degree a compromise, indeed unexpected nothing like the staggering. In the instructions given to the jury waived, and sentence might be passed the very spirit of the jury trial is that in blow General Joubert delivered to Gen- by Judge Lowell was one upon which,

occured." "The jury which returned a verdict of justice; indeed there has been ac in this case accompanied it with a corded this defendant a full, fair and recommendation conched in substance impartial trial in every sense of those By noon sorrow prevailed throughout although it was shown by the defense's in the following language," "We, the terms. The case has been tried with the British metropolis. At the govern- witnesses that Hale threatened to cut jury, recommend the defendant to the marked ability on both sides. Nothing ment office no effort was made to conceal out Townsend's heart, and remarked extreme mercy of the court." It has has been omitted which could illumine the feeling of dismay prevailing. One that he would cut large numbers of shoe always seemed to me that such a recom- the circumstances of the unfortunate official said to the representative of the strings out of the hides of the other two mendation very properly be made by a tragedry, or assist the jury in arriving Associated Press: "It is unexplainable men. trial jury, if they conceived that they at a proper verdict. With untiring zeal, were warranted by the evidence in so watchful care and unusual skill defenddoing; and in passing sentence in the ant's rights have been guarded and his past I believe I have invariably respect- cause presented. His counsel need have ed the request of a jury thus expressed. no regrets. No man accused of crime bas ever been more ably defended, or

The jury was composed of substantial case (not at bowever) have called upon citizens. They were neither children me to advise what the language of their uor weaklings, and the court must asrecommendation was intended to im- sums that the verdict returned was their port, giving me to understand that they | verdict-the verdict of each as declared "No judge can be governed by the of mercy; reflecting the compassion and opinions or desires of individual juors, sympathy of a part or all the jurymen, however much may respect the men. may indicate a compromise: it probably voice of the whole jury, and upon that court should say that the vardist itself . lone the judge can act. Were it other is not the expression of the combined wise, in this case as well as most others opinion of the whole panel. If courts of mounted troops, two brigade divisions there would be tendered as many differ- were to be governed by what individual of the royal artillery, the Natal field ent opinions in the jury room before the jurymen may say after vardiet to inter- battery and a brigade of infantry to re-"A judge is not bound to consider any proceedings of the jury room, I fear oes he must construe the language of Because a verdict has in it the elements

While it is the province of the jury to determine the facts, it is the duty of the "In this case, therefore, I shall follow judge to follow the evidence in order the recommendation, giving it the that no injustice may be done, and that ressonable construction that the jury he may be prepared, in the event of did not intend to dictate to the court, or conviction, to impose a just sentence to trespass upon its province, but in- In this case I am convinced that no lowest penalty which the conscience justified by the evidence. The elements and duty of the judge would, in his of premenditation and deliberation "With the finding of the verdict the first degree were lacking, and the eleresponsibility of the jury ceases, the ments of purpose and malice were not

mercy which the jury saw fit to attach slaughter, viz: "If any person shall, without malice, express or implied, and my judgement will permit the individual without deliberation, upon a sudden Their fire became very scorching and "Imposing sentence is always a pain- apparently sufficient to make the passion ordered to fall back. The enemy then ful daty, but it is one which the law irresistible, voluntarily kill another, pressed to short range, the losses on and end, in Sharkey's corner, yelled for imposes upon a trial judge, and in such person shall be deemed guilty of our side became very numerous. At 3 Sharkey, and the men were led back to which unbappily responsibility can manslanghter," defines the crims as I p. m. our ammunition was practically their dressing-rooms. "Honoring, then, the jury's recom- the jury having returned that verdict, the enemy's hands. The want of sucmendation of excreme mercy, the judg- the court will not be warranted in setting the same aside.

The motion will be therefore denied.

BRITISH BLUNDERS.

Stame is Divided Between White and Carle ton-Use of Cavalry Scouts Might Bave Averted Disaster. Weekly Globe Democrat.

English military experts are agreed that the disseter of Monday near Lady smith was due to bad blunders. Gen. White is blamed for not having

ing made any effort to extricate the command from its untenable position. Gol Carleton is blamed for not having

BRITISH DEFEATED.

Battery, Including 2000 Men.

and yet every lawyer, and every man after loosing heavily were obliged to ordered released by Judge Lowell, and

where there has been any miscarriage be a great help to the Boers. Never with a Winchester, as he did admittedly. was the old saying, "Bad news travels . The element of self-defense appeared and I am sorry to say the moral of the The fact that there was a bed and ffect is inestimable, we have lost heavterrible." As the day wore on crowde dict of not guilty. around the war office swelled to enorhome of many of those engaged, the wildest excitement prevailed.

