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PENLAND CASE GOES TO JURY

Witnesses for the Defendant Examined and Attorneys Make Arguments

The case of Penland vs. S. P. Co. was reopened this morning by plaintiff, and testimony produced on the age and earning capacity of Mrs. Penland at the time of her death.

The first witness called was Mrs. Carey, sister of Mrs. Penland, who lives about 12 miles south of Salem, who testified that deceased was in the habit of stopping and looking before crossing the track.

Homer Smith, the life insurance agent, was next called. A book was produced by witness giving the expectancy in life of a woman 47 years of age, and offered it as testimony. It was shown that her expectancy is 23 years. Said that life was shorter with females than males.

First witness for defendant, Dallas Shumaker, was examined by Attorney Lietzer. Witness riding down Commercial street, and saw Mrs. Penland about a block from train, and did not see her again until after the accident. Opening was 4 to 5 feet wide between cars. At the time of the accident he was standing in the middle of the street in front of the Red Front livery stable. Didn't notice whether he could hear the train moving. Witness saw brakeman near him in the middle of the street, signaling the engine. Heard some one call, "look out," and at the same time saw an object fall under the wheels of the cars. Did not know of any obstruction between Mrs. Penland and the brakeman, but there might have been some one between them for all he knew. Noticed the cars moving while he was coming down the block. After a short cross-examination by Attorney Inman witness was dismissed.

John Running, a civil engineer, who drew the original map which defendant introduced as evidence, was next called. He testified that the map was correct. Also to the distances of the different points in the vicinity. Witness testified that he took photos produced by defendant of vicinity of crossing, and stated from what points the pictures were taken. When cross-examined witness stated that plan of tracks drawn in plat is on a correct scale.

Ed. Hogan, the next witness called, stated he was waiting for a car in front of the Willamette hotel at the time of the accident. He saw a lady, who later proved to be Mrs. Penland,

hesitate a moment before crossing track, then start through train, then seem to get confused, and stop between the train, and then was crushed. Said outcry was made just about the time she dropped. He said she only hesitated about two seconds between cars. Under cross-examination witness said he saw several people watching cars. Mrs. Dyer, the next witness, saw Mrs. Penland near train. Saw the brakeman in the street signaling to the engine. She was returning home, and just as she was passing The Journal office saw train switching, so slackened her speed so as not to have wait at crossing. Heard some one scream, but did not see who it was. When cross-examined she stated she did not see any opening in the cars. Saw pool of blood after the accident. Couldn't say whether blood was where she was laid on the ground, or whether it was at the place she was killed.

W. M. O'Malley the engineer on the train which killed Mrs. Penland, was next called. He stated that the train was moving very slowly, and the bell was ringing at the time of the accident. The student fireman was ringing the bell, and O'Malley was receiving the signals. The train was stopped in three or four feet after the violent stop signal was given. He did not know what was the matter when signal was given, but knew something was wrong, or violent signal would not have been given. When cross-examined witness said that he could not have seen the place of the accident if he had been in his proper seat on the right hand side, but that he was sitting on the left side at that time.

L. Fields, the fireman on the fatal train, was next called. He was running the engine when Mrs. Penland was killed. Train was going very slowly when signal to stop was given. Very acute curve at that point, and could not see point of accident. Bell was ringing at that time; student fireman was ringing it. An emergency stop was made, that is to give the engine all the air possible. Air is applied to engine and car wheels both. Engine did not move more than one or two feet after air was applied. When cross-examined witness stated that lever was on right hand side and bell rope on both sides of engine.

D. Clark, the brakeman on the train, was next called, and stated that he

did not notice Mrs. Penland until she was stepping between the cars and he yelled at her twice, but was too late. He was standing about two cars and one-half from her at the time she was killed. The train was preparing to spot the way cars at the depot, while the train men went to dinner. He was standing sideways to Mrs. Penland. He was not aware of the opening in train. The train men had not made an opening train for the purpose of pedestrians to pass through. He called "look out" the first time he called, but did not remember what he called the second time. Said the engine was stopped instantly when he gave signal, and the slack then ran out of the train, and that killed Mrs. Penland, not the movement of the whole train. The other brakeman was standing two cars east of Mrs. Penland, making a coupling. There was an opening of about two feet about six feet west of the sidewalk, caused by the slack running back toward the engine. The accident did not tear Mrs. Penland's clothing. The coupling was not violent. When asked by Attorney Inman if he could state the exact place of cars before accident, he said he could, but could not tell whether there was an opening in the train or not. Also that the brakes were not set on the cars, but a board was placed under the wheels to keep them from running down grade.

