

ASK NEW TRIAL IN VANCE CASE

Attorney for Convicted Wife Murderer Sets Up Claim of Unfairness

SAYS JURY WAS PREJUDICED

Plea for Rehearing on Assignment of Error of Instruction of Jury by Judge Armstrong.

In the argument of the case of Thomas Vance, convicted of wife-murder, which was heard before the supreme court today, a new trial was requested by his attorneys, W. S. McGinnis of Ogden and John F. Tobin. The appeal was prosecuted on an assignment of errors. According to the complaint filed against Vance, he was charged with murder in three counts. It was set forth that he beat his wife on Nov. 26, 1907, causing her death; that he poisoned her on the next day, causing her death, and that the combination of the two offenses caused her death on Dec. 7, 1907.

During the trial of the case before Judge George G. Armstrong, the defense requested the prosecution to elect one of the three counts on which it intended to maintain its action. Dist. Atty. Fred C. Lofthouse chose the third count, the combination of the beating and the poisoning, as causing her death.

After the prosecution completed its case, the defendant's counsel requested the court to compel the state's attorneys to elect which offense of the two caused the woman's death. Judge Armstrong refused the motion and it was assigned as one of the errors. When instructing the jury the defendant's attorney asked the court to instruct the jury that unless the 12 men who were on the jury could agree that both causes alleged in the combination resulted in the woman's death, they should find the defendant not guilty. The court refused these instructions, and it was assigned as one of the principal errors.

SAYS JURY WAS PREJUDICED.

Judge McGinnis argued that the two causes alleged in the combination were distinct crimes, not being committed on the same day, and that one or the other of them caused her death, but not both. Judge McGinnis admitted that Vance had beaten his wife but denies that he poisoned her. If the defense had elected one, Judge McGinnis contended, the testimony in regard to the other was not admissible. Because the court overruled his motion for an election of the cause, he says that the jury was prejudiced by the testimony which was admitted concerning the other and that the defendant was not given a fair trial. For this reason he asked that a new trial be granted.

Vance was sentenced to be shot, but a stay of execution was obtained on the writ of appeal. He now occupies a cell in "murderers' row" at the state prison. Since he has been a model prisoner.

The case was one of the hardest fought in the Third district court. The defense claims that it has new evidence to offer if a new trial is granted. Affidavits have been secured tending to impeach the testimony of Mrs. Amanda Vance Ward, a former wife of the brother of the condemned man.

IN THE CRIMINAL COURT.

George Fugard, 30 years old, pleaded guilty to the charge of burglary in the second degree this morning in Judge T. D. Dineen's court and was sentenced to four years in the state prison. In the information he is charged with having entered room No. 500 in the Kenyon hotel and stealing some articles of clothing.

Joe Novago, charged with grand larceny, was arraigned this morning before Judge Lewis and pleaded not guilty. He is accused in the information of having stolen \$30 and a gold watch from P. J. Harrington on Nov. 20 last.

SAYS RILEY LEFT HER.

Eva Riley began suit for divorce against her husband, William H. Riley, charging him with desertion. They were married here on April 30, 1903 and have one child, Thomas, 2 years old. The complaint states that Riley left his wife on Feb. 19, 1908 and since that time has refused to provide for her.

TUNNEL VICTIM SUES.

George Teolikos filed suit today in the Third district court to recover \$6,000 for personal injuries from the Boston Consolidated Mining company. It is alleged in the complaint that the company was negligent in not properly timbering some of its underground tunnel and that the roof caved in upon the plaintiff on Aug. 10, 1909.

DINNINY FILES BOND.

H. J. Dinny, city attorney, filed his bond of \$5,000 for his next term of office. His bondsmen are George W. Moyer and S. K. Eslinger. City Auditor Rudolph H. Allen filed his bond of \$10,000 for his next term of office, which is given by the American Surety company.

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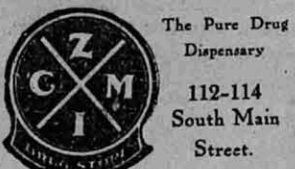
Thomas Sainsbury Exhibiting Model of Late Invention.

