

TRIAL OF FAULDER FAIRLY UNDER WAY

COMPLETED

MOSTLY FARMERS, WORKED UPON TO SIT
ON MURDER
TRIAL

At this afternoon the trial of Norman Faulder for the murder of Louis Gebhardt, cook on the Erickson & Peterson construction camp near Williamson river last August, was completed and sworn in by a jury largely of farmers. The jury consists of the following: J. E. Book, farmer, near Merrill; S. S. Hill, timber cruiser, near Polk; Perry O. Delap, druggist, Klamath Falls; James Hilton, pool room operator, Klamath Falls; Jacob Whitlatch, farmer, near Merrill; Solomon Dewey, farmer, near Merrill; F. L. Pope, farmer, near Merrill; E. E. Walker, cattle man, near Merrill.

To fill out the 12 names ordered by Judge Henry L. Benson to be sworn for jury duty in the Nobel Faulder murder trial Sheriff William A. Barnes yesterday summoned E. E. Walker of Bl. Brown Michael of Bl. Brown and H. C. Gunn of Bonanza. They take the places of W. E. Nicholson of Fort Klamath and J. W. Taylor of Merrill, excused on account of illness, and George W. Fullerton of Polk, who could not be located by Sheriff Barnes. The other nine men made up the dozen from which the judge selected the jury. The jury was sworn by Judge Benson. The trial was held in the courtroom of the courthouse in Klamath Falls. The defendant, Norman Faulder, was represented by District Attorney Charles J. Ferguson, and the prosecution was handled by District Attorney Kuykendall and Assistant District Attorney Charles J. Ferguson.

When Brown Michael was questioned District Attorney Kuykendall asked him how long since he had been on jury duty. "I served last June on the grand jury," he replied. "The court will excuse Mr. Michael," said Judge Benson. "But, your honor—" began Michael. "The statute is plain," insisted the court. "But if your honor, please—" "The statute says that a man who is sworn on a jury within a year cannot serve," his honor stated. "But the supreme court has stated otherwise," insisted O'Neill. "What's the case I'll back down," said the judge. "What's that, your honor?" "If the supreme court holds you contend, the court will back down. I will hear you, Mr. O'Neill." The lawyer then cited to the court the 15th Oregon, page 151, as well as the 46th Federal Reports, page 633. He read the Oregon case the court immediately excused Mr. Michael, saying in effect that the decision was on a case parallel to the one in trial. The defense accepted.

The next questioned was Mr. Phillips, who is a farmer from about ten miles from the city. He said he was married man and had come from California. He had, he said, lived on the coast about 40 years. He had been the killing of Louis Gebhardt, a cook, who was killed by the defendant, Faulder. He was finally sworn in.

F. L. Pope was satisfactory to both sides, and passed into the jury box, leaving but one other man to be chosen. Leo Denton, called for examination, said he had talked last night with Jack Barry, a Fort Klamath saloon keeper, a witness in the case, as well as with Charles Gates, another witness. He had also had some conversation with a man named Engle or English. He denied he had discussed the merits of the issue with them. These admissions were made after he had been passed as satisfactory to the defense and was being quizzed by the district attorney. Asked if he had talked with Norman Faulder, brother of the defendant, he replied that he did not believe he had.