A dispatch from Ladysmith says the Boers suffered severely during the endesired that the lowest sentence under to be when the same was presented and gagement, some persons estimating their filed. It is true that a recommendation loss at 700 to 1000 killed and wounded. CAUSE OF THE ROUTE.

LONDON, Nov. 1-The war office today made public a dispatch from General The law makes the verdict itself the does; but that is no reason why the While, describing the operations of Monday. It to or follows:

We took out from Ladysmith a brigade right flank.

Circumstances which attended the movement of Carlton's column are not and a broken hand. yet fully known. But from reports received the column appears to have car-Nek. At this point two boulders rolled necessary to constitute mardir in the from the bill and a few rifle shots stampeded the infantry ammunition mules. governor the power of pardon, if there on the other hand the evidence failed to greater portion of the small arm ammuor circumstances surrounding the as- The infantry battalion fixed bayonets, vicious bliws. "Therefore in passing sentence in this sault made by Miller as would excuse and accompanied by the personnel of the artillery, seized a hill two miles The statutory defination of man- from the Nek, with but little opposition.

heat of passion, caused by a provocation two companies of Gloucesters were view the evidence given from the stand, exhausted. The position was captured of which this defendant is guilty; and and the survivors of the column fell into cess was due to the stampede of the mules, and the consequent loss of guns and the small arm ammunition reserve. The security of Ladysmith is in no way affected.

A DEFAULTING OFFICIAL.

Henry Day Leaves Eugene Suddenly Being Over \$2000 Short in His Accounts.

provided means of keeping in touch with known throughout this county in his number of rattlesnakes found there. Col. Carleton's column and for not hav- connection with official positions and more especially as first deputy under Sheriff Withers, left Eugene for Portland, ostensibly on official business but retired to Ladysmith immediately after has developed since, for the more clear much gold was taken from the Klondike preserved by exceptions taken at the the loss of his artiflery and ammunition purpose of quitting Eugene and com- fields the past season. Since the English munity with a balance of over \$2000 government imposed a royalty, the min-In some quarters it is suggested that against him on the Sheriff's books. ers have adopted all sorts of ruses to authorities, but upon which a trial court the Cape boys who were driving the Nothing was thought of his absence un- evade the law. It is rather difficult to mules and whose loyalty has been under til Sunday when Mrs. Day received dodge taxes, but it is more difficult to enspicion, caused the stampede in order word that he would not be home until dodge a bad cold and the grip at this later. The first part of the week Sheriff time of year. When the system is weak-An unconfirmed report asserts that Withers and Deputy Fisk reviewed the ened by such attacks, and the blood benewly discovered evidence. The man Gen. Sir Redvers Buller has left Table books when the defalcation was discov- comes thin and impoverished, the best Lee, now brought forward as possessing Bay for Durban, en route to join Gen, ered. The action of Mr. Day comes as medicine to take is Hostetter's Stomach a surprise to everybody and more espec- Bitters. This remedy builds up the sys-Though chagrin over Monday's reverse islly Mr. Withers and others who have tem. Besides regulating digestion, it upon defendant after his mesterness has been tempered with satisfaction over placed in him the most explicit confi- overcomes constipation. It is good for tion; and that fact, coupled with the the gallantry of the unfortunate troops dence. As this paper goes to press no the kidneys and liver, too, stimulating other fact that defendant is himself a anxiety for the safety of Ladysmi th and new developments come to hand and the these organs into the proper performance lawyer and beace naturally presumed to Gen. White's army is beightned by the whereabouts of Henry Day still remains of their functions. Nothing is so good

TIM TOWNSEND GOES FREE.

Verdict of "Not Guitty" in the Homicide

The jury in the case against Tim LONDON, Oct. 31-A dispatch from Townsend for the alleged murder of While minor reverses were not wholly jail and Townsend went forth a free man.

