

FIFTY-FOURTH YEAR—NO. 12.

SALEM, OREGON, TUESDAY MORNING, MAY 16, 1905.

FIRST SECTION—EIGHT PAGES.

STATE MOURNS HONORED DEAD

GRIM REAPER CALLS HON. CHAS. B. BELLINGER.

ABLE JURIST PASSES AWAY.

Struggle With Death Comes to End Yesterday Afternoon, Calmly, Sweetly, Peacefully.

Oregon Bows Its Head in Sorrow at Departure of Noble Citizen, Eminent Judge and Worthily Man—Brief Biography of United States Circuit Jurist

PORTLAND, May 12.—Judge Charles B. Bellinger, of the United States District Court of Oregon, died this afternoon at 3:40 o'clock of a complication of diseases.

The judge was taken seriously ill just after reading his decision in the plea in abatement in the Senator Mitchell land fraud cases. The tremendous strain attendant upon the preparation of this momentous decision greatly assayed the vitality of the jurist, and one complication after another made themselves apparent.

This morning the judge, surrounded by his family, lapsed into unconsciousness. Powerful stimulants were administered, with no effect.

For the past year the judge has been listening to the story of the land fraud cases. He has seen men whom he knew and respected for years drawn into the net of the government, indicted and charged with crimes and misdemeanors, and has been compelled, in the strict performance of his duty, to put aside his lifelong ties and all friendly feeling and decide the points at issue, which meant either ruin to these friends or acquittal of all the charges.

In almost every case the judge found it his duty to decide against his friends, and this weighed heavily on him.

Hon. Charles B. Bellinger came to this state in 1847 from his native county of Knox, Illinois. His ancestors were early settlers of the state of New York, his grandfather, John H. Bellinger, and his father, Edward H. Bellinger, having been born in that state.

In 1836 both grandfather and father moved to Illinois, from where in 1847, lured by the large donations of rich land in Oregon, they emigrated with their families across the plains to this state. Although they underwent dangers and privations on this overland journey, yet never was regret for the venture ever heard from either in life.

The journey was accomplished with oxen and was slow and tedious in the extreme. The little child, Charles, made the journey and was subjected to all the mishaps and trials of that long trip.

The Indians in the Columbia basin were troublesome, trying to rob the little band of its cattle, but by vigilance and courage it managed to protect itself and its property from the sav-

ages, arriving safely in the beautiful Willamette valley, where the father and grandfather of the subject of this sketch each took up a section of land near what is now known as Salem.

Begins Practice Here.

On their new possessions they erected cabins, with puncheon floors, and commenced their pioneer life. The grandfather of Judge Bellinger lived to the good old age of 87 years, dying in 1878. He was a soldier in the war of 1812 and built the first randi boat in New York, and is remembered by many of the older people of this section of the state. Three years after their arrival in this state Judge Bellinger's father died, leaving the young boy to the care of his grandfather and mother, who was Miss Ediza Howard, a native of Illinois.

Five children were born to this union, three of whom first saw the light of day in Illinois and made the journey across the plains, and two others being born in this state. Judge Bellinger was born in Knox county, Illinois, November 21, 1839, and was eight years old when he made the journey from that state to Oregon. Upon arriving here, he attended the district school and later entered Willamette university, where he was a student in the academic department for two years. He then began the study of law and was admitted to the practice of law in this state in 1863, beginning his practice in this city, where he was most successful during his seven years of professional practice here.

Appointed Circuit Judge.

In 1868 he was elected to the state legislature by the democratic party and during his two years of service made for himself a most enviable record. In 1870 he moved to Portland, where he has since resided, continuing his professional business. For a year he was the editor of the Daily News, after which he received the appointment to the clerkship of the supreme court of the state and also reporter of decisions.

His wide knowledge in the law and his keen perception of justice won for him a state reputation, and he was appointed to fill the vacancy in the circuit court for Oregon by Governor Thayer in 1882, upon the death of Judge Matthew P. Deady, a position he held for two years with credit to himself and the high office that he filled.