At first he said he had been around "one place and another" last night until about 9 o'clock. "Did you go to bed at 9 o'clock?" asked Kuykendall. "Do you mean this jury to understand that you retired at that time?" "No, sir, I would not say exactly that." "With the understanding that you are under oath here the same as though you were testifying on the witness stand and that you are liable for perjury if you do not tell the truth, what time did you go to bed?" "I guess it was about 2 o'clock." A utter circulated among the benches and chairs in the courtroom, including the seats in the jury box. "Do you understand that the defendant is presumed to be innocent?" "No, sir." "If the question of insanity is raised by the defendant would you give the state the benefit of the doubt the same as you would to the defendant in all other respects?" "No, sir." "We challenge the juror." "The challenge is sustained and the juror will be excused," said the court. "We would like to have an exception noted, your honor," pleaded Attorney O'Neill. "An exception may be noted." N. J. Gunn was excused and F. L. Olds called to the stand. His idea was that a man was responsible for a crime when drunk the same as though he were sober, although he admitted that continued drunkenness causing loss of perceptive power and the mental ability to distinguish right from wrong might properly be considered ameliorating. His idea was that voluntary drunkenness was a defense against crime. He said he had no prejudice against insanity from drunkenness. He said he knew of no reason why he could not sit as a juror and render a fair and impartial verdict on the evidence and in accordance with the instructions of the trial judge. Mr. Olds admitted knowing Kuykendall and Ferguson intimately and that the latter was a frequent visitor at his house. The defense passed the juror, who when questioned by District Attorney Kuykendall, said he had no scruples against capital punishment and was not acquainted with the defendant or his brother. He said he knew Norman Faulder by sight. He was inclined to think that the doubt on the question of insanity should be resolved in favor of the state and that as regarded other doubts they ought to be determined in favor of the accused. The state passed him. "Do I understand that the defense has the privilege of exercising one peremptory?" asked Attorney O'Neill. "It has, according to my tally," replied the judge. "We will excuse Mr. Olds," said the attorney.

It then being noon the court adjourned until 1:30 p. m., with a caution to the jurors that they should not talk about the case and that during the course of the proceedings in the trial if there was pressing necessity for them to have communication with outsiders the matter might be arranged to be in the presence of Bailiff Clarence O. Morgan.

HOMESTEADERS ON IRRIGATED LANDS

BILL FOR RELIEF OF ENTRY-MEN UNDER RECLAMATION PROJECTS IN THE UNITED STATES

Congressman Hawley writes that the following bill protecting entrymen from contest of filings made prior to June 25, 1910, passed the house on February 22: That no qualified entryman who prior to June 25th, 1910, made bona fide entry upon lands proposed to be irrigated under the provisions of the act of June 17th, 1902, the national reclamation law, and who established residence in good faith upon the lands entered by him, shall be subject to contest for failure to maintain residence or make improvements upon his land prior to the time when water is available for the irrigation of the lands embraced in his entry, but all such entrymen shall, within ninety days after the issuance of the public notice required by section four of the reclamation act, filing the date when water will be available for irrigation, file in the local land office a water right application for the irrigable lands embraced in his entry, in conformity with the public notice and approved farm unit plan for the township in which his entry lies, and shall also file an affidavit that he has re-established his residence on the land with the intention of maintaining the same for a period sufficient to enable him to make final proof.

Provided, that no such entryman shall be entitled to have counted as part of the required period of residence any period of time during which he was not actually upon the said land prior to the date of the notice aforesaid, and no application for the entry of said lands shall be received until after the expiration of the ninety days after the issuance of notice within which the entryman is hereby required to re-establish his residence and apply for water right.

After dinner, H. W. Short, on examination, was peremptorily challenged by the state, this side of the case thus exhausting its peremptories. E. E. Walker, a stockman of Bl. Brown, was next questioned. He said he would not give an Indian's testimony the same weight as that of a white man. Asked by District Attorney Kuykendall if he had an opinion, he said he had one, which he had never expressed, which would not influence him in the case, as he could lay it aside. Asked if he had a brother on trial for murder would he be willing to have a man in his own frame of mind sit on the jury, he replied in the affirmative. Being passed by both the defense and state, he made the twelfth juror chosen, and the court announced the jury to be complete. The other jurors summoned were excused from further attendance in the case and Deputy County Clerk George Chastain was instructed to swear in the jury, which he did, after which the court announced a short recess.

The presentation of the case to the jury was then begun by the opening statement of District Attorney Kuykendall as to what the state expected to prove. The indictment charges first degree murder, under which a verdict of first or second degree murder or manslaughter, or acquittal, may be returned by the jury, and the attorney began to explain the different degrees of the crime. The defendant's attorney objected to this unless he were permitted to indulge in discussion of them when he addressed the jury. The court, after some parleying with the attorney, ruled out the discussion and stated that a recital of the facts would be sufficient, and for the district attorney to give the jury the nature of the details he expected to prove.

