LINN COUNTY LOSES A CASE

Its Suit Against Defaulting Treasurer Is Reversed

CRIMINAL CHARGES AGAINST THE FORMER OFFICER MUST BE DISPOSED OF

Before He Can Be Asked to Testify Regarding the Time of the Defalcation—This Should Have Given the Defense the Postponement Requested—Other Cases.

(From Friday's Statesman.)

In the Supreme Court yesterday four cases were decided, as follows:

Linn County, respondent, vs. P. G. Morris et al., appellants; appeal from Linn county, Hon. George H. Burnett, judge; reversed. Opinion by Associate Justice F. A. Moore.

This was an action brought by Linn county against the bondsmen of P. G. Morris, twice elected as treasurer of Linn county, for the recovery of $3,422.35. The bondsmen were sureties only on the bond given for the second term. There are two indictments hanging over Morris charging him with embezzlement, and the bondsmen in this action filed an affidavit that they could not secure the testimony of Morris as to the fact that the defalcation had occurred during the first term (which they alleged) until the indictments were disposed of, and on that ground moved a continuance of the case until such time as the indictments could be disposed of, when they would show that the defalcation occurred during the first term, which would relieve the defendants from paying the amount of the shortage. This motion was overruled, and a trial had without the intervention of a jury, and the court made its findings of facts and gave judgment for the county for $3410.80, and defendants appeal. The appellate court after discussing the case says that defendants' affidavit shows that Morris was the only person by whom the defense could expect to prove that the entire defalcation did not occur during his last term of office, and the court concludes: "Fear of conviction under the indictments evidently restrained him from testifying in relation to this important matter, and as the District Attorney had charge of the criminal actions, and was apparently holding the indictments in abeyance until this action was tried, we think the court exercised its authority erroneously in not postponing the trial herein until the indictments were disposed of. It follows from this conclusion that the judgment is reversed and a new trial ordered."

Henry M. Wagner, respondent, vs. City of Portland, appellant; appeal from Multnomah county, Hon. A. F. Sears Jr., judge; reversed and remanded. Opinion by Associate Justice C. E. Wolverton.

A board of fire commissioners, appointed by the mayor of Portland, is given by the charter complete and exclusive power and authority on behalf of the city to perform all executive functions thereof in the organization, management and control of its fire department, and all powers and duties incident thereto. Such board has under its control and management a system of fire alarm wires, being the property of the city and used for communicating alarms of fire occurring therein. The plaintiff in this case was employed as groundman by R. G. Paddock, the city electrician superintendent of the system and who derived his powers from the board. While plaintiff was engaged in his duties of keeping the system in repair, he was injured by receiving a shock from an electrical current, for which he brought this action for damages, alleging negligence on the part of the city, and recovered judgment in the trial court, from which the city appealed.

The appellate court holds that the city is not responsible for the injury, but that the plaintiff's negligent act in continuing in the work, knowing the hazards, became the approximate cause of the accident, and hence he cannot recover damages. The judgment of the trial court is therefore reversed, and the cause remanded for further proceedings.

Peter Schlosser, respondent, vs. Emily Beemer, appellant; appeal from Linn county, Hon. R. P. Boise judge; affirmed. Opinion by Chief Justice R. S. Bean.

This was a suit to determine an adverse claim to real estate. The question on this appeal was the validity of the judgment through which the plaintiff derives his title, and hinges upon a clerical error made by the county clerk of Marion county in recording the certificate of attachment by substituting the word "Marion" for "Linn" in the title of the cause. The court holds that a mere clerical error by the clerk, in copying the certificate into the record will not defeat the lien, and the decree is affirmed.

Other cases decided were:

Mary A. Lazelle and Ella C. Duncan, respondents, vs. G. R. H. Miller, appellant, and J. G. Pillsbury, defendant; appeal from Clackamas county, Hon. T. A. McBride, judge; reversed and remanded. Opinion by Chief Justice R. S. Bean.

Robert Adamson, respondent, vs. W. J. Mariner, defendant, and Wells, Fargo & Co., and Wm. Frazier, sheriff of Multnomah county, appellants; appeal from Muultnomah count; affirmed December 9, 1901; on petition for rehearing; petition denied.