Receives Further Honors.

Further honors were his when, in April, 1892, a vacancy on the circuit court for the United States occurring, he was appointed to that office by President Cleveland, a position that he has filled ever since.

With Judge W. W. Colton, Judge Bellinger compiled the code for the state of Oregon in 1903.

Judge Bellinger was married in 1859 to Miss Margery S. Johnson, a native of Ohio, who came to this state in 1852. To this union were born seven children, four sons and three daughters: Oscar, Victor C., John, Everett H., Edith, Daisy and Kate.

Judge Bellinger is a Royal Arch Mason and is a past master of the bina lodge. In religious views he is a Unitarian. As a judge he had made for himself a most enviable reputation and enjoyed no less a reputation as a practicing attorney, having in the trial of intricate cases few equals and no superiors.

ARE REGARDED AS NUISANCES

SUPREME COURT HOLDS AGAINST OPERATION OF POOL ROOMS.

ARE OFFENSE AT COMMON LAW.

Funishable as Nuisance Before Any Sort of Gambling Was Prohibited.

Tend to Draw Together Disorderly Persons and to Encourage Vice, Idleness and Breaches of Peace—Important Opinion Rendered by Judge Ben.

"The keeping of such a house is a separate and well defined offense at common law, entirely independent of the criminality of the business conducted therein. It was punishable as a nuisance before any sort of gambling was prohibited, or even considered to be against public policy, because it tended to draw together disorderly persons and to encourage vice, idleness and breaches of the peace." Such, in substance, is the holding of Justice B. S. Bean of the supreme court, yesterday noon, when he gave his decision affirming the decree of Judge Fraser of the circuit court for Multnomah county, in the case of the state, respondent, vs. M. G. Nease, appellant, better known as the "pool room case."

Statement of the Case.

The appellant was indicted November 17, 1904, for "the crime of wilfully and wrongfully committing an act which grossly disturbs the public peace and openly outrages the public decency and is injurious to public morals." The act complained of was that between October 20 and November 1, 1904, the defendant did for gain habitually sell pools upon horse races and procure idle and dissipated persons to come to his house to buy pools and bet upon horse races to the common nuisance of all good citizens and contrary to the statutes in such cases made and provided against the dignity and peace of the state of Oregon. The indictment was based upon section 1930 of the code. A general demurrer was overruled and the trial resulted in a verdict of guilty. A \$200 fine was imposed and the defendant appealed.

The only question presented on the appeal was whether keeping a house where pools upon horse races were bought and sold constitutes a crime under section 1930 of the code. The prosecution contended that section of the code is a re-enactment of the common law upon the subject of public nuisance in the particulars specified and that to learn the meaning of such phrases as "grossly disturbs the public peace" or "openly outrages the public decency and is injurious to public morals," recourse must be had to the common law of nuisance. Numerous cases were cited from decisions in England and several states in this country in support of the contention that the keeping of a gaming house was a violation of the common law upon the subject of public nuisance, in that it tended to disturb the public peace, outraged public decency and was injurious to public morals.

The defense contended that in the enactment of section 1930 the legislature did not intend to adopt the common law as to indictable nuisances, but that this section was intended to apply to breaches of the peace, indecent exposures, dissemination of obscene literature and similar acts.

It is Declared a Nuisance.

Continuing the opinion says: "That such a house is a gaming or gambling house and punishable as a nuisance at common law, whether betting on a horse race is a crime or not, has so often and uniformly been held by the courts that it is no longer open to discussion. There is no dissent and it is unnecessary to do more than to cite authorities.

"By its charter the city of Portland is authorized to prevent and suppress gaming and gambling houses, but not to make such places lawful by licensing them. Nor, as we understand it, are these positions seriously controverted by the defendant, but his contention is that there is no law in this state for the punishment of the keeper of a common gaming house.

