(Continued from Page 1.)

and bid him good bye, and said he would start back that day and probably stop at the Bruce ranch that night.

On the train he met Tom Offield who wanted to know where he was going, and he told him he had a carload of horses which he was taking to Stewart. At Sacramento one of the horses which was a little lame, was left at a livery stable, and the remaining 20 went through to San Francisco, where 19 were sold to a Buyer from San Jose for \$50 a head, the other being an old mare, was sold for \$20. After the sale a settlement was made with Mr. Lyons, one of Stewart's men, who, after deducting the commission and expenses, gave him a check for \$771. He then went to the Mission Bank and had the check cashed and bought a Portland draft for \$600, putting the balance in

He remained in San Francisco two or three days and then went to Sacramento and finally came back to Klamath Falls arriving here on Christmas. He then went to Bonanta and hearing that there was liable to be trouble left and went to Sacramento, where he was later arrested.

When the Court met Friday the motion for the defense to strike out certain evidence given by Welch was argued. Mills contended that where the indictment charged the stealing of a number of horses, the evidence tended to prove the theft of a certain number of mares, fillies, geldings, etc. Decisions from the courts of Texas, Montana and other states were quoted showing that the Supreme Court held that the charge had to be sustained by the evidence. While the decisions of the Texas court was favorable to the defense, the prosecution argued that the destate Supreme Courts held that the term horse included all the species, as mares, geldings, etc. The motion was overruled by Judge Noland.

Walter Welch was then placed on the stand and cross examined by came to this country when 16 or 17 years of age and first stopped at Ba-Mer City. Since then he had been all er states.

try. He made three trips coming by way of Sprague River through Yonna Valley, crossing the Lost River cused man. near Horton's and stopping at the never bought any horses for Stewart, examined.

horses at the Adams ranch.

500 and 600 head of horses.

Judge Noland interposed a query

with the Swede." This conversation was had before face. they reached Mrs. Fitch's. After they left there Liskey and witness ranch with Mrs. Smith, was the next Lake, testified that on his ranch he had some conversation about steal- witness called. Most of his testi- found a number of fences on which ing horses; but Wallis did not engage mony was a corroboration of the evi- the wires had been cut, leading to the

in these talks. load of horses for the Frisco market. preceeding witnesses. This was about December 4.

horses?"

"No, sir, I did not."

out the entire day the attendance I should judge that it was." was large.

fer of the check was withdrawn. made. Welch was also questioned closely about being urged to escape while at the Liskey ranch with Deputy Sherhe had heretofore said.

Mrs. Fitch, who resides north of Dairy, was the next witness called. Her testimony corrobrated the witness Welch in that Liskey and Walof December when they came to her thie ranch with a bunch of horses. Attorney Mills for the defense objected to every question asked Mrs. Fitch and the Court in turn overruled every objection.

Luke Walker was next called and his testimony substantiated in part the evidence given by Mrs. Fitch, as he was at her house at the time that Welch, Wallis and Liskey stopped there with a bunch of horses. Mr. Walker was, however, not positive as cisions of a larger number of other as he had not taken particular notice to the identification of the defendant of him.

Mrs. Arthur Pearson was called next and she was followed by Arthur Mills. He stated that he was 38 years usual reply to questions was "I don't of age and was born in England. He remember." From their testimony it was shown that they resided on the Chas. Liskey place during the time that Liskey is charge with assisting over the Pacific Coast. Working at in the horse stealing. Most of their Prairie City, LaGrande, Portland, testimony was in regard to when Ontario, and the Burns country. He Welch came to the Liskey ranch, the came to Klamath County in the fall length of time he remained, and with of 1906, stopped at Dairy and then whom he left the place. Owing to went to work on the Frank Adams the fact that their replies were selranch. He also had spent a number dom direct their testimony was of garding the sum received for the of years in Canada, Montana and oth- little value to either side. Mrs. Pear- horses. Witness testified that most son testified that the yellow macki- of the horses were marked with a V He had worked for Henry Egley naw coat on exhibition was not the brand, while one N. C. and one G. O. driving horses from Wagontire couner witnesses who followed identified