The district attorney told the jury that the state would show that the defendant had worked at the construction camp some 40 or 45 miles in sub-shrduetashrdudshrdush north of this city on August 6, 1911, the Sunday Louis Gebhardt was killed, and stated in substance as follows: One of the dogs in the camp had been poisoned and Faulder, who had a dog, said that if his dog were poisoned he would shoot the—who'd it. On the Sunday in question he and others made a trip to Fort Klamath some miles away, and when they returned to the camp Faulder's dog, which had been left behind, was found to be sick. Faulder and the others thought the dog had been poisoned and endeavored to bring him to a mending state failed, so Faulder shot the canine. He walked around with the gun on his shoulder and said he was going to kill the man who had killed the dog. He went up to the cook's tent and shot Gebhardt. Coming back down the hill, he told the men he had shot Gebhardt, and

state has challenged Ira Hanson, Edward J. Murray, Nelson Roussevell, E. E. Neuhanks and J. L. Davidson, with only one peremptory left to be exercised in the case, and that by the prosecution, it looked at noon as though the jury might be completed before the afternoon session got far under way. In this case it rests with the state to prove beyond a reasonable doubt that Faulder committed the crime of killing Louis Gebhardt last August and upon the defense depends the establishment of the contention, if such contention be made, that Faulder is insane beyond a reasonable doubt, or at least was at the time of the killing. The fact that he might have, if insane at the time of the occurrence become of normal mind in the ensuing months, is understood to have no bearing in the matter. The defense has asked many questions which apparently point to the line of defense it will offer. Prospective jurors have been sounded as to their understanding of intention, will, premeditation, deliberation, whether they are prejudiced against drunkenness as a defense to crime, insanity from drunkenness as such defense, against the use of intoxicating liquors or a man who uses them, and if they have read in the papers or discussed the case with others so as to lead them to the formation of an opinion.

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After the recess, court resumed the first thing up being a motion by Attorney O'Neill to discharge the jury that was in the box on the ground that there were only seventeen jurors on hand at the outset to pick twelve from, that the special venire were irregularly drawn and that the defendant had been deprived of the rights guaranteed him by the laws and constitution of the state of Oregon. Judge Benson denied the motion and the defense took an exception to the ruling.

BOYS' BAND DOES WELL

The High School band, which gave its first public concert this morning at the high school, showed to good advantage. Every member did almost credit, much to the encouragement of the leader, George A. Wirtz. The boys showed the benefit of hard practice which they have been having. If things turn out as expected, a series of musical concerts will shortly be arranged at which the public will have an opportunity of hearing the band.

EMMITT OFFERS TO BRING WATER

FROM ASPEN LAKE SPRINGS TO CITY FOR \$125,000—FAILS TO GIVE DATA ON WORK WITHIN

Robert A. Emmitt, some time since chosen by the council to do some calculating as to the possibility of the city obtaining a water supply, and who was accompanied by Councilman John Fielder in locating the Aspen Lake Springs source of supply filed on by the city, made an offer to the council last night to build a pipe line of water for the city for \$125,000, which, evidently, does not include any construction within the city limits. The figures on four miles of 14-inch pipe and 9 of 14-inch pipe, \$122,000; hauling and distributing, \$5,000; digging and back-filling trench two feet under surface, \$8,000; total, \$135,000. He said he stood willing to take the contract at that price.

The Misses Octavia Blitinger and Mattie White will entertain tomorrow night at the home of the later. The affair will be in the nature of a leap year party, and everything that goes to characterize the occasion will be given every attention. Already preparations are being made to make this event one of the most noteworthy of the season in society circles. Light refreshments will immediately follow the program, and judging from the interest that is being manifested by the younger folk, everything tends toward a large gathering of the young people.