The case of C. S. Moore, appellant, vs. J. C. Shofner, respondent, an appeal from Multnomah county, was argued and submitted by F. Schlegel for appellant, and H. B. Nicholas for respondent.

Marcus W. Robbins was admitted to the bar on certificate from the Supreme Court of Indiana, for nine months, recommended by James H. Jordan, Chief Justice of the Supreme Court of Indiana, and Loring V. Stewart and Davis Brower, attorneys of Grants Pass.

Minor orders were made as follows: George H. Williams, respondent, vs. Commercial National Bank, appellant; Henry Weinhard, respondent, vs. Commercial National Bank, appellant; motion to advance overruled in both cases.

State ex rel F. D. Chamberlain, plaintiff, vs. Henry E. Eastham, defendant; proceeding in disbarment; ordered that A. L. Veazie be appointed referee to take and report the testimony in this case.

EUROPEAN BANKS.

A bank check is looked upon with suspicion in Italy, says Frank A. Vanderlip in Scribner's Magazine. Practically no small tradesman would take a check, and none of them keep a bank account. It was still more surprising to me to find that such a statement would be almost literally true of Paris itself. I was studying the mechanism of the Bank of France under the guidance of one of the officers. We went into one great room in the old building in which there were 200 desks enclosed in wire cages, all empty at the moment. I asked what these were for.

"These cages are for our city collectors," I was told "When a small merchant borrows from the Bank of France, he does not, as with you in America, borrow a bank credit, and have his loan merely added to his balance on the books of the bank. With us the merchant, when he makes a loan, gets the actual money and takes it away. He probably has no bank account with us. He writes no checks. When the loan is due he does not, as would be the case in your banks, come in and pay his indebtedness with a check; instead of that, we send a collector to him, and that collector is repaid the loan in actual currency. Two hundred men start out from the Bank of France every morning to collect matured loans. Several days each month it is necessary to send out 400 men, and on the 1st and 15th of each month 600 collectors go out."

These collectors were uniformed men carrying leather pouches, in which they have the matured notes and which are later filled with currency, as the collections are made from the bank's borrowers.

I stood at the paying teller's desk as I went farther along in my tour of the Bank of France. As I halted there the man who happened to be at the window at the moment presented a check for 50,000 francs. The money was counted out and handed over to him, stored away in a big wallet, and he passed on. I asked if it were not unusual for a man to draw out so much currency, and was told that it was not. It was but another illustration of how undeveloped is the banking system of continental Europe in its uses by the general public.

A Popular Preparation.

One of the best advertised and most popular preparations for the cure of Nasal Catarrh and similar troubles is Ely's Cream Balm. It was originated and placed on the market nearly twenty years ago by a firm of experienced druggists, Ely Brothers, and their business in this special article grew to such proportions that they were compelled to devote their entire attention to it. Ely Brothers emphasize the fact that it is to the interest of druggists to supply Ely's Cream Balm whenever a customer calls for it, or even when simply a good catarrh remedy is asked for. The test of time has proved that this preparation always gives satisfactory results. It is a uniform preparation, made according to a scientific formula from the very best quality of drugs. In supplying it to his trade the druggist does not run the risk of causing dissatisfaction, which might occur when the customer is induced to experiment with new preparations the merit of which has not been fully demonstrated.

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COSSACK CRADLE SONG.

Sleep my child, my little darling, sleep,
I sing to thee,
Silently the soft white moonbeams fall
on thee and me.

I will tell thee fairy stories in my lullaby,
Sleep, my child, my pretty darling,
sleep, I sing to thee.

Lo, I see the day approaching when
the warriors meet;
Then thou will grasp thy rifle, mount
thy charger fleet.

I will broider in his saddle colors fair
to see,
Sleep, my child my little darling, sleep,
I sing to thee.

Then my Cossack boy, my hero brave
and proud and gay,
Waves, one farewell to his mother and
rides far away.

Oh, what sorrow, pain and anguish
then my soul shall fill,
As I pray by day and night that God
will keep thee still!

Thou shalt take a saint's pure image to
the battlefield,
Look upon it when thou prayest. May
it be thy shield.

And when battles fierce are raging,
give one thought to me.
Sleep, my darling, calmly, sweetly
sleep, I sing to thee.
—Westmister Gazette.