C. W. Sherman, Sr., was asked only Adams ranch. From there the horses a few questions in regard to the time had been removed without his perwere taken to Montague where they when a certain show was held at were shipped. He had worked some Dairy. His testimony was that the time for Stewart, not all the time, show occurred on December 14, 1908. the animal returned. but principally in summer. He had He was excused without being cross-

He worked at the Shook ranch in that was exceptionally damaging to horses in question at San Jose, in summer of 1907 and that fall clerked the defense. Mrs. M. Smith, who January, 1909, and that they had in the store at Dairy for Mr. Davies. lives on the Major Bruce ranch, 13 previously been seen by him in Lan-Also worked a short time for Chas. miles from Mt. Hebron, testified that gell Valley; that they were the prop-Drew and then went back to the she saw Walter Welch and Chas. erty of the Vinson's and had been Shook ranch. Had been with Shook's Liskey on December 13, 1908; that shipped out without the permission three different times. He had helped they stopped at her house that night Mr. Stewart's foreman drive horses with a bunch of horses; they came to the railroad and had helped break there late in the evening, Welch com- tically every question asked the witing to the house and asking her to ness and in every instance the Court When Court convened at 1:30 be permitted to remain for the night; overruled the objections interposed. Welch resumed the stand and Attor- he told her that they had been lost ney Mills proceeded with the exami- in the lava beds for a few days with Henry Vinson, testified that she visnation. The witness stated that dur- a band of horses; that they were ited San Jose in January of this year the past three years he had driv- cold and hungry and wanted to stay and in company of the Klamath en from wagontire mountain between for the night; she consented and they County officers she visited certain put their saddle horses in the barn feed stables where she saw the same in the matter of the cross examina- supper soon after coming into the ceeding her. tion as to the purpose of the line of house, but during their meal and also questions, the object being to prac- while eating breakfast the following by counsel for defense, all of which tically serve notice that everything morning Liskey hung his head so would be done to expedite the trial that his face could not be seen distinctly; he wore a mustache and had dence that he saw a certain gray The witness stated that the first a two weeks growth of beard on his horse belonging to Geo. Ritter in time the proposition to steal horses face; he had on a yellow mackinaw San Jose and that at the same time was broached was near Mrs. Fitch's coat and she identified the coat on he saw there a number of the Vinhouse, where he went to look at exhibition as the one worn by him. son horses.

some polo ponies Liskey and Wallis On cross-examination she testified owned. There was a U. C. mare on that she has known Liskey for seven hour W. H. Shook was again called the ridge. Liskey said: "There's years, but that she had not seen him and asked in regard to the condi- the allegations in the indictment and the show that night she and her otha mare that could be sold in Frisco. for six years. However, she was postion of certain fences on the Walters the proof, kind and character of the er brothers stopped at his place from What do you say to taking it along? itive that Liskey was the man who ranch. He testified that the wires property alleged to have been stolen; It would help pay expenses." to had been at her ranch with Welch had been cut on several fences and which the witness replied: "It goes even though she had no conversation that there were marks showing that with him and he tried to hide his a band of horses had passed through

John Blisk, who lives on the Bruce W. C. Dalton, residing east of Tule dence given by Mrs. Smith, but in lava beds, and the Redding road. After reaching the corral with a the identification of Liskey he was John W. Logue, whose residence bunch of horses gathered that trip, not as positive as the former. He is some eight miles north of Dairy. the question of stealing the horses also saw him return from Mt. Heb- and who is the father-in-law of Alf. was gone into thoroughly, and it was ron, or from that direction and gave Wallis, testified that on about Dedecided to abandon the question of a description of the horse ridden by cember 5, 1908, he saw the roan pony securing polo ponies and steal a car- him that tailled with that given by sent to San Jose in the Wallis pas- tween the indictment and proof in previously from Douglas County,

"Isn't it a fact that you got Liskey Hebron, testified that he knew Lis- lis and Liskey. and Wallis to gather a bunch of hors- key; that he met a man whom he S. L. Walker, a deputy sheriff, gave of George Ritter, and the proof tends

es for you, on the pretense that you took for Liskey at Mt .Hebron on De- evidence which corroborated the tes- to show only the larceny of one mare There is more Catarrh in this section of the after Court convened every seat in long as his own. Witness Bagby an- at Bonanza. the room was occupied and through- swered: "I did not measure it, but Prosecution practically completed ed larceny the property of the part-

