

IMPORTANT CASE DECIDED

Grand Lodge, A. O. U. W., Secures a Reversal in the Montour Insurance Case.

The Claimant's Father Died While Suspended as a Member of the Order, and the Effort to Secure Payment of the Claim Is Futile—Adverse Decision of the Court.

A case of considerable importance and wide-spread interest in this state was decided by the Supreme Court yesterday at noon. It was that of *Lillie Myrtle Montour*, a minor, against the Grand Lodge of Oregon, A. O. U. W., on appeal from the circuit court of Multnomah county. Judge M. C. George presiding. The plaintiff is the heir of Dan Montour, who was a member of Pig Iron Lodge, at Oswego, and who died at a time when the lodge—and he himself, evidently—thought he was permanently suspended from the order. After his death she sought to have the Grand Lodge pay the amount of his beneficiary certificate, which was refused, hence this suit, which was tried to a jury in June 1898 and a verdict obtained against the order, from which the appeal was taken to the Supreme Court and there argued on October 4th.

It appears that Montour became delinquent in the assessments for May and June 1894, and his lodge paid these assessments for him, but when the July assessment also became delinquent, the lodge suspended him on the 28th day of July. The laws of the A. O. U. W., provide that a member may re-instate himself at any time within three months from the date of suspension by the payment of delinquent assessments and pending assessments, but after three months there must be a new medical examination and a vote of the lodge to re-instate. There was no payment made for or by Montour after his suspension until November 15th, when a sum to cover delinquencies was paid to the financier. No action was taken by the lodge until January, 1895, when Montour's medical examination was presented, together with more money to cover delinquency, but the lodge by vote refused to re-instate him. Montour took no appeal to the Grand Lodge or any other step, and died the following year in that condition.

The principal claim relied upon by the claimant was that in the spring of 1894 sufficient money had been paid to the financier for Montour to pay one more assessment than he was credited with, which, with the two assessments paid by the lodge, would have covered the July assessment, hence he was not legally suspended until August 28th, and consequently the payment in November was clearly within the three months, and of itself established a reinstatement. In this contention, the claimant was aided by the man who was then financier.

The attorneys for the Grand Lodge relied upon the law and the facts to reverse the judgment. Reliance was placed upon the universal decision of the courts so far that the members of an order must exhaust all the tribunals of the order before the civil courts will interfere. The claim was made that the verdict was wholly unsupported by facts and was contrary to the instructions of the court.

The court in passing on the case recites at length the laws of the Grand Lodge A. O. U. W., regulating the collection of assessment, and gives in substance the evidence in the case, regarding the payment of Montour's assessments, and the manner of his suspension, together with the reasons therefor—the delinquency of his assessments and dues. It was contended by defendant that Montour was suspended July 28, 1894, by reason of his failure to pay an assessment which became due at that time; that he did not pay the delinquent and accrued assessments until more than three months had elapsed from his suspension; that having made application for re-instatement within six months from August 28, 1894, the lodge of which he had been a member, by a majority vote, refused its consent thereto, from which action he took no appeal, but acquiesced therein; and hence the trial court erred in refusing to charge the jury to find for the defendant as requested. The plaintiff urged that the subordinate lodge in refusing the suspended member, acted without jurisdiction, and that, Montour having offered the assessments and dues imposed by the grand lodge, which were refused, he was a member, and hence no error had been committed. The appellate court holds in the premises, that the trial court erred in failing to give the instruction requested by the defense.

The appellate court holds that there is another feature of the case which is conclusive. The court says: "The lodge financier's beneficiary report showed that Montour was suspended for non-payment of an assessment on August 1, 1894, after which he made no payment of the delinquent assessment until November 19th of that year, and having allowed more than three months to elapse after he was suspended, he could not be reinstated on his own motion, but was required to pass the necessary medical examination. After passing such examination and being recommended for re-instatement, the members of Pig Iron Lodge, by a majority vote, refused their consent thereto,

from which action he never appealed; and his wife, who testified that she generally paid his assessments, and had authority for doing so, accepted for him a return of the greater part of the money which he paid November 19, 1894, and January 17, 1895, thereby acquiescing in the decision of the subordinate lodge." The court holds that a member of a beneficial association must exhaust the remedies given him by the rules of the society, before applying to the courts for relief. The court says:

"The evidence shows that about November 1894 he insisted that he was a member of the order in good standing. But inasmuch as he thereupon signed an application for reinstatement, he thereby admitted that a controversy existed respecting his position in the order, and having submitted this question to the members of the lodge for their determination, and not having appealed from their decision respecting a matter of which the lodge had jurisdiction, he is bound thereby."