RAILROAD SEED GRAIN ALLOTTED

KLAMATH BASIN FARMERS TOO LATE TO GET IN ON DISTRIBUTION BEING MADE BY SOUTHERN PACIFIC

Some time since a petition, headed by Meyers & Allison, and signed by nearly two score of farmers, was sent to H. F. Lounsbury, general freight agent of the Southern Pacific lines in Oregon, asking for a share in the company's barley distribution. Mr. Lounsbury, whose office is in Portland, has replied to the club regretting he is not in a position to furnish the barley for this season as desired, stating that the company has in the neighborhood of 1,000 applications from farmers in western Oregon for seed, and will be obliged to limit the distribution of the same to demonstration tracts determined on some time since. He says in part: "Our plan involves co-operation with a limited number of farmers in localities along the line in planting demonstration boxes, under which arrangement we are furnishing the seed for acre tracts same to be located in various districts along the line between Portland and Ashland. Our appropriation is small and the matter has progressed to a point where we cannot very well prorate the seed which is now en route from Wisconsin, and is expected to reach Portland about March 1. The two varieties to be used are Oederbrucker and Wisconsin No. 9, otherwise known as Pedigree barley. Through the Wisconsin experimental association I am able to give you a list of growers in Wisconsin who have the above varieties of barley for sale."

The Commercial Club has the list and farmers wanting the information can get the names by writing to Secretary C. P. Stewart.

San Diego police arrested sixteen additional street speakers, which brings the total of arrests up to 159 since the crusade started. The jail is overflowing.

Fish licenses were issued from the county clerk's office yesterday to the following: M. C. Low, James M. Morrison, H. P. Dow and E. A. Wolley.

WATER USERS' DUES BEING FIGURED UP

MEMBERSHIP LESS

Bishop Paddock, of the diocese of Eastern Oregon, is expected this evening. He will remain until Monday and will hold a series of services for Dr. Henry C. Gollins, of the Episcopal Church of the Redeemer, Friday and Saturday at 3:30 p. m. in Odd Fellows' hall and Sunday morning at 11 o'clock.

Walter Magee, who for the past five or six months has been wintering around the Klamath Agency and Upper Lake region, returned to this city yesterday. He expects to hold a position with the Northern box factory at Shippington.

CASE AGAINST KONOP OFF

Some time ago the First Trust and Savings Bank entered an action against Joseph Knop in order to obtain money, and attached seventeen ewines, through the instrumentality of Sheriff William B. Barnes. Knop settled the account and the cattle are now more free to roam, cavort and risk—if still alive.

RAILROAD WORK THEIR SUMMONS

GENTLEMEN CONNECTED WITH SOUTHERN PACIFIC CONSTRUCTION DEPARTMENT LEAVE FOR SAN FRANCISCO

Mr. and Mrs. M. K. Temple, Mr. and Mrs. Junior Daggett and G. B. Adams left on this afternoon's train for San Francisco. The gentlemen have been connected with the construction department of the Southern Pacific railroad in this city for several years, and have been transferred to work in the San Francisco office. Mr. Temple stated this morning that he did not know how long they would be kept in San Francisco, but presumed that in a short time they would be detailed on some of the new construction work. When work is renewed on the Klamath Falls-Natron line they may return here, but probably would be located on the line farther north.

In London at 5 p. m. today it was officially announced that 840,000 miners and assistants were out. It is expected 1,000,000 will be out by midnight.

KNIGHT IS PAGE FROM THIS TIME

PYTHIAN BROTHERS CONFERENCE ON ONE CANDIDATE AND APPOINT ENTERTAINMENT COMMITTEE

At the meeting of the Knights of Pythias last night the rank of page was conferred on one candidate. A committee was appointed to arrange for an entertainment to be had the next meeting night, which will be next Wednesday, and at that time the two ranks, esquire and knight, will be conferred on the candidate who was up last night for the page degree. The committee on entertainment consists of Earl Whitlock, Albrecht Oehler and George C. North.

Real estate is moving pretty lively this spring, and some very significant and encouraging transactions have taken place. It goes to demonstrate that Klamath Falls is a coming center for a big territory. All eyes are on the city.

DANCE FRIDAY, NOT SATURDAY

The dance at Houston's opera house usually held Saturday night will be held tomorrow night, after the Newman-Polts performance, instead. In order to let the gilders slip about past midnight and get their money's worth.

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