

NO NEW TRIAL FOR RITCHELLE

Judge Ritchie Hands Down Decision Denying Motion of Attorneys for Jones.

GIVES LONG LIST OF REASONS. Case Was Formerly Tried and Decision Given Adverse to Plaintiff After Long Controversy in Court.

Judge Ritchie has handed down a decision denying plaintiff's motion for a new trial in the libel suit of W. K. Jones, Jr., against the Salt Lake Tribune. Jones sued to recover damages in the total sum of \$125,000 for alleged libelous articles run by the Tribune in regard to Jones' management of the county infirmary during the time he was superintendent of that institution. After a trial lasting for several days the jury returned a verdict in favor of the Tribune. A motion for a new trial was filed by plaintiff and was argued some time ago, and taken under advisement. In denying the motion, Judge Ritchie delivered the following decision:

Two matters only were discussed upon the oral argument of the motion for a new trial, the perjury charge, and the allegation of misconduct during the trial on the part of the defendants. The charge of perjury is not sustained. There is a complete failure to prove that the plaintiff committed the offense of wilful and corrupt perjury in violation of the Revised Statutes of 1898. The defendants abandoned this on the trial and expressly rested upon the other meaning of the word as defined by the court in the case of *Wesley*, following the generally accepted definition of the English language, simply as "false swearing."

WESLEY QUOTED. Wesley, in a sermon at Oxford, once said, referring to the violation of certain moral obligations: "What is perjury, if this is not? But if it be, oh, what a weight of sin, what a sin of no common day, hath upon you!"—Little Journeys to Homes of Reformers, January, '97, p. 24.

Not long ago a clergyman during a jeremiad was charged with perjury in violating his ordination vows because of certain theological opinions expressed. Members of fraternal orders who are said to take certain "obligations" are accused of perjury if they violate them.

There is no standard, save the average moral sense, by which to determine whether a given act may be called "moral perjury" or not, and it becomes often a question of fact whether, under the proof, the particular moral obligation charged may be called perjury in the sense now under discussion.

In this case the facts upon which the charge was based were quite explicitly stated in one or more of the articles published, enabling the reader to judge for himself of the character of the act upon which the charge was founded. The charge was presented to the board of county commissioners and the allowance of \$18.35, in lieu of salary during vacation (which he did not take) was made to the plaintiff by the commissioners with the knowledge of all the facts. There was proof tending to show that this particular method of allowing such claims had been prescribed by the board of commissioners as the one to be adopted. Two of these commissioners were witnesses against the plaintiff.

AS TO PERJURY. If the plaintiff was guilty of "moral perjury" in making this affidavit, they could as well be charged in that sense with subornation of perjury. The defendants having disclaimed intending to accuse the plaintiff of the technical crime of perjury known to the law, and the words "moral perjury" being used in the affidavit, the court falls to see that the case ought to be submitted to another jury to determine whether or not the charge was sustained. In the vague sense which has no defined limits and concerning which there is no certain guide to a decision except that already stated.

It is charged that there was misconduct on the part of two of the defendants in making "certain unfair, partial, unjust, and sensational comments upon the case during the progress of the trial, tending to prejudice the minds of the jury against the plaintiff."

Affidavits are offered in support of this ground, attached thereto is an issue of the Salt Lake Tribune of Thursday, Dec. 7, 1905, during the time the trial was in progress, containing headlines and comments. To the headlines the attention of the court was called on the morning of Dec. 7, 1905, the day of publication, at the beginning of the trial on that day, and the court then stated that the comments therein contained were improper and misleading and directed the jury to disregard them. Further, the court instructed the jury that it was their duty to refrain from reading any newspaper accounts of the trial during its progress.

The reports of the trial contained in the two exhibits attached, so far as they undertake to detail the proceedings, appear mainly to be literal transcripts of the proceedings they purport to give. Comments other than in the headlines in the issue of Dec. 7, were not called to the attention of the court nor at any other time during the trial, but on a perusal, as they appear attached to the affidavits, they are exaggerated and misleading in some material particulars. When the matter was before the court on the day in question, their contents seemed to be similar to counsel on both sides, though they were not read in court, and it was apparently conceded by counsel for the defendants that whether overdrawn or not, they were during the trial, and after consultation with the defendant's attorney, the manager of the first-named defendant, counsel for the defendants stated that the comments in question had been written after the manager had left the newspaper office for the night by others who were not present at the trial, and there was no intention to publish matter which would interfere with the proper conduct of the case, and that thereafter the manager would endeavor to see that no occasion for criticism occurred.