Walter Welch was again called to man at Mt. Hebron, testified that time the prosecution will finish its Vinson and Annie Vinson, and that the stand by the prosecution for re- the carload of horses in question was case. direct examination. The check re- shipped, but that he could not iden- Attorney Mills gave notice that as therein, and that there is not sufficient ceived by him from Stewart in pay- tify Liskey as the man who accom- soon as the state rested its case he corrobation of the evidence of the ment for the horses was introduced panied Welch. His testimony corrob- would offer a motion asking that the accomplice, Welch, of the larceny of by the prosecution as evidence cor- orated that of preceeding witnesses case be dismissed on account of the alleged horse as the personal proproborative of the testimony of the in that he gave evidence that the man variance of the testimony from the erty of George Ritter. witness. Considerable argument as who was with Welch had taken his charges in the indictment and open- "Counsel moves on the further and to whether or not this could be done horse from his stable on the same day ing statement. followed with the result that the of- that the shipment of horses was

through an uninhabited district and nocence. was not used as frequently as the

hand of horses in question.

through whom Welch disposed of the wore a yellowish coat. horses, corroborated the witness check on exhibit was given Mr. Welch there was no real partnership exist- stopped there with a band of horses; due him.

On cross-examination Attorney Mills moved that all of the evidence relating to the transfer of the borses be struck out on the ground of being heresay. Considerable argument followed with the result that the motion was allowed in so far as it pertained to a certain memorandum introduced, which gave figures re-

Geo. Ritter, a farmer of Yonna Valley, testified that he was the owner of a certain gray horse branded G. O., which he sold yesterday; that he horse was in California where it mission; that he sold the horse because it was too expensive to have

Rube Vinson, the son of Henry Vinson, was next placed on the stanbut had instructions to buy horses. The next witness gave evidence and testified in regard to seeing the of the owners.

Attorney Mills objected to prac-

Miss Annie Vinson, daughter of and corralled the others; they had horses testifid to by the witness pre-

Numerous objections were made were overruled by Judge Noland.

W. H. Shook, of Dairy, gave evi-

After an intermission of nearly an

the openings.

ture and that it was subsequently this, that the charge in the indictment where he had been in trouble. T. E. Bagby, who resides at Mt. turned out with other horses by Wal- among other charges, is the larceny

wanted to buy some polo ponies, and cember 13, 1908; that he spoke to timony of the witness Welch and W. the property of George Ritter. after you had cut out a lot of mares him and asked him if he was not H. Shook in regard to visiting the and gelding suitable for your purpose Chas. Liskey and that the reply was Chas. Liskey and the Aif. Wallis did you not got some one to aid you "No." He excused himself and went ranches in company with the witness- tween the allegation of the indict- and by constantly failing to cure with local treatto drive these horses to the railroad, on about his business. On cross-ex- es. He testified in regard to finding ment and proof in this, that the your purpose being to steal those amination he testified that he thought the cover of a cracker box in a bad-indictment charges the larceny of the man was Liskey, but that he was ger hole near a pine tree which fourteen horses, the personal propnot sure of it after he had spoken Welch pointed out saying they had crty of Henry Vinson and one horse, Owing to the slight illness of Juror to him. He was asked if the man a lunch bidden there. The article the personal property of George Rit-Jas. Cole there was some delay Sat- wore a mustache and replied in the was placed on exhibition. Mr. Wal- ter, and the proof, among other var- blood and mucous surfaces of the system. They urday in resuming the proceedings affirmative. He was next asked if ker also testified that this brand of lances, shows that the fourteen horses in the Chas. Liskey trial. Shortly the mustache the man wore was as crackers is sold by the Bradley store alleged to be the property of Henry