"Now, there is no statute providing specifically for such an offense nor have we any common law offenses as such, but section 1930 of the code is a part of the original criminal code reported to and adopted by the legislature and was probably taken bodily from the draft of a penal code for the state of New York, generally known as the 'nuisance statute.' It was evidently intended to cover such offenses against the public peace, health, common decency and public morals and such as grossly injure the person or property of another, which are not otherwise punishable by the code.

"Independent of any statute the keeping of a common gaming house is indictable at common law on account of its tendency to bring together disorderly persons, promote immorality and lead to breaches of the peace. Such an establishment is thus a common nuisance."

Other Opinions Handled Down.

Other opinions and motions handed down were:

Herbert Beadle, appellant, vs. D. A. Paine and W. Kuykendall, partners under the firm name of Paine & Kuykendall, respondents; from Lane county. J. W. Hamilton, judge, affirmed. Opinion by Chief Justice Wolverton.

This was a suit to recover for injuries alleged to have been sustained by plaintiff in the negligent treatment of his arm by the defendants, the arm having been broken, dislocated and bruised. A decree was entered for the defendants in the lower court and the plaintiff appealed. The decree, however, was affirmed by the appellate court.

George P. Livesley, appellant, vs. James Muckle, respondent; from Colum-

HEARS FIRING IN JAPAN SEA

TELEGRAPH'S CORRESPONDENT SO WIRES PAPER IN LONDON.

JAP BOAT RUSHES THITHER.

Nokko, Converted Cruiser, Damaged in Storm Off Beefs of Fusan Several Days Ago.

WILD MAN KILLS

W. P. ROBINSON KILLS TWO, WOUNDS TWO AND SUICIDES IN SAN DIEGO.

Generally Believed Drink and Brooding Over Nihilism Brought on Fit of Insanity, in Which Man Uses Rifle, Revolver and Dirk.

SAN DIEGO, May 15.—Armed with a rifle, revolver and dirk, each of which was used with deadly dexterity, a mad man ran amuck in this city today, killing two men, a boy and a woman, wounding two other persons and finally blowing off the top of his own head and dying in a few minutes. Three of the victims lived in the same house with the slayer; the fourth person whom he killed and the two who were wounded resided half a mile away, and in their house the maniac took his own life.

The man who enacted this ghastly tragedy was W. P. Robinson, about 40 years old, of powerful build and of some education. The precise causes which led him to this wholesale murder may never be ascertained. It is known, however, that he was a heavy drinker, that he was intensely interested in the nihilistic movement in Russia, and that against two or three of his victims he fancied he had some petty grievance. On the other hand, he is said to have been ordinarily a "good-natured man and inclined to be generous, one of the last persons likely to take a life. The general supposition is that drink and brooding over nihilism brought on the attack of homicidal mania.

LEARN DETAILS

SECRET TRANSACTIONS OF AETNA TRADING COMPANY ARE REVEALED.

After Two Months' Labors, National National Bank Examiner Starteck Appears Before Federal Grand Jury Investigating Packing Industries.

CHICAGO, May 15.—The members of the federal grand jury investigating the business affairs of the beef packing industries today learned all the details of the manner in which the officials of the Aetna Trading Company kept its books. This company, it is said, was the means by which the packers, supposed to form the beef trust, transacted their secret business. National Bank Examiner Starteck, who, for nearly two months, has been studying over the books, found in the six trunks taken from the First National bank building safety vaults, has completed his task and was before the inquirers today. He will continue his testimony tomorrow. Through these books, found in the trunks, the assorted secret system of the Aetna Trading Company has been revealed and all persons connected with the operation of the company are said to be known.

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Russians Said to Have Established Wireless Station on French Territory by Which Communication is Had With Officials at St. Petersburg.

LONDON, May 15.—A dispatch from Saigon to the Associated Press stating that the Russian fleet had sailed northward from the vicinity of Honkobe on May 14 is the latest news available in London regarding the movements of Rojestvensky.