The court holds that "it follows, that the judgment is reversed, and the cause remanded for such further proceedings as may be necessary, not inconsistent with this opinion."

Other cases decided by the Supreme Court, were: *J. B. Parker, appellant, vs. Nicholas Furlong and James Farrie, respondents*; appeal from Douglas county. *Hon. H. K. Hanna, judge*; affirmed. *Opinion by Chief Justice H. S. Bryan.* *Acher Marks, administrator, respondent, vs. W. H. Coats, administrator of the estate of Thomas Coats, deceased, appellant*; appeal from Douglas county; *Hon. H. K. Hanna, judge*; affirmed. *Opinion by Chief Justice H. S. Bryan.*

S. W. Mier, respondent, vs. P. H. O'Shea, B. D. Dyer, H. Dyer, and Robert Powell, appellants; appeal from Douglas county; *Hon. H. K. Hanna, judge*; affirmed. *Opinion by Associate Justice P. A. Moore.*

The case of the United States National Bank, respondent, vs. L. Ferd Floss, appellant, an appeal from Multnomah county, *Hon. Arthur L. Frazer, judge*, was argued and submitted by R. C. Wright for the appellant, and R. W. Montague for the respondent. Other minor orders were made as follows: *Isam White, appellant, vs. Wm. M. Ladd, administrator, respondent*; ordered on stipulation that respondent have until November 15th to serve and file his reply brief. *Hiram S. Stone, appellant, vs. Wm. M. Ladd, respondent*; ordered upon stipulation that respondent have until November 15th to file brief.

J. M. Huber, respondent, vs. C. W. Miller, appellant; argued and submitted on motion for extension of time to file transcript; respondent objects; letter.

Nancy S. Pelle, et al., respondents, vs. Chas. A. Brown, et al., appellants; ordered that petition for rehearing be overruled.

S. L. Baer, et al., appellants, vs. Ada J. Ballingall, et al., respondents; petition for rehearing denied.

Chronic Nasal Catarrh poisons every breath that is drawn into the lungs. There is procurable from any druggist the remedy for the cure of this trouble. A small quantity of Ely's Cream Ointment placed into the nostrils spreads over an inflamed and angry surface, relieving immediately the painful inflammation, cleanses, heals and cures. A cold in the head vanishes immediately. Sold by druggists or will be mailed for 50 cents by Ely Brothers, 56 Warren Street, New York.

ELECTION TO DECIDE.

Either Mrs. Roosevelt or Mrs. Bryan to Be President of the Daughters of the Revolution.

New York, Oct. 22.—Which ever way the Presidential election goes may decide who is to be the next president general of the Daughters of the American Revolution, says a special from Washington to the Herald. It has been decided by many of the leading members to ask either Mrs. Roosevelt or Mrs. Bryan to fill the position. Neither is at present a member of the organization, but both are eligible, and one of the board of managers has just made the statement that within the last week papers have been made out for the admission of both to the ranks of the Daughters.

If McKinley and Roosevelt are elected, then the choice will fall upon Mrs. Roosevelt, and if the Democrats win, the honor will be conferred upon Mrs. Bryan. The election will not take place until next February. If either Mrs. Roosevelt or Mrs. Bryan should fall of election then Mrs. Donald McLean, of New York, comes in for third choice.

SMALLPOX FROM ALASKA.

Seattle, Wash., Oct. 22.—A special

to the Times, from Vancouver, B. C., says: The steamer City of Seattle arrived this morning from Skagway, with 278 passengers and a case of smallpox. She is now anchored in mid-stream, flying the yellow flag. The passengers and crew will probably be quarantined at William Head, B. C., for at least two weeks. All but thirty-five passengers are destined for Seattle. When the doctor arrived on board the smallpox patient was walking about deck, the disease having broken out all over his face.