Something new in land rollers has been conjured up by Thomas Sainsbury, of 223 Second East street. Mr. Sainsbury is showing a model for a roller on which patents are now pending. The peculiar feature of the roller making for excellence in Mr. Sainsbury's estimation, are that the roller is made of reinforced concrete and in three sections, the dimensions being 6x1 feet, and weigh 700 pounds, and an adjustable lever operating a scraper on top of the roller by which means it may be cleaned at will. The three section idea enables the driver to make short turns in rolling land without tearing up the ground. Mr. Sainsbury also has the

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MOXLEY FORMALLY CHARGED.

Floyd Moxley, a soldier in the Fifteenth Infantry, stationed at Fort Douglas, faces a charge of assault with a deadly weapon on Hop Sing, an aged Chinese, at 494 Commercial street, in a complaint issued by County Attorney Job P. Lyon and sworn to by Wah Lee, a friend of the injured man, this morning.

LATE LOCALS

Burrows in Town.—Traveling Passenger Agent A. C. Burrows of the New York Central lines, at Denver, is in the city today, on business.

P. L. Williams left this morning for Ithaca, N. Y., where two of his sons are in Cornell university. He will accompany them to New York city where they are to spend Christmas. Mr. Williams expects to be away for three weeks.

Is Young at Seventy-nine.—James Leatham of the Sixth ward celebrates his seventy-ninth birthday today, after having resided in Salt Lake since Oct. 4, 1832. He was one of the builders of the Salt Lake theater, the tabernacle, assembly hall and the temple. In the early seventies, Mr. Leatham was a public school teacher, and in Brigham Young's annual tours through the southern counties drove the "kitchen wagon." Mr. Leatham is still hale and hearty.

PERSONALS.

Secretary J. E. Taylor of the state horticultural society has returned from the Chicago Irrigation exhibition.

W. E. Hubbard has been suddenly called to Pipestone, Minn., by the serious illness of his sister.

NEW INCORPORATIONS.

The Prudential Realty company filed articles of incorporation with the county clerk Tuesday. The capital stock is \$25,000, with shares of \$1. Twenty-two hundred shares are held as treasury stock. The officers are Samuel Stark, president; Elizabeth Stark, vice president; Ernest Wright, secretary and treasurer. Margaret B. Wright and Henry L. Smith are additional directors.

The Charles Cafeteria company of Ogden has filed articles of incorporation with the secretary of state. The capital stock is \$10,000. The officers are Cyrus Charles, president; E. F. Broughton, vice president; Mary Charles, treasurer; V. Gideon, additional director. The company will run an eating establishment at 2375 Washington avenue, in Ogden.

JOHN STEVENS' COURTSHIP.

A Story of the Echo Canyon War. By Susa Young Gates. A new, charming story by Susa Young Gates, just issued from the press. It is adopted in the Reading Course of the Young Men's and Young Ladies' Association. Price, \$1.00, postpaid.

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BUS PASSENGERS

D. J. Sheehan, a prominent and wealthy cattleman of Ronges, Wyo., is a guest at the Cullen. Mr. Sheehan is here on business and will remain in the city for a few days. "We have had a most prosperous year in our part of the country," said Mr. Sheehan. "The ranges have been good and the fact that we had an early winter. The cattle, generally, brought good prices, most of it selling at \$5.50, and the outlook is decidedly encouraging."

Mr. and Mrs. E. H. Snyder of Twin Falls, Ida., are stopping at the Knutsford.

J. A. Toome of Thatcher, and P. G. Johnston of Blackfoot, are Idaho guests at the Wilson.

F. Whiting, interested in the taxicab business at Los Angeles, is at the Kenyon.

Mr. and Mrs. T. J. Woods of Twin Falls, Ida., are guests at the Kenyon.

R. C. Beach of Lewiston, Ida., is registered at the Cullen.

E. A. Staher of Halley, Ida., is stopping at the Cullen.

WARD ENTERTAINMENTS

Eighteenth Ward.—A farewell testimonial will be tendered this evening in the Eighteenth ward to Elder James M. Gray who goes shortly on a mission to Holland.

MODERN FICTION.