the verdict shall blend and merge the eral White's forces yesterday was antici apparently, the jury based the verdict. Judge Lowell asked Mr. Mims if he varing opinions of twelve men. They pated. The full extent of the disaster is The instruction in question was to the had anything to say to the court why are expected to discuss the evidence and not yet acknowledged, if known at the effect that Townsend was justified in sentence should not be passed. Mr. reach, under the law, a common senti- war office. The loss in effect must be killing Hale, in case the evidence showed ment which is voiced to the world appalling to General White, who is that Hale was about to commit a felony "Nothing, Your Honor; excepting the by their verdict. Compromise must practically surrounded. Two of the on Tom Tattle, Townsend's friend, at exist as long as the human will is finest British regiments and a mule the time being in a dwelling house. It Counsel desired to say nothing further stubborn and a jury composed of more battery deducted from the Ladysmith appears from the testimony that Anderin behalf of the defendant, and Judge than one man. The courts recognize garrison weakens it about one fifth its son, the man who kept the tent saloon, this, have come to a practically noiform total strength and alters the whole situ-C. H. Carter, of counsel for the de- acceptance of the salutory and wise rule ation materially in favor of the Boers, cooked his meals there, in short, that fense, was asked by the East Oregonian in motions for a new trial, that "Such who have again shown themselves Anderson lived in the tent as his dwellif the defense was prepared at this time is never to be granted if the court con- strong fighters and military strategists ing house, as well as ran a saloon there. to say whether appeal would be taken, ceives that the substantial legal justice of no mean order. The disaster cost the Consequently, the apparent intention of and replied that they were not yet de of the case has been reached, notwith- British from 1500 to 2000 men and six Hale to kill Tuttle by cutting him with standing that irregularities may have seven pound screw goes, and as the a knife, thus committing a felony on Boer artillery was already stronger than Tuttle in a dwelling house, was legal In the case at bar I am unable to see | imagined the capture of these game will | justification for Townsend shooting Hale

quickly" better exemplified than today. not to figure as principal in the case,

stove in the tent used by Anderson in ily in many ways and had regiments living, appears to have been the saving almost wiped out, but to have our regi- slement for Townsend, and in all probaments captured and by the Boers is bility caused the jury to return the ver-

Of course, this verdict ends the case, mons proportions and at Gloucester, the because the State of Oregon never appeals, and Townsend is permanently free from the allegations of the prosecution, going free from the charge carried in the indictment.

Never has a homicide case tried in the courts here attracted so little attention, at times not more than half a dozon people being in the room as spectators.

JESTRIES STICL ORANGION.

But He Falled to Knock Out Sharkey, Who Gave Him a Terrific Fight.

NEW YORK, Nov. 4-Although Tom ested parties as to the expressions and counciter in force the enemy's main Sharkey failed to secure a decision in his position. In connection with this an fight with James J. Jeffries, the chamrecommendation of a jury, and if he many trials would never find an end- advance column consisting of the Tenth pion, last night at Coney Island, N. Y., mountain smillery, four half companies he can lay claim to credit for putting up the recomendation as it appears, deem of compromise will never justify setting of the Gloncester and six companies of one of the most terrific contests ever of the Royal Irish fusileers, under Lieu- witnessed in the pugelist ring. Jeffries tenant Colonel Carlton and Major Ayde, himself very frankly admits that it was was dispatched to march by night up by far his hardest battle, and the big the Bell spruit, thus turning the enemy's champion today carries a split nose, eye and ear as evidences of what he was up against. Sharkey has two broken ribs

In five rounds Jeffries had the better of the fight-in the first two and the last tended to sak that there be imposed the other verliet than manalaughter was ried out the night march unmolested, three: During the other 20 Sharkey until within two miles of Nicholson's forced the issue, and, like a bull terrier, was at his man with both hands uncessingly. In those 20 rounds Jeffries' great weight and brawn belped bim to The stampede spread to the battery hold off the sailor, and in the 22d round law having imposed upon the judge the sufficiently apparent to make the homi- mules, which ran away with practically he swung in a couple of vicious upperduty of passing sentence, and upon the cide murder in the second degree; while the whole of the gun equipment and the cults that made Sharkey gruggy. Tom came back again in the 24th and 25th, is warrant for the exercise of that high disclose to my mind any such conditions nition. The reserve was similarly lost, but he was weakened greatly by Jeffries'

One minute before the gong sounded to end the fight, Jeffries' left glove came and practically the contest was over. At dawn the sairmish attack on our The referee motioned to Jeffries' corner, position was commenced by the enemy. an American flag was flung over the champion's shoulder, and the crowd on that side and end of the arens cheered

Killed 51 Rattlesnakes

PENDLETON, Nov. 5-The sons of R. C. Dunnington, a rancher living in the Vansycle country, went to Rattlesnake Springs, near there, the other day. One of them saw a rattlesnake and killed it. Another appeared and resented the attack on their resort and, likewise, was also killed. The boys kept on killing rattleenakes until 51 had been destroyed. The peculiar feature of it is no one has seen any rattlesnakes in that vicinity for many years, although originally the On Friday, Oct 20, Henry J. Day, well springs were named because of the large

Output of the Kloudike.

No one will ever know exactly how