

FROM TUESDAY'S DAILY

THE FEBRUARY TERM NOW

GRAND JURY DRAWN AND HAS BEGUN WORK.

Charge by the Court in Calling the Members' Attention to the Ballot Fraud Cases.

(From Daily February 14th)

Department No. 1, of the state circuit court for the February term, was convened by Judge Geo. H. Burnett promptly at 1 o'clock yesterday afternoon.

The roll of the jurors was called, and all were reported present excepting those excused by reason of illness; several who were in court were excused by Judge Burnett, as follows: John A. Shaw, Horeb, sickness in family; R. H. Coshaw, Salem, sickness; Wm. Milley, Salem, sickness; A. B. Hudson, Jefferson, postmaster; O. G. Schellberg, Turner, exempt fireman; A. H. Forster, Salem, sickness.

Judge Burnett read the statute relating to contempt of court on the part of jurors who discuss cases pending before the court, with our sisters, and added a warning to the jurors to refrain from discussing matters of this kind during the recess of the court. W. Scott Taylor, of Gervais, and A. W. Drager, of Yew Park, were appointed bailiffs, and sworn.

The drawing of the grand jury had brought out a large crowd, the seats in the court room being comfortably filled when the clerk read the names, calling the grand jurors, as they were drawn from the box, the following being selected:

H. Pohle, blacksmith, Salem, foreman.

H. D. Patton, merchant, Salem.

Walter Morley, carpenter, Salem.

W. E. Her, farmer, Butteville.

E. A. M. Cone, farmer, Butteville.

Ira Carter, farmer, Sublimity.

Jacob Armstrong, farmer, Silverton.

The drawing of the jury was continued with the greatest care, Judge Burnett and County Clerk W. W. Hall taking every precaution to do the work strictly in accordance with law.

In charging the grand jury, Judge Burnett said in part:

"I deem it to be my duty at this time to direct special attention to the charges and reports that some of the tally sheets and ballots of the June election, held on the 6th of June last, were altered with the design to change the result in the election of one of the circuit judges at that time. At the last term of this court the grand jury returned indictments against seven persons, charging them with the crime of forgery in connection with this transaction. Owing to an inadvertence that grand jury was not properly impaneled, and, on motion of the defendants, these indictments were set aside. This objection to the indictment being a technical one, and one which might have been waived by the defendants, the court ordered that they be held to the grand jury empaneled at this term of court, and so they are for your consideration."

The statute found at section 70 of the act of February 13, 1898, known as the Australian ballot law, was here quoted by the court, after which he continued:

"You will observe by the provisions of this section, that it is a crime for any person whatever to willfully or fraudulently alter or destroy or break open any return of any election regulated by the act from which the section is quoted."

"Willfully implies the simple purpose or willingness to do the act or omission referred to, and does not require any intent to violate the law or injure another or acquire any advantage. An act done 'purposely' as distinguished from accidentally, is said to be done willfully. To do an act fraudulently is to do it with a desire or purpose to wrongfully deprive another from the enjoyment of his rights."

"The tally sheets delivered to the officers are properly included within the term 'returns,' as included in this statute. Therefore, if you should find that any person altered, or in any manner changed, any white ballot cast at the general election in this county, or any of the tally sheets returned to the county clerk, and that such alteration or changes were made for the purpose of

making it appear that some candidate received more votes than were actually cast for him, or with a design to change the result of the election, you should indict all persons making such change, as well as those who aided or abetted those persons in doing the act."

"Section 1808 of the code also makes it a crime for any person, with intent to injure or defraud any one, to falsify, make, alter or forge any public record whatever, any certificate, return, attestation of any clerk, notary public, or other officer, etc. Within the meaning of this act the judges and clerks of election are judges and clerks of election, and are public officers, and returns, or attestations of those public officers, and are the legal evidence received by, and upon which the canvassing board actually determines the results of the election, hence they are the subject of the law within the meaning of the law. Independent of the provisions already quoted from the election law. There are, therefore, two statutes bearing upon the act in question, and parties may be indicted under either statute."

"All persons concerned in the commission of the crime, whether directly committing the crime, or aiding and abetting in it, are principals, though not present; and are to be tried and punished as such. It may be that only one person actually handled the pen, but other persons knowing about it, and aiding and abetting by encouraging it, were equally guilty, and should be dealt with in like manner."

Carroll L. Moore, of Salem, was sworn in as bailiff of the grand jury, after which that body retired, and immediately began examining witnesses in the ballot cases. District Attorney S. L. Hayden and his deputy, John H. McNary, will attend the grand jury during its sittings.

The case of John Ludovetzke, plaintiff, vs. Archie Wolford, defendant, an action for damages for the seduction of the plaintiff's daughter, was the first case called in the circuit court. Holmes & Kellogg and M. E. Pogue appeared as attorneys for the plaintiff, and L. J. Adams, G. G. Ringham and John A. Carson, represented the defendant. The drawing of the jury was attended with considerable difficulty, as a number were rejected. A full panel was finally secured composed of the following gentlemen: Chas. McCormick, E. F. Parshurst, John Craig, John Nicol, J. L. Cook, Geo. B. Hovenden, M. Dorman, C. C. Goodale, Andrew Hughes, W. W. Elder, C. G. Given and H. Kraus.