LAID TO REST.—The remains of Dr. A. I. Nicklin, who died in Portland on Saturday of last week, arrived in this city on the 11 o'clock overland yesterday morning, and the interment was had in the Odd Fellows cemetery.

SHOW AT DALLAS.—A goat, sheep and poultry show will be held at Dallas, Oregon, February 20th and 21st. The breeders of Polk county propose to put up a good show, and the people of that section should give it their support.

FOR THE CAMPAIGN

STATE REPUBLICAN CENTRAL COMMITTEE IS CALLED.

Will Meet on February 8th, in Portland—Dates for State Convention and Primaries Will Be Fixed by the Committee.

(From Friday's Statesman.)

G. A. Steel, chairman, and W. S. Duniway, secretary, of the State Republican Central Committee, have called a meeting of the committee, to be held in rooms 620-622, Chamber of Commerce building, Portland, on Saturday, February 8, 1902, at 10:30 a. m., for the purpose of fixing the date for the state convention, and recommending a date for the primaries. There is no other politics in this meeting, except to prepare for the campaign, in which all the Republicans are interested. The state committee consists of the following members from the several counties:

Baker, O. M. Dodson; Benton, J. W. Crawford; Clackamas, Geo. A. Steel; Clatsop, C. W. Fulton; Columbia, T. C. Watts; Coos, John Morgan; Crook, J. N. Williamson; Curry, P. Hughes; Douglas, E. D. Stratford; Gilliam, Geo. B. Dukek; Grant, C. G. Guernsey; Harney, I. S. Geer; Jackson, H. E. Ankeny; Josephine, C. E. Harmon; Klamath, Rufus S. Moore; Lake, L. F. Conn; Lane, A. C. Woodcock; Lincoln, B. F. Swope; Linn, J. R. Whitney; Malheur, C. H. Brown; Marion, E. M. Croisan; Morrow, G. W. Phelps; Multnomah, O. F. Paxton; Polk, M. D. Ellis; Sherman, W. H. Moore; Tillamook, B. L. Eddy; Umatilla, J. S. Gurdane; Union, M. Baker; Wallowa, G. W. Hyatt; Wasco, H. L. Kuck; Washington, G. W. Marsh; Wheeler, W. W. Steiwer; Yamhill, W. A. Howe.

How Are Your Kidneys.

Dr. Hobbs' Sparagus Pills cure all kidney ills. Sample free. Add. Sterling Remedy Co., Chicago or N. Y.

AT THE TABLE—AVOID UNPLEASANT THINGS WHEN EATING.

It is said that food eaten under happy conditions does vastly more for the body than that of the same quantity and quality partaken of in a hurry or in anger or discontent. Perhaps it was with some such thought that wise old Solomn said it was better to eat herbs in contentment than fine beef amid contention. A friend agrees with the wise man and offers a rhyme she has read because it puts what she wants said "better far than I could hope to say it:"

Don't bring worry to the table,
Don't bring anger, hate or scowls;
Banish everything unpleasant,
Talk and eat with smiling jowls,
It will aid your own digestion,
If you will wear a smiling face,
It will jolly up the others,
If you only set the pace
Knowing something funny, tell it;
Something sad, forget to knell it;
Somebody hateful, quick dispel it;
At the table.

Cares domestic, business troubles,
Ills of body, skull or brain,
Unkind thoughts and nagging tempers,
Speech that causes others pain,
Public woes and grim disasters,
Crimes and wrongs and right's defeat
Let them all go to the wind
When you sit down to eat.
Knowing something funny, tell it;
Something sad, forget to knell it;
Somebody hateful, quick dispel it;
At the table.

You may breathe a pious blessing,
Over viands rich and good,
But a blessing with long faces
Won't assimilate your food;
While a meal of bread and herring,
With a glass of water clear,
Knowing something funny, tell it;
Something sad, forget to knell it;
Somebody hateful, quick dispel it;
At the table.

There is no doubt but home life would acquire a new charm and the family board be more attractive if the advice of this poem were generally followed. It is equally certain that there would be less indigestion. Let us all try to remember the refrain of the verses as well as the thought of the whole.

OREGON IN LEGEND

By Bernice Woodward.