GOLD FROM DAWSON.

One Million Dollars Arrived in San Francisco Yesterday.

San Francisco, Oct. 22.—The barkentine Morning Star arrived today, twenty-two days from St. Michaels. Beside eighty-five passengers, the ship carried a round \$1,000,000 worth of gold dust from the mines of Dawson.

During the winter of 1897 Mr. James Reed, one of the leading citizens and merchants of Clay, Clay Co., W. Va., struck his leg against a cake of ice in such a manner as to bruise it severely. It became very much swollen and pained him so badly that he could not walk without the aid of crutches. He was treated by physicians, also used several kinds of liniment and two and a half gallons of whisky in bathing it, but nothing gave any relief until he began using Chamberlain's Pain Balm. This brought about a complete cure in a week's time and he believes that had he not used this remedy his leg would have had to be amputated. Pain Balm is unequalled for sprains, bruises and rheumatism. For sale by F. G. Haas, druggist, State street, Salem, Oregon.

BACK TO WALLOWA.

CONVICT NEEDED IN COURT AS A WITNESS FOR THE STATE.

Three Prominent Attorneys on Trial Charged With Subornation of Perjury.

Dennis Whitmore, who is serving a term in the penitentiary from Wallowa county, was yesterday morning taken back to Enterprise, where he will give testimony in a case now pending.

The young man was arrested charged with perjury, and placed on trial at the last term of court in Wallowa county. When the case was called, he plead guilty to the crime, made a clean breast of the whole affair, and stated to the court that he had been hired to swear falsely by D. W. Sheehan, Walter G. Hayes and J. V. Lintell, three prominent attorneys of Wallowa county, they having given him \$18 in cash and a horse and saddle in payment for his work.

WILL REVOLUTIONIZE STREET TRAVEL.



Street travel is revolutionized by the marvelous new unicycle, which is at once a wheel and an engine. The motive power is attached to the wheel itself, which can be attached in a few minutes to any vehicle, thus enabling the commonest wagon to become an automobile.

Judge Eakin promptly ordered the arrest of the three attorneys, all of whom were in the court room, and they were at once taken into custody by the sheriff.

At the present term of the court the men were indicted and their hearing is set for today, when the testimony of the young prisoner will be given for the state. The case promises to be one of the most desperately contested legal battles in Oregon. Judge Bennett, of The Dalles, having been retained by the three attorneys to defend them.

BATTLING IN NEW YORK

Roosevelt's Campaign in His Own State—Bryan Shouters Interrupt Him.

Vast Assemblages Greet the Speaker at the Cities Along the Line of His Travels—A Scathing Rebuke to One of the Disrupters of the Republican Meetings.

KINGSTON, N. Y., Oct. 22.—Governor Theodore Roosevelt finished the first day of his flying campaign through the state in Kingston, tonight, after traveling 80 miles and making eight speeches. At Newburg, the home of the Republican candidate for Governor, he talked to a vast assemblage, having to speak in two places. The spectators interrupted the speaker with questions, in every instance receiving a reply. A West Nyack man close to the car cried and reiterated "Hurrah for Bryan," and Roosevelt replied: "Why don't you hurrah for Alfgeld and Aguinardo?"

The Governor was interrupted a number of times by shouts of "What is the matter with Bryan?" "Down with the trusts."

Governor Roosevelt remarked: "That gentleman has the symptoms of a Bryanite." Then turning to the man he said: "You look like one of those men who work exclusively with their mouths. What do you mean to do with the cotton bale trust of Mr. Jones or the ice trust of Mr. Croker? (Cries of "What's the matter with Bryan? He's all right.") That is an argument of wind. You are afraid of hearing the truth. You interrupt this meeting because you are a hoodlum. You represent those people who not only object to prosperity, but who do not get any of it because you won't work. Now go back to your fellow-bobs and learn after this more yelling, and the man evidently turned to depart, that you stand against the flag. I am glad you are going away. I think you have learned enough hereafter not to monkey with the buzz-saw."