> its evidence and case was continued nership, composed of Rube Vinson, J. F. Billingsly, a livery stable until Tuesday morning at which Phoebe Vinson, Henry Vinson, Aley

crowd was so large that much of the the ownership of the horses alleged Lewis Gerber was the first wit- time spectators were forced to stand, to have been stolen from Henry Vinness called after the noon recess. His The mother of the defendant sat by son, as completely shown by the rectestimony was to show which was the his side during the entire session, ords and brands last introduced." iff's Walker and Shook. In connect most feasible route for driving stock She was not affected when damag- After reading a decision covering tion with this he only reiterated what from the Klamath Basin to Mt. Heb- ing evidence was introduced and her the motion made by Mr. Mills, Judge ron. His testimony showed that the bearing is such as would indicate Noland promptly overruled it withroute through the lava beds was implicit confidence in her son's in-jout permitting any argument. The

> When Court convened Tuesday ruling. witness Welch stated that they had tion so as to recognize them. The of this character. passed through that section with the shorter of the two men rode the lar- Eldon Smith, a son of Mrs. M

father kept the books and handled Datry. all the money and paid the expenses. On redirect by Drake he testified that of the Henry Vinson stock.

witness and not being present, the had not seen him for about six years; udge ordered a bench warrant iswitness.

to be recalled to make plain certain but did not recognize either of them; testimony he had previously given. that one was a tall man and one a He stated that Liskey was gone 3 short heavy set fellow. or 4 days at one time and at another time for 5 or 6 days. This was the strongest cards when the witness, me he came home the night of the Emma Liskey, the 17 year old siscall, he stated that he was not sure the stand. Her testimony was a dias to the exact time, it might have rect contradiction of that given by been anywhere between Thanksgiv- several witnesses for the State, in ing and the time of the show.

County Clerk DeLap was put on to tear down the entire prosecution. the stand and gave testimony in re- She gave a positive answer to every gard to the record of stock brands question asked and on cross examinaand marks which were introduced in tion did not swerve from her original evidence to prove that the brand of replies. According to the evidence the stolen horses was that of Henry given by her she lives with her moth-Vinson. Attorney Mills for the de- er who resides about two and a half fense made objection to practically miles from the home of the defendevery question asked, argument and ant; that she was at home from the delay ensuing.

The prosecution offered in evidence a certified copy of the record and a night of the latter date; that she piece of leather on which is burned the brand of Henry Vinson.

ness DeLap the State rested its case. Attorney Mills for the defense then made the following motion:

Liskey, and moves the Court to in- he contracted while a soldier in the weight 900 lbs., no brand visible. struct the jury to acquit the defend- Philippine war; that during these ant, and find a verdict of not guilty days he left the house occasionally, a lien for the sum of \$7.50 for disand for the following reasons to-wit: but he was not able to leave the

"That there is a variance between

"That there is a fatal variance be- stand and Judge Drake resumed the tween the indictment and proof in cross examination, but she remained this, that the charge in the indict- firm in her testimony.

III.

"That there is a fatal variance beof one horse, the personal property

IV.

"That there is a fatal variance be Vinson were at the time of the alleg-Henry Vinson had no special property

fifth ground that there is a total fall-During the aftermoon session the ure on the part of the State to prove

defense saved an objection to this

route via Laird's and the Davis ranch morning the first witness called in Brief intermission was then taken lis had been with him on the 4th day which he considered the most feas- Liskey case was T. J. Patterson, of after which the defense called its Mt. Hebron, who testified to seeing first witness, Arthur Langell, of Bo-Guy Merrill gave evidence as to the band of horses driven to the nanza, who testified to having had his headquarters in the lava beds, stock yards and loaded onto the car. a conversation with Walter Welch showing that one of his camps, where This was about 1 o'clock in the after- on or about December 5, 1908, in he had provisions and hay, had been noon, and they were driven by two regard to polo ponies, Welch stating disturbed about the time that the men, but did not pay sufficient atten- that he was in the market for horses