Harry Frink, the other brakeman, was next called. Witness stated that he was making a coupling at the east side of the street car track at the time of the accident. Testified that bell was ringing, and engine was moving very slowly. He was standing with his side toward Mrs. Penland. The first time he saw her was when she dropped. He also said that he did not know of the opening in the train. The opening was caused by a flying switch failing to couple. He heard Brakeman Clark yell "look out," and yell again; he then went over to where she fell and picked her up. She was laid on the ground just west of the fire hydrant on that corner. He saw blood at point she was picked up, but not where she was laid on the ground. Witness was two cars from Mrs. Penland when she was crushed. Witness stated to plaintiff's attorney, when cross-examined that he was not there to warn people. S. Thompson, the conductor, was called, and stated that he was at the freight depot when Mrs. Penland was killed. He was transferring freight, and heard some one yell, and went to investigate. The cars on which he was working were coupled to the one against which Mrs. Penland was killed, and those cars did not move when the others struck them.

Lawrence Hofer was the first witness called on rebuttal. Witness stated that he was at The Journal office just before the accident, and saw Mrs. Dyer and two boys pass. After the accident Mrs. Dyer turned around and started back, and witness asked her what was the matter.

Mrs. Mary Carey was called again, and stated that she had crossed this crossing many times, and testified that Mrs. Penland's hearing was good.

W. S. Low was recalled, and stated that he did not see any one standing in the middle of the street with a bicycle, and did not see any one standing near the Iljehse Club.

D. S. Radabaugh was next called, and testified to the same effect as Mr. Low. On cross-examination witness said he saw a lady assisting after the accident, but did not see a woman with bicycle, and would probably have seen her if she had been there.

This closed the rebuttal and the attorneys for each side were given an hour to argue the case. A motion for nonsuit at the end of the case was overruled, as also was a motion for a direct verdict.

Penland Case Argued.
At 11:30 the testimony was all concluded, and the court allowed an hour to each side for argument of the case. Mr. Turner opened for the plaintiff with a very plain and impartial statement of the case, and at one time had many of the friends and members of the Penland family in tears. He was followed by Messrs Lietzer and Bingham, for the Southern Pacific Company, who also made a very strong and skillful presentation of the case for the defendant corporation. It was easy to see that the jury would be up against a very difficult case to decide, although the general opinion is that Turner & Inman have worked very hard, and made out a very strong case for the plaintiff, that will be very hard to get over. Mr. Inman closed the case in an eloquent address to the jury at about 3 o'clock.

Come and laugh at "The Huskin' Bee."

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For Infants and Children.

The Kind You Have Always Bought

Bears the Signature of *Dr. J. C. H. Hedges*

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AMUSEMENTS.

TONIGHT.

Grand—"San Toy."
Edison—Continuous Vaudeville.

COMING ATTRACTIONS.

Grand—"The Huskin' Bee."

San Toy Tonight.

The production of "San Toy," which John C. Fisher will offer in this city tonight is by far the most magnificent picture of China and its people that has ever been staged in this country. The music and book of the play are highly meritorious, and consequently Mr. Fisher did not hesitate to spend his money liberally in furnishing the cast and equipment. James T. Powers, who has not appeared in this city for a number of years, is at the head of the big cast, and will play the part which he originated in this country. Mr. Powers is a comedian of great ability, in fact such a favorite with the public that of recent years he has spent nearly all of his time in New York City and London. Geo. K. Fortescue, who was also a prominent member of the first American cast, is likewise a member of Mr. Fisher's company, as is Nagle Barry Margaret McKinnon, John Peachy, Josephine Newman, Chas. Arling, Mina Rodolph, Fred W. Huntley and Katherine Howland, together with a chorus of 36, a special orchestra and a production which was built on such a generous scale that it requires two 60-foot baggage cars to hold it.

"The Huskin' Bee."