ON THE WING.

New York, Oct. 22.—With the intention of traveling 2146 miles, almost all of it within the confines of New York state and outside of the "Greater City" boundaries, and with the purpose of delivering 33 speeches, ranging from seven minutes to two hours in duration, Governor Theodore Roosevelt left Westchawken by special train on the West Shore this morning at 11 o'clock.

The day's close will find him at

day. The following week will find him at every place of importance in Western New York and back in New York City on Saturday, November 3d, Monday, November 5th, the day before election, will find him making a tour of Long Island and finishing his flying canvass of the state.

Governor Roosevelt arrived at the West Shore depot at 10:30 o'clock, accompanied by his secretary, William J. Youngs; Walter Emerson, of Maine; Jobe Hodges, James R. Sheffield, J. S. Whipple, Arthur von Vriesen and ex-Senator John Laughlin. As Governor Roosevelt stepped on his car there were cries of "Speech." The Governor uncovered and said: "My throat is not in good condition for me to say much, but I will say a few words. We are going to knock them out on the 6th."

As the train pulled out of the yard, the Governor was cheered by the dispersing crowd.

CHAIRMAN JONES' CLAIMS.

Chicago, Oct. 22.—Chairman Jones, of the Democratic National Committee, said today: "I do not believe there is any doubt that Mr. Bryan will carry New York. I believe our chances for carrying Ohio are better than the Republicans. I regard Illinois as an exceedingly doubtful state."

"Telegrams from the chairmen of the Democratic State Committee state we are going to carry California. Advice from that state a while ago were some what doubtful as to the result. Mayor Phelan, of San Francisco, says there is no doubt about the state. One of the causes of this change of sentiment in California is the decision of Judge Estes on the Chinese exclusion act, in which he held that a Chinaman at any port in the United States could go to any other port, and, therefore, a Chinaman in Hawaii could visit any city in any part of the United States, thus practically throwing the door open to the free entry of Chinamen in this country. I have no doubt of the election of Mr. Bryan."

COLORAD VOLUNTEERS.

Chicago, Oct. 22.—A crowd of 3,000 colored volunteers listened to an address, tonight, by Senator Hanna, at the first regiment armory.

APPEALED TO NEGROES.

Hinton, W. Va., Oct. 22.—The line of the Chesapeake Railroad, traversing the picturesque valleys of the Big Kanawha and New rivers, was the scene of Mr. Bryan's campaign today. Speeches were made at Huntington, Hurricane, St. Albans, Charleston, Brownston, East Bank, Montgomery, Sewell, Thurmond and Hinton. The size of the audiences varied, but all of them were large in proportion to the population of the towns, and of the surrounding country. The one notable feature of the day was Bryan's repeated reference to the race question. His line of travel today was further South than he had gone before, and further than he will go again, and there was quite a number of colored people scattered through the woods at all stopping places. Bryan evidently noted their presence, and took occasion to address portions of them to do justice to the Filipinos as they would have justice done by themselves. Bryan will speak in Maryland tomorrow.

TALKS TO BOERS.

Grand Rapids, Mich., Oct. 22.—Attila E. Stevenson addressed an open air meeting here today. A notable feature of his handling of imperialism was the emphasis which he placed upon the Boer question. Owing to the great number of II-Jand-American voters in this section of the state, this subject is forced to the front by all Democratic orators who visit the fifth congressional district.

Brave Men Fall.

Victims to stomach, liver and kidney troubles as well as women, and all feel the results in loss of appetite, poisons in the blood, backache, nervousness, headache and tired, listless, run-down feeling. But there's no need to feel like that. Listen to J. W. Gardner, Idaville, Ind. He says: "Electric Bitters are just the thing for a man when he is all run down, and don't care whether he lives or dies. It did more to give me new strength and good appetite than anything I could take. I can now eat anything and have a new lease on life." Only 50 cents, at Dr. STONE'S drug stores. Every bottle guaranteed.

JUSTICE IS DENIED HIM.

ADMIRAL SAMPSON DYING OF A BROKEN HEART. Lieutenant Hobson Tells of His Old Commander's Falling, and the Cause of His Grief.