—From the Oregon Teachers Monthly.

EUROPEAN peoples have long prided themselves on the wealth of their traditional history. They look back to countless ancestral legends concerning their rise and growth and are often prone to speak disparingly of America as a nation without a past, barren of time honored traditions. True, as a nation we are young, but our country, picturesque and exhaustless in its wealth of natural beauty and grandeur, teems with the romantic legends of a people whose sceptre of power has long been broken. Every commonwealth of our Union can boast of its store of mystic Indian legends, each of which, in its subtle charm of poetic sentiment, is worthy of the efforts of a sweet singer of a Hiawatha.

No state is more abundantly supplied with these traditions than is our beloved Oregon. Although the Eastern states have been generously landmarked in legendary history by literary writers, but few have yet appeared on this side of the Rocky mountains to preserve our legends for succeeding generations. The Indians do not preserve in writing these legends which go from tribe to tribe, but when the names of rivers and mountains are mentioned there is brought before their minds the original story concerning them.

The traveler passing through the romantic places of Oregon is filled with a feeling akin to awe at their beauty and grandeur. In imagination he takes an excursion up Oregon's royal highway, the mighty Columbia. Drifting into an unknown dream-land he passes the snowy waterfalls gliding from the gigantic rocks; at the Cascades he sees the mighty waters surging through a forest of boulders dotting the river's bed. The old Indian chief relates the story of its formation. At one time there was mutual jealousy between Mt. Hood and Mt. Adams, for each wished to secure Mt. St. Helens for his bride. Becoming very angry they began throwing stones at each other. These stones meeting on the natural bridge which the Indians say once spanned the Columbia, caused it to fall. Such is the traditional formation of the Cascades and we have reason to believe that the so-called "Bridge of the Gods" did once span the great river at that place.

Numerous points in Oregon's mountains were thought by the Indians to be haunted and they can not be induced to go near such places. One of these locations is at Necarney bay, a point on the Tillamook coast. At this bay, years ago, a vessel was lost and a number of men came ashore carrying a chest which they buried in the mountain, after carrying sacks of treasures and emptying them into it. They then separated, some going north and some south but none of them ever returned. The Indians had a horror of this spot and would not go near it. At one time an old trapper was passing through the woods when he met an ancient crone who told him how she witnessed the landing of the Spaniards who buried the treasure in the mountain side. When the trapper importuned her for more information she led him to the location and showed him the exact spot. He may have dug for the treasure; but upon being accused of it he denied it. He was a generous fellow; always had money to pend, and to give away; so much so that many thought he had surely found the treasure.

There was once an old Indian chief living on the Columbia who had seen the advance of civilization in the great West ever since the time of the Lewis & Clarke expedition. This Indian sometimes came to Portland and was frequently seen on the streets wrapped in his old blanket, his wrinkled and bent figure showing signs of great age. When asked about the early days before the white people had gained possession here, he told the story of Elk Rock, a cliff between Newberg and Portland. After years of peace and prosperity on the part of the Indian a great fire swept through the forests driving the game to the coast and as the winter came on very early the river was frozen over so that no fishing could be carried on. The Indians were driven to starvation and one morning the young chief, Owano started out with his bow to try again the hopeless hunt for game. Coming on to an elk's track a chase was carried on all day until the elk being frightened by the chief's appearance went bounding over the cliff. The chief was so closely pursuing his game that he could not then stop his horse and he also fell 500 feet down upon the ice below. This is the story of the great cliff just across the Willamette river from Milwaukie and in ages to come it will be known as "Elk Rock."

Everyone in our own Chehalem valley is glad of the fact that no rattlesnakes are seen here, for as is told in the legend they were once and for all dispersed by a second St. Patrick. These snakes once became so prevalent in this valley that many of the Indians were bitten and killed by them. Chehalem who was a famous Indian chief told the snake king that he must stop this, but the latter paid no attention and Chehalem knew something must be done. He called the warriors and medicine men together ordering the warriors to drive the snakes into their den on the Kinney donation claim and the medicine men made medicine with which the chief sealed up the mouth of their retreat. He watched for a month that none might escape and when his watch was finished no rattlesnakes were to be seen nor have they since existed in the Chehalem valley.