Our popular and much-esteemed local resident, Mr. Upland Hay, is going to give a large "Huskin' Bee" on October 18th. All the neighbors have been invited. Neighbor Cornhopper has promised to be on hand, and is very emphatic in declaring that he will make things go some. O'Flannagan has stopped his fall plowing, and is busy hunting for red ears. Our friend, Sitand-whittle, is sharpening his huskin' pin, and declares he'll beat them all. Knowing that his barn will not hold them, Farmer Hay has rented the opera house, and will charge an admission fee to spectators. As he is to donate the receipts to the public library there should be a large attendance, and the vacant chairs be hard to find. Everyone come and enjoy themselves. There will be fun galore, cake walk, boy Rube dance, 20th century belles, besides the wonderful Egyptian ballet, in which 12 of the most graceful young men in town will take part. The music, seductive and rhythmic motions of the different figures will display the grace and beauty of these fair "maidens." It will be the regret of your life if you miss it. So secure your seats early, and avoid the rush.

The Edison.

The Edison has a good program this week, and the attendance has been excellent. The sleight of hand work of the great Menlo is one of the best features on the bill, and he receives a hearty welcome at each performance. The singing is up to the usual high standard, and the patrons are more than pleased with the offerings. Tomorrow night there will be a change of program.

NEW TODAY

Wanted.—Woman to come to house and do washing. Mrs. E. Hofer, Lincoln Park Place, South Salem. If

For Sale.
Cottage containing seven rooms, three pantries and bath room, two lots and barn, on South High street, north of Lincoln school. For further particulars call on owner at 249 Commercial street, second floor. 10-13-34

For Sale.—Muffed game chickens. Inquire of Fred S. Lamport, 289 Commercial street. 10-13-34

Lost.—An English Setter pup, two months old; color, white, with black and brown spots. Suitable reward offered for any information that may lead to the recovery of the pup. Address or call at Journal office. 10-13-34

Do You Believe in Signs?

A mark, note, token or symptom, indicates that by which anything may be known, that is, we are forewarned if evil is to befall us, or we have the pleasure of anticipation if the signs betoken a fortunate occurrence. Accidental occurrences all have their signs every disease has its symptoms. The point is to heed the former, and counteract the effect of the latter. Spells of sick headache follow indigestion and stomach disorders, belching, biliousness and dyspepsia are signs of sickness. People that believe in these signs and know that they are true from experience, can get immediate relief and a speedy cure by the use of Dr. Gunn's Improved Liver Pills. Sold by druggists for 25c per box. Only one for a dose.

Free sale by Dr. S. C. Stone, druggist.

PARKER VISITS LEADERS

New York, Oct. 13.—Judge Parker made his first visit to the Democratic national committee headquarters today. He was unannounced, but found all the managers at their desks, except Sheehan. He remained for half an hour, talking with the various leaders, including Chairman Taggart.

University Won.

The University of Oregon football team defeated Albany College yesterday afternoon by a score of 4 to 0. Eugene kicked a field goal during the last 30 seconds of play, on account of a fumble made by the collegians. Chauncey Bishop, of this city, refereed the game.

The Egyptian ballet is a hummer.

Grand Opera House

JNO. F. CORDRAY, Mgr.

FIRST TIME HERE

THURSDAY, OCTOBER 13

Mr. John C. Fisher

Presents by Special Arrangement with the Augustin Daly Estate

SAN TOY

With

JAMES T. POWERS

Mina Rodolph Margaret McKinnon
Geo. K. Fortescue John Peachey
Nagle Barry Josephine Newman
Fred W. Huntley Charles Arling

Grand Chorus of 56

And Special Orchestra

The Greatest Production of Musical Comedy Ever Made in America.

Prices—\$2.00, \$1.50, \$1.00, 75c, 50c.
Sent sale at box office Thursday at 9 a. m.

Grand Opera House

Tuesday Evening, Oct. 18

Monster benefit for Public Library, given by the Woman's Club.

"THE HUSKIN' BEE"

Directed by

Clara Louise Thompson

75 Local Amateurs in Cast

INTRODUCING LATEST SONGS, CLEVER SPECIALTIES, ORIGINAL DANCES, SOCIETY CAKE WALK—NEW PRETTY GIRLS, WONDERFUL EGYPTIAN BALLET, SPECIAL SCENERY.

Written for laughing purposes only. Popular prices.