A dispatch from Hong Kong to the Mail says that Hamilton King, the American minister at Bangkok, who is a passenger on board the steamer Pit-sunoke, states that on May 11 the steamer passed twenty-four Russian warships twenty-four miles north of Kamranh bay.

According to the Telegraph's Tokio correspondent, during a great storm several days ago the Japanese converted cruiser Nokko was damaged by striking a reef off Fusan. The correspondent further says that it has been ascertained that the Russian fleet has established a wireless station on French territory and has communicated with St. Petersburg by way of Saigon.

A Norwegian steamer, the Telegraph's correspondent says, reports having heard cannonading from 8 to 11 o'clock on the morning of May 11, in 23 deg. 45 min. north latitude and 129 deg. 20 min. east longitude, and a Japanese torpedo boat was seen running in that direction.

GUARDS DURING THE EXPOSITION

Six Members of Company M of the Militia Go to Portland to Do Duty.

First Sergeant H. H. Lucas, Sergeant Chester Abrams, Corporal Will Kautner, Privates Perry James and Will Glenn, and George De Miranville, evoked, departed for Portland on Sunday evening to report for duty as guards at the Lewis and Clark fair. They are all members of Company M of the militia of this city, and comprise the detail from this company for that honorous and remunerative duty. They were to have reported to the commanding officer of the guard at 9:30 o'clock yesterday morning, when organization of the entire guard took place.

DID NOT LOSE THEIR RIGHT.

Supreme Court Declares That Yakima Indians Still Possess Right to Fish.

WASHINGTON, May 15.—The supreme court today, by reversing the lower court, decided that the Yakima Indians did not lose the right issued by the treaty of 1859 to fish for salmon in the Columbia river when the Winans brothers secured a license from the state of Washington to operate fish traps.

RACE ACROSS ATLANTIC OCEAN.

Eleven Large Sailing Yachts Start This Afternoon for German Emperor's Prizes.

NEW YORK, May 15.—For a valuable cup and three other prizes, offered by the German emperor, eleven large sailing yachts assembled in the inner harbor today, prepared to start tomorrow for a race across the North Atlan-

AN ARMISTICE IS DECLARED

TRUE IN TEAMSTERS' STRIKE ON UNTIL THURSDAY.

SPEEDY END NOW PREDICTED.

Drivers Declare They Will Continue Fight and Make Appeal to President Gompers.

INTERNAL WAR

RUSSIA IS AGAIN IN THE THROES OF FURTHER LABOR DISTURBANCES.

Mill Operatives Quit at Saratoff—Strike at Odessa Begun and Threatens to Become General—Liban Laborers Go Out—Force Stores to Close.

SARATOFF, May 15.—All mill and factory workmen struck today.

Odessa, May 15.—A strike of large proportions began here today and threatens to become general.

Liban, May 15.—A strike was organized today in this port and in the factories here. The strikers have forced all the stores to close.

FIVE ARRESTS ARE MADE.

Two Suspects Held for Further Investigation of Santa Fe Road Wreck.

EMPORIA, Kas., May 15.—Seven men were arrested this afternoon by the Santa Fe detectives on suspicion of being connected with the wreck of train No. 17 yesterday. Five were released, and two were held for further investigation. All are former railroad men. No sign of the two passengers said to be missing was discovered.

BROWN MEN PLAY BALL.

BERKELEY, Cal., May 15.—The Japanese baseball team from the University of Waseda was defeated today by the University of California nine by a score of 5 to 0.

BOWEN REPLIES

FORMAL TRIAL OF ISSUES BETWEEN MINISTER AND LOEB IS BEGUN.

Diplomat Calls Upon President Roosevelt and Secretary Taft—Later Begins His Reply to Charges Prepared by Assistant Secretary of State.