In this issue of Dec. 7, in a headline in large type, among other things, appears the following: "Remarkable Showing Made Against Jones. Fed Rotten Mutton and Maggoty Beef." This is among the charges which occupied much time during the trial, and testimony was offered to show that on a few occasions spoiled meat was found in the supplies being prepared for table use, and some witnesses say, was served up to the inmates of the county infirmary. The question of the knowledge and responsibility of the plaintiff for this state of affairs was the subject of a sharp conflict in the evidence. It was not proven nor presented at the trial that meat was habitually or on any great number of occasions served or fed to

Price Baking Powder

FOREMOST IN QUALITY

the inmates, and the comments in the issue of the paper in question were exaggerated and did not convey a correct idea of what the testimony showed, taken in its worst construction against the plaintiff, but the court having cautioned the jury at the time and expressly charged them that they were to disregard such statements, as they were to disregard everything that came to their notice outside of court concerning the matter, and there being nothing to show that the jury had been at all influenced by these comments, except such surmise as might be inferred from the mere fact of publication, it does not now appear that there was anything in that publication and the incidents attending it to warrant the granting of a new trial.

On the other occasion, later in the trial, counsel for the defendants complained of another newspaper having published matter prejudicial to the defendants, commenting upon the trial, but the newspaper in question was not read in court, and no statement made as to what the particular comments were, but the court then again admonished the jury that it was their duty to disregard such reports published of the proceedings in the case during its progress.

As counsel for the plaintiff did not urge upon the court the oral argument on this motion any other reason for granting a new trial, except the two already discussed, having passed upon them the opinion of the court disposes of the motion. It is laid down as a general rule that it is the peculiar province of the jury to determine the credibility of witnesses and weigh the evidence, and a verdict will not be set aside merely because the court, if trying the question of fact, would have found differently. And in determining the weight and sufficiency of evidence in civil cases, the general rule is that the verdict must be sustained if warranted by any fair construction of the evidence.

Enc. of P. & P., 772, d. 773, 9. The motion for a new trial will be denied.

For Loss of Appetite
HORSFORD'S ACID PHOSPHATE
It nourishes, strengthens and imparts new life and vigor. An excellent general tonic.

PROF. EATON STILL BUSY.

Wends Out Another Fraternal Organization From High School.

Prof. Eaton, principal of the Salt Lake High School, is still battling against fraternal organizations in the school. As will be remembered, the professor some time ago suspended a number of students for participating in antics attributed to the existence of fraternal organizations within the High School. The students in this manner succeeded in breaking up the budding societies. A few days ago another sophomore, Fred A. Smith, was suspended by the professor, and he promptly announced the suspension of 14 students of that class until the organization disbanded to the satisfaction of the professor. The students in the Hooper building, but its existence was ferreted out and its days are numbered. The students complain that the professor, and he promptly announced the suspension of 14 students of that class until the organization disbanded to the satisfaction of the professor. The students in the Hooper building, but its existence was ferreted out and its days are numbered. The students complain that the professor, and he promptly announced the suspension of 14 students of that class until the organization disbanded to the satisfaction of the professor.

Many requests from Cataract sufferers who use atomizers have resulted in Liquid Cream Balm, a new and convenient form of Ely's Cream Balm, the only remedy for Cataract which can be applied directly to the eye. It is a powerful inflammation, to cleanse the clogged air-passages, to promote free, natural breathing, the two forms of Cream Balm are sold by all druggists for 75 cents. It is sold by all druggists for 75 cents. It is sold by all druggists for 75 cents.

LECTURE AT THEATRE.

"Pitchfork" Tillman Will Appear at Salt Lake Instead of Orpheum.

Senator Tillman's lecture will be held in the Salt Lake Theatre instead of at the Orpheum, as at first announced. This change was made necessary by the receipt of a telegram from Martin Beck, manager of the Orpheum circuit, stating that it was strictly against the policy of the company to permit other entertainments than their own to use Orpheum houses.