ger horse and he acticed him riding Smith, the witness for the prosecu-E. Stewart, of San Francisco, away from the depot going east. He tion who stated positively that the defendant Liskey is the man who was Aley Vinson, son of Henry Vinson, with Weich when they stopped at her Welch in that he had been in his was then called. He stated he was place over night with the horses, was employ: that he had brought the 30 years old and that he lived on next placed on the stand. He testified horses in question to his yards in the Vinson ranch in Langell Valley. that his home is with his mother on San Francisco; that they had been He testified in relation to the owner- the Major Bruce ranch; that he was sold to San Jose parties, and that the ship of the horses and stated that at home on the night that two men Pearson, her husband. Both appear- for the horses in final settlement af- ing between Henry Vinson and the that he did not remember the exact ed to have poor memories and the ter he had deducted the amounts children. All the stock was bought date, but that it was on or about and sold by direction of Mr. Vinsen. December 12, 1908; that he did not On cross examination by Mills, he recognize Liskey, but that one of stated that his father visited the the men was of the same build and ranch every year, sometimes in May that it was undoubtedly the defendand during the summer and some- ant; that he lived near the Liskey times in the winter. That his father place about six years ago and that he made his home in Medford, and that had not seen Liskey since that time. no stock was bought or sold by the On cross examination it was shown children without first consulting their that the witness vas about 14 or 15 father and getting his sanction. His years of age when he resided near

Andrew Smith, a brother of the preceeding witness, testified that he the V brand was the official brand is 26 years of age; that he formerly resided near Dairy and that while Albert Patterson was called as a there he met the defendant; that he sued for his arrest to appear as a er last December when two men stopped there with a bunch of horses; Arthur Pierson asked permission that he saw the faces of both men,

The defense played one of its In regard to the telephone ter of the defendant, was placed on fact, her statements had a tendency 6th to the 14th of December and that she attended a show at Dairy on the 10 o'clock A. M. of said day, in front was accompanied to this show by pany's office on Main street, in Klamher brothers, Charles, the defendant, ath Falls, Klamath County, Oregon, Following the examination of Wit-included; that for five or six days sell at public auction to the highest previous to this show Charles had bidder for cash, the following debeen at the home of his mother, suffering from an illness resulting from "Comes now the defendant, Charles an attack of the yellow fever which five years old, thirteen hands high, place; that on December 14th, he went to his home and on the way to

Liskey was again placed on the

ment is the larceny of fourteen head J. W. Pool, who resides four miles of horses, the personal property of east of Olene, testified that he was Henry Vinson, and that the proof at the Liskey home on December 10, only tends to show the larceny of 1908, and there saw the defendant, tablished at Summers. General work mares and geldings and does not tend who was sick, lying on a lounge. of all kinds promptly done. Horseto show the larceny of any animals On cross examination it was shown shoeing a specialty. in their natural state-or stallions. that witness Pool had resided in this county about three years, having come here from Jackson County, and

August Liskey, a brother of the

(Continued on Seventh Page.)

intry than all other diseases put together, and until the last few years was supposed to be incur able. For a great many years doctors pronounced it a local disease and prescribed local remedies ment, pronounced it incurable, Science has procatarrh to be a constitutional disease and there fore requires constitutional treatment. Hall's catarrh Cure, manufactured by F. J. Chency & Co., Toledo, Ohio, is the only constitutional curon the market. It is taken internally in dones from 10 drops to a teaspoonful. It acts directly on the offer one hundred dollars for any case it fails to Cure. Send for circulars and testimonials Address: F. J. CHENEY & CO., Toledo, Ohio.

Sold by Druggists, 75c. Take Hall's Family Pills for constipation.

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2500 Acres Free

The Lakeside company has 2500 acres of land under the Adams ditch that it will give RENT FREE for one year. This includes the use of the land and water. The renter must clear and place the land in cultivation. The renter gets all the crop but we reserve the right to pasture the stubble.

The Lakeside Company,

J. Frank Adams, Manager, Merrill, Oregon.

NOTICE OF SALE.

Notice is hereby given that I shall, on the 4th day of March, 1909, at of the Klamath Development Comscribed personal property, to-wit:

One sorrel mare, bald face, about

Said sale will be made to satisfy pasturing said animal at the request of John Doe, the possessor of the

This notice is published in the Klamath Republican, a newspaper where he accompanied them to Dairy. published in Klamath County, Ore-After the noon recess Miss Emma gon, for three weeks prior to said sale.

> Dated at Klamath Falls, Oregon, this 8th day of February, 1909. 2-11-2-25 D. B. CAMPBELL.

SHOP AT SUMMERS.

A blacksmith shop has been es-12-17-8t*