WASHINGTON, May 15.—The formal trial of issues between Acting Secretary Loomis and Minister Bowen began today, when Bowen presented himself at the White House. He sent his card last night to the president and followed it this morning by appearing in person at the White House, where he was received by the president, who told him, as he had come to answer his summons, he would be pleased to have the minister call at once on Secretary Taft. Bowen accordingly went to the war department and spent a short time in conversation with the secretary, after which, on the advice of the secretary, Bowen returned to his hotel and began preparing an answer to the counter-charges preferred by Loomis that Bowen had instigated the circulation of unfounded reports against his superior in office.

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International Brotherhood of Teamsters to Meet in Chicago This Week—Will Probably Decide Upon Future Action of Chicago Drivers.

CHICAGO, May 15.—A practical armistice in the teamsters' strike was declared tonight to last until the officers of the International Brotherhood of Teamsters had met here, either Wednesday or Thursday. At a meeting of the teamsters' joint council held tonight to reconsider its action of Saturday night, when it was decided to refuse the demand of the Team Owners' Association that deliveries be made to houses where the strike exists, the members of the council reaffirmed their stand and decided that they could not accede to the demands of the Team Owners' Association.

As a result of today's developments in the teamsters' strike the employers predict a speedy end, while the labor leaders assert that the strike will spread and will be assisted financially by unions all over the country. An appeal for funds has been sent out by President Gompers of the American Federation of Labor, which gives color to the latter conclusion.

What the employers take as a sign of the end of the strike was a telegram sent by President Shea of the teamsters to Gompers. The telegram was to arrange for a meeting of the Federation of Labor to be held in Chicago the latter part of this week. Shea telegraphed Gompers to come to Chicago forthwith. These men are the same as were called to Chicago last year to put an end to the strike of the stockyards employes.

The employers today operated 2,000 wagons, practically without injury, many deliveries in the resident portion of the city being made without police protection.

DECLINES TO PAY HER RENT.

Former Oregon Girl, Now Duchess Rocheffoucauld, and Countess Mackin, Clash.

PARIS, May 15.—The feud between the Duchess Rocheffoucauld, who was Miss Mitchell of Oregon, and the Countess Spottswoods Mackin, another titled American, has reached the acute stage. The duchess engaged the Paris town house of the countess for the season, but refused to pay the rent because certain repairs were not made, and the countess is making things lively for the duchess, assisted by a sheriff's officer.

The countess tried forcibly to collect her rent. Failing in the first attempt, she returned the next day at an early hour, when the duchess was absent. The countess' agent, with sheriff's officers and a locksmith, succeeded in entering the house by forcing the front door. An officer, instructed by the countess' agent, proceeded to the duchess' bedroom and seized thirty of the duchess' best gowns, following up this by attaching the duchess' family silver.

TOTAL NUMBER NINETY-SEVEN.

SNYDER, May 15.—No deaths occurred today among the patients at the hospitals here, although no hopes are entertained for the recovery of two of them. The total number of deaths, according to the best estimates, is ninety-seven.

QUALITY

ISN'T ALWAYS SO APPARENT WHEN YOU'RE BUYING A SHOE. Its true worth is discovered only after considerable actual service. It's the dependable wearing qualities, combined with the correct styles and proper fit, that have made

THE BROWN SHOE CO.'S SHOES So Popular

Our Cash plan brings reliable footwear within reach of the smallest purse.



Barnes' Cash Store E.T. Barnes, Prop. DRY GOODS, CLOTHING, LADIES' AND MEN'S FURNISHINGS Salem's Cheapest One-Price Cash Store



Be sure that every hat you buy has the "ROBERTS" label on it. Best \$3 Hat on Earth.

If you want quality Come to the Woolen Mill Store

Early Arrivals Ready

THERE is an old saying about the early bird that catches the worm; and it puts us in mind of the fact that the wise mortals who realize the importance of being at the head of the line always, are usually the ones who get the best things. There is certainly distinct advantage in the early selection of seasonable clothing, for instance, as any one can tell you who has tried ever it. Our spring styles in Clothing, Hats and other new goods, are now ready to change hands. We have had them just long enough to appreciate their splendid qualities; but we bought them to sell, and we want you to have them.

Salem Woolen Mill Store