Money to Loan

THOMAS K. FORD

Over Ladd & Bush Bank, Salem Or

GERMAN MARKET QUIET

Bernard Bigg, the European hop buyer, in a letter to The Journal, under date of September 27th, says:

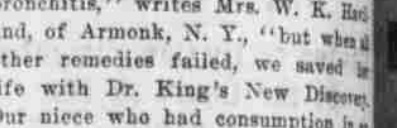
"Picking is entirely completed in a fortnight. The yield is expected to answer to former estimates. I am satisfied to state that the product is of a quality and quantity that is good since the beginning of the crop, but during the last days, the crop has tiffened, and prices are advancing, as England, that has to suffer a considerable deficit, is taking large quantities from our crop."

The "Hey Rube Dance" is the one that ever came over the pile, but good to miss.

Saves Two From Death.

"Our little daughter had an almost fatal attack of whooping cough and bronchitis," writes Mrs. W. K. Harlow, of Armonk, N. Y., "but when all other remedies failed, we saved her life with Dr. King's New Discovery. Our niece who had consumption in an advanced stage, also used this wonderful medicine and today she is perfectly well." Desperate throat and lung diseases yield to Dr. King's New Discovery as to no other medicine on earth. Infallible for Coughs and Colds. 50c and \$1.00 bottles guaranteed by J. C. Perry. Trial bottles free.

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The Machine Behind the Fine Work. Excels all others in LIGHT RUNNING PERFECT ALIGNMENT PERMANENT ALIGNMENT EASE OF ACTION BEAUTY OF CHARACTERS AND DURABILITY.

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Local Agent, 288 Commercial Street, Salem, Oregon.

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CHICAGO STORE

PEOPLES BARGAIN HOUSE

Our Great Sale Continued

For Wednesday and Thursday. See the wonderful bargains we are offering.

SILKS

500 yards wash India Silk in all colors; regular price, yard, 39c; sale price, yard, 25c
85c fancy Dress Silks, beautiful styles and colorings; sale price, 50c
75c black Rustle Taffeta Silks, a splendid quality; sale price, yard, 48c
\$1 black Silk Peau de Soie, a heavy, thick quality, satin finish; price, yard, 68c
\$1.35 black Silk Peau de Soie, our famous brand a beautiful soft lustrous quality; price, yard, 85c
\$2 black Rustle Silk Taffeta, 36 in. wide, a magnificent heavy thick quality; sale price, yd. \$1.19

DRESS GOODS

Children's 20c school plaid dress goods, pretty patterns, yard 12 1/2c
500 yards plain and fancy Dress Goods, worth up to 35c and 50c yard; sale price 19c and 25c
60c Scotch Tweeds, 40 in. wide, all pure wool; sale price, yd. 39c
Special lot of Dress Goods, tweeds, cashmere evening shades, waistings, Albetrons, Etamines, etc., worth up to

75c yard; special for this sale, yard, 48c
\$1 English Waterproof Dress Goods, 38 in. wide; special, yard, 68c
\$1.75 West of England Broadcloth, 38 in. wide, a beautiful quality, yard, \$1.19
75c fancy Brilliantines, beautiful goods for waists and suits; price, yard, 68c

WAISTINGS

\$1 Metallic Fancy Velvets, yd. 68c
75c Silk finished Velveteens, yd. 48c
\$1.35 Silk Velvets, all colors, yd. 85c
\$1.50 White Velvet Corduroy, yd. 98c
85c Crystal Silks, in all colors, yd. 58c
50c evening shade Cashmeres, yd. 35c
50c fancy wool flannels, yard, 38c
75c French Flannels, all shades, 48c
50c Oxford Waistings, 20c, 25c, 35c
20c Vicuna Flannel Waistings 12 1/2c
15c Dressing Sack Flannels, yd. 10c

LADIES' JACKETS

\$5.90 Ladies' Jackets, sale price, \$3.99
\$7.50 swell Ladies' and Misses' Jackets, sale price, \$4.99
\$10 nobby Jackets, sale price, \$5.99
\$5.90 heavy cloth Capes, sale price, \$3.99

THE CHEAPEST STORE IN THE NORTHWEST.

M'Evoy Brothers, Court St., Salem

Failing Eye Sight Restored

If you have any trouble with your eyes, your eye glasses may not be satisfactory. I am most certain we can overcome the difficulty. Our Crystalline Lenses are the best in the market, and warranted to be of absolutely perfect construction. Our instruments for testing and finding your eye defects are the latest invention, and we have lately added one which will test your glasses in such a way that you can see for yourself if they are absolutely perfect. Consultation and eyes tested free.

CHAS. H. HINGES

Pioneer Optician, 68 State Street, Next door to Ladd & Bush Bank