ATLANTA, Ga., Oct. 22.—Lieut. Richmond P. Hobson is quoted as saying, that Admiral Sampson is dying

of a broken heart, owing to the Sampson-Solley controversy which followed the naval engagement at Santiago. Lieutenant Hobson visited Admiral Sampson at Boston a few days ago. He said: "Mrs Sampson told me that this great man was brooding, and was breaking his heart at the thought that his fellow countrymen were so unkind."

Hobson, in his speech at a public reception here today, said, Admiral Sampson had not received simple justice at the hands of the American people.

Georgia Showers.

The Georgia shower is a peculiar one, and sometimes a single day has a score of them. It is on you before you know it. For a few moments the lightning flashes, the thunder rolls and the rain falls, and it is apt to cease as suddenly. Out comes the sun again as smiling and serene as though no great damage had been done to the crops. There is something else that comes on one unawares, and that is dyspepsia. Many people have suffered years from this complaint, because they have allowed indigestion, constipation and biliousness to become chronic. Hostetter's Stomach Bitters should be taken at the first sign of indigestion. It will strengthen your stomach and produce sound sleep, and good health must naturally follow.

IN COMPLETE HARMONY.

THE ANGLO-GERMAN AGREEMENT RECENTLY MADE.

Pleases the Administration at Washington Very Much—According to Secretary Hay.

WASHINGTON, Oct. 22.—It was authoritatively stated tonight, that the United States Government views with distinct favor the principles of the Anglo-German agreement, relating to China, and that a formal response to that effect will be made at an early day, to the invitation extended this Government to accept the principles of the agreement. The German charge d'affaires, Count De Quindt, had a conference with Secretary Hay this afternoon, presenting officially the text of the Anglo-German agreement, including the invitation to the United States to accept the principles therein recorded. Mr. Hay expressed his satisfaction at what had been done, saying he felt it to be in complete harmony with the policy this Government had pursued, both as to the maintenance of an unobstructed commerce in China, and the territorial entity of the Empire, and adding that a formal reply would be given in a day or two.

NOTICE TO THE PUBLIC.

In order to give all proprietors and employes an opportunity to attend the Photographers' Convention at Portland, on Oct. 25, 26, 27, it has been mutually agreed to close all Salem galleries on the above mentioned dates, to open again for business on Monday, Oct. 29th. The public is respectfully requested to bear this in mind and act accordingly.

THE REX STUDIO, THE CRONISE STUDIO, THE ELITE STUDIO, Salem, Or., Oct. 9, 1900.

NATURAL GAS

Discovered Within a Short Distance of Spokane.

Spokane, Wash., Oct. 22.—Natural gas has been discovered about Pine Creek, 35 miles southwest of this city, the outflow being traced for eight miles along that stream. R. T. Holway and associates have secured a twenty-five-year lease on 15,000 acres of land along the creek, and will sink a deep well to test the flow.

HE WAS CONVERTED.

Convicted Horse Thief Baptized in a Kansas Church.

Wichita, Kas., Oct. 22.—Frank Algood, sentenced to three years in the penitentiary for horse-stealing, was baptized by immersion yesterday, at the Christian church here. His hands were shackled and he had to be carried to the baptism.

CHILE'S REPLY.

New York, Oct. 22.—A dispatch to the Herald from Buenos Ayros says: The Argentine press continues to condemn the Chilean reply to Bolivia as well as Chile's attitude toward the country. It is urged that the United States should not tolerate the aggressive policy of Chile.

CIVIL SERVICE IN MADRID.

Madrid, Oct. 22.—Civil service examinations are in progress for the diplomatic and consular appointments. The Minister of Foreign Affairs opened a register for those proposing to compete on the 15th instant.

CASSELL'S
The Kind You Have Always Bought
Bears the Signature of Dr. J. C. Hathorn

Working Night and Day

The busiest and mightiest little thing that ever was made is Dr. King's New Life Pills. Every pill is a sugar-coated globe of health, that changes weakness into strength, listlessness into energy, brain-fog into mental power. They're wonderful in building the body. Only 25c per box. Sold by DR. STONE, druggist.