The Salt Lake Theatre has been secured for the lecture and Senator Tillman will hold forth there next Sunday evening. The box office will open for sale of tickets Thursday morning at 10 o'clock, after which hour tickets already secured at Carleton's and Anderson's for the Orpheum may be exchanged for seats in the Salt Lake Theatre.

Patrons of the University course will be interested to know that only Tillman coupons from the course tickets are good for this number of seats. The lecture is at 8:30 o'clock, and the subject will be "The Race Problem From a Southern Viewpoint." This is the final number in this year's course of University lectures and recitations.

CHILDREN'S HANDIWORK.

Creditable Exhibits From Manual Training Classes in City Schools.

Excellent specimens of the handiwork of the students in the manual training departments of Salt Lake's schools is being exhibited this week in the windows of Walker Bros. and the Keith-O'Brien store on Main street. The exhibits consist of woodwork specimens by the boys and needlework by the girls. The children doing the work ranging in age from 8 to 15 years.

The wooden articles manufactured range from a penholder to well finished

The Liver is seldom healthy
while coffee is the daily drink
Doctors recommend

POSTUM

"There's a Reason"

PE-RU-NA AS A LAST RESORT



MR. WM. F. VAHLBERG.

Mr. William F. Vahlberg, Oklahoma City, Okla., writes:

"One bottle of Peruna which I have taken did more toward relieving me of an aggravated case of catarrh of the stomach, than years of treatment with the best physicians."

"I had given up hopes of relief, and only tried Peruna as a last resort."

"I shall continue using it, as I feel satisfied it will effect an entire and permanent cure."

"I most cheerfully recommend Peruna to all who may read this."

Peruna is usually taken as a last resort. Doctors have been tried and failed. Other remedies have been used. Sanitariums have been visited. Travel has been resorted to.

At last Peruna is tried. Relief is found.

This history is repeated over and over again, every day in the year. It is such results as this that give Peruna its unassailable hold upon the people. We could say nothing that would add force to such testimonials as the above. That people who have had catarrh and have tried every other remedy available, find relief in Peruna, constitutes the best argument that could be made.

good taste in studying Greek, for Greeks met and solved the greatest problems in art, politics, socialism and literature. Greece had five kinds of literature. The greatest of these was the epic, and the sentimental was next. We have good examples of these in the English language. Shakespeare can surpass any Greek poet, but there are those who can eclipse him. That is, Shakespeare is greatest when you take his best work, but there are others who can surpass him in some of his branches into consideration, but special lines have been developed further by three Greek poets than by him. At the study of the Greek language there are two kinds of Greeks, the intellectual and physical, and it is usually the latter class we see in this country. If I were comparing languages to metals, I would put gold for Greek, silver for Latin and possibly copper for English, and at the same time I would hold to Bryan's 16 to 1 theory."

Itching, bleeding, protruding or blind piles yield to Doan's Ointment. Chronic cases soon relieved, finally cured. Druggists all sell it.

WARD ENTERTAINMENTS

Farmers Ward—There will be a pleasing entertainment for all lovers of children in the Farmers ward meetinghouse, tomorrow and Friday nights, at 8 o'clock. The program of the ward primary association. The program includes a motion song by the kindergarten class, a doll song by the first grade, a song by the second grade, a song by the third grade, a song by the fourth grade, a song by the fifth grade, a song by the sixth grade, a song by the seventh grade, a song by the eighth grade, a song by the ninth grade, a song by the tenth grade, a song by the eleventh grade, a song by the twelfth grade, a song by the thirteenth grade, a song by the fourteenth grade, a song by the fifteenth grade, a song by the sixteenth grade, a song by the seventeenth grade, a song by the eighteenth grade, a song by the nineteenth grade, a song by the twentieth grade, a song by the twenty-first grade, a song by the twenty-second grade, a song by the twenty-third grade, a song by the twenty-fourth grade, a song by the twenty-fifth grade, a song by the twenty-sixth grade, a song by the twenty-seventh grade, a song by the twenty-eighth grade, a song by the twenty-ninth grade, a song by the thirtieth grade, a 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