These legends told by the Indians are improbable but the greater number of them are founded upon some event which actually took place.

We, as true Oregonians are interested in these legends because they are founded on actual occurrences, which at some remote date took place. An inspiration is brought from the forests, lakes and the sweet songs of the birds, which, carried from tribe to tribe, makes the unwritten history of the Indian, and in a manner not found in the general history of the state; the legends add a charm to the already beautiful realities of old Oregon.—The Newberg Crescent.

JUST A FEW SCRAPS OF HISTORY.

In view of recent feverish vaporings and flaming declarations of love for the "dear people" and the down-trodden "taxpayers," and for purposes of comparison, a correspondent sends the following brief but authentic chronicles of local history, that will point a moral and adorn a tale and furnish a theme for philosophizing over the mutability of things human—some people being more human than others; and which brief and authentic chronicles will furnish hints leading to larger themes on the part of the ordinary Yankee citizen who can see through a grindstone if it has a hole in it, and who is capable of having a hint percolate through his gray matter without having a brick house fall on him; or to one who, being less capable, may emulate the sponge and absorb the trend of thoughts from the hints furnished.

Anyway, here is the record:

In the fall of 1894 the People's Party county central committee appointed John P. Robertson and Judge R. P. Boise a committee to investigate and report the amount of the salaries and emoluments annually received by city, county and state officers.

After several days spent going over the county records with Judge Hubbard, then county judge, the committee made a written report.

This report, giving the net emoluments of county and city officers, together with the committee's recommendations as to reductions, was adopted by the county central committee and published in the Independent.

It was also read before and adopted by the Committee of 100, of which A. Bush was chairman, and published in the Statesman.

The Journal refused not only to commend it, but refused to publish it, although requested to do so.

The Committee of 100 appointed a sub-committee, Hon. John Minto, chairman; Hon. A. Bush, John Hughes, the late Fabritus Smith, Judge Hubbard and others, to bring the facts and recommendations of the committee for reduction of salaries before the members of the Legislature from this county, and to secure their support of these recommendations in the Legislature.

When the Legislature assembled this committee by appointment met with the members of the Legislature from this county, and the Hon. John Minto, Mr. Bush and others placed before them the facts as found by the committee, and the reductions demanded.

Mr. E. Hofer, being then a member of the House, presided.

The county officers were also present.

The demands of the committee were unheeded.

Mr. Hofer did not raise a finger to comply with the request of these substantial taxpayers. The session of 1895 passed, and no reduction of salaries.

In the spring of 1896 the People's Party, following the recommendations of their committee, incorporated in their platform a demand for the reduction of salaries, and that all fees be covered into the treasuries. The session of 1897 failed to organize.

Early in 1898 the People's Party committee were instructed to request the Democratic county central committee to co-operate with them and appoint one or more members to aid them in investigating the salaries of state officers.

When the People's Party committee met the Democratic county central committee to make known their request, Mr. E. Hofer, like Satan, "came also," and persuaded the Democratic committee to deny the request of the People's Party to aid them in investigating the salaries of state officials.

THE RAGLAN.

A Shapeless Garment Now the Rage.

A mere man suggests that the shapeless raglans that are so popular for women's wear offer an inviting field for inexperienced amateur seamstresses. If a raglan appears to fit it isn't a fit, according to fashion's requirements; the more "slack" there is at the waist and the more dip at the hem the better. The raglan is certainly a leveling and democratic garment; in it all women appear upon an equal level of unshapeliness. It rages with great violence everywhere, but has become so common that it will soon lose favor, and by another season will be advised only in its proper place; that of a useful extra wrap to wear in stormy weather, or to cover a gown that needs protection. It is properly, a driving rather than a walking coat. One of the humors of the season is to see a woman trailing through the city streets with a raglan which rests an inch or two on the ground all round, striving at the same time to hold up a long-tailed frock which, with the innate depravity of such garments, insists on dipping down in a series of scallops. There are some fashions that cause one to endorse, temporarily at least, the opinion of those ancient theologians, who argued that woman is not to be always regarded as a reasoning being.

NOT A MISSING LINK.

"I'm glad I'm not green like you," taunted the monkey to the parrot.

"I may be green" replied the parrot freezingly, "but I'm glad I am not a missing link."

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