After the attorneys had made their statement to the jury, the court adjourned to 9 o'clock this morning, for the reason that the witnesses in the case were not on hand.

The docket at this time is unusually light, and, unless a large number of indictments are returned, the session of the court will be very brief.

The following docket entries were made during the day:

M. Butala, vs. Claude Morton, action for money; default and judgment.

H. M. Branson & Co., vs. W. H. Phillips, et al., action for money; settled.

Mary Jackson, appellant, vs. F. W. Durbin, respondent, appeal from recorder's court of Salem; motion to require lower court to change date of judgment; respondent's motion to dismiss for want of jurisdiction in recorder's court overruled.

T. J. Jackson, appellant, vs. F. W. Durbin, respondent, appeal from recorder's court of Salem; motion to require lower court to change date of judgment; respondent's motion to dismiss for want of jurisdiction in recorder's court overruled.

J. M. Osborne & Co., vs. F. X. Gobin, action for money; motion to strike out part of new matter in answer sustained. Answer in open court that new matter in answer be stricken out.

M. V. Kays, respondent, vs. D. H. Leoney, appellant, appeal from justice court; demurrer to complaint.

State of Oregon vs. Alfred Moullette, larceny in a barn; arraigned, John Bayne appointed attorney for defendant.

W. S. Mott vs. John Hansen, action for money; continued for service.

W. E. Loughmiller, plaintiff, vs. Ida M. Loughmiller, defendant, is the title of a new divorce suit filed in Judge Boise's department of the state circuit court yesterday forenoon. At 4 o'clock, about five or six hours after the filing of the complaint in the clerk's office, the case came up in court, and was promptly decided. Judge Boise granting the divorce. Some years ago Mrs. Loughmiller sued for a divorce in Judge H. H. Hewitt's court but failed, and her case is now in the supreme court on appeal. The couple were married in Silverton on July 8, 1898, and in the suit filed yesterday Mrs. Loughmiller was charged with desertion. W. H. Holmes appeared at attorney for the plaintiff, and Geo. G. Bingham for defendant.

THE HOMELEST MAN IN SALEM As well as the handsomest, and others are invited to call on any drugist and get free a trial bottle of Kemp's Balsam for the Throat and Lungs, a remedy that is guaranteed to cure and relieve all Chronic and Acute Coughs, Asthma, Bronchitis and Consumption. Price 25c and 50c.

OFF FOR MANILA.—On last night's train about twenty-five of the discharged troops of the California volunteers were en route for Manila, having enlisted in the Twenty-third regulars, and Eighteenth infantry immediately after their discharge. Their orders came yesterday to repair immediately to San Francisco to take the transport steamer Ohio that sails on the 20th inst.

NEW LOCATION.—The firm of Gilbert Bros., bankers, is having the room formerly occupied by G. W. Johnson & Co., corner of State and Liberty streets, remodeled preparatory to removing its banking business to that location. This will give that banking firm commodious quarters in which to conduct business.

HIGH LIGHTS. Whatever is in style is right. Talent knows what to do; tact knows what not to do.

The most profound problem of our lives is why other people don't like us.

Did you ever see one? Did you ever hear of one? Most certainly not. Consumption is a disease that invariably causes loss of flesh.

If you are light in weight, even if your cough is only a slight one, you should certainly take

Scott's Emulsion

of cod liver oil with hypophosphites. No remedy is such a perfect preventive to consumption. Just the moment your throat begins to weaken and you find you are losing flesh, you should begin to take it.

And no other remedy has cured so many cases of consumption. Unless you are far advanced with this disease, Scott's Emulsion will hold every inducement to you for a perfect cure.

All Druggists, etc. and Scott & Bowne, Chemists, N. Y.

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Victor Brunell, respondent, vs. Southern Pacific Company, appellant; appeal from Multnomah county. E. D. Shattuck, judge; judgment reversed. Opinion by Justice Moore.

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John Mattis, appellant, vs. Nelson Hosmer, respondent; ordered on stipulation that appellant have until April 1st to serve and file a reply brief.

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A DISLOCATED ELBOW.—Mr. M. Winches, a farmer residing about four miles south of the city, had the misfortune to fall yesterday, when climbing over a rail fence, which resulted in dislocating the elbow of his right arm. Just as he was on the top rail of the fence it broke, which precipitated him to the ground. Dr. W. H. Eyrd was called and placed the injured member in position again and relieve the sufferer as much as possible.

WEDDED.—In San Francisco, February 7, 1899, W. B. Kirk, son of Mr. and Mrs. L. M. Kirk, of this city, and Miss Blanche Brown, of Atlantic, Iowa, were united in wedlock, Rev. George C. Adams, of the First Congregational church, officiating. The young people will make Niles, California their future home.

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Charles R. David, respondent, vs. L. F. Anderson, appellant; appeal from Lane county; argued and submitted.

John Mattis, appellant, vs. Nelson Hosmer, respondent; ordered on stipulation that appellant have until April 1st to serve and file a reply brief.

Esberg, Gunst Cigar Co., appellants