In addition to the "Six Best Sellers" we get weekly shipments of the most popular and up-to-date fiction as fast as it is issued from the Eastern press. Lovers of books are picking them up daily for holiday gifts. Write to us for a list.

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WATERWAYS BOOS WILL NOT CARVE

This Session of Congress, It Is Believed, Will Not Vote the \$500,000,000 Asked.

FUND FOR CIVIL PENSIONS.

Superannuated Clerks and Employees In Government Departments to be Given Consideration if Present Plan

(Special Correspondence.)

Washington, D.C., Dec. 10.—The proposition of the national rivers and harbors congress that the government issue \$500,000,000 worth of bonds for the creation of a fund to inaugurate and carry to completion a great waterway policy will hardly carry at this session; but the enthusiasm of the delegates to the convention and the evident enthusiasm for a waterway policy in every section of the country is a straw which points to the direction of the wind and it indicates that in spite of the enormity of the amount which will ultimately be required the sentiment will favor a complete system of interior waterways has taken such a hold on the people that it will eventually be adopted.

This \$500,000,000 is, however, but a drop in the bucket compared with the proposition which was introduced in Congress some years ago. Someone was induced to present a bill backed by national signatures, the "Wage Workers Political Alliance" which had for its object the digging of canals in all sections of the country, north and south, and from east to west. The "Wage Workers Political Alliance" proposed a gridiron of canals which would make the inhabitants of Mars exceedingly jealous if the plan should ever be carried out. Someone had the curiosity to look into the Wage Alliance and see what it amounted to. It was found to consist of a clerk in one of the departments, named Selden Cowden. He proved to be the president, the secretary, treasurer, general manager, and in fact the entire Wage Workers Political Alliance. The bill proposed that the services of the members of the bill, but one surprising thing about it was that he should have found any member of Congress willing to become a sponsor for any such absurd proposition.

BUREAU OF ANIMAL INDUSTRY.

Twenty-five years ago the Bureau of Animal Industry was first established with Dr. Salmon as its chief. A careful examination of all the cattle in and around the District of Columbia was made with the result that a discovery of hundreds of cases of pleuropneumonia among the herds which supplied the milk to the inhabitants of Washington. These cattle were slaughtered by wholesale and apparently this vicinity has been free of diseased cattle since. But within the past few days the veterinarians of the department of agriculture, in connection with the health authorities of the district, have discovered that the milk supply of Washington is tainted to a great extent with the disease. The cause of tuberculosis among the dairy cattle. The census figures show that there are in the District of Columbia about 1,500 dairy cows. It has been demonstrated that at least one third of these are afflicted with bovine tuberculosis to such an extent that they are being slaughtered by wholesale. The same cause is said to exist on the farms of Maryland and Virginia from which the milk supply of Washington is largely drawn and in consequence there is a scare among the householders. Vigorous efforts are being made to stamp out the disease and to prevent the sale of milk from infected cattle. The health authorities of the district hold that bovine tuberculosis can be communicated to human beings through the consumption of milk and dairy products and that is especially true in the case of infants and small children.

WHITE PLAGUE HOSPITAL.

There has been recently opened in this district a well equipped hospital for the sole treatment of patients suffering from the "white plague," and it is natural, therefore, that the efforts to cure the disease should be supplemented by rigorous preventative measures. The tuberculous germ makes itself manifest in its early stage in the udder of a milk cow and it is then that the disease spreads and spreads more rapidly in the richer portions of the milk, particularly in the butter fats. As butter is made by a simple mechanical process without the aid of heat, the tuberculous germ that butter made from the produce of an infected cow is even more deleterious to health than the fresh milk. But butter may come from any portion of the country, in fact, the larger portion used in all the eastern cities comes from the great dairy farms of the west and it is proposed to extend the investigation which has just begun in the District of Columbia to the dairy sections of the country and through congressional legislation to prevent transportation of dairy products through interstate commerce from any herd which shows signs of disease. The agricultural department has succeeded in stamping out the hoof and mouth disease which broke out in Pennsylvania and New York a little more than a year ago and the department has just issued a bulletin raising the quarantine from a number of southern states formerly afflicted with the disease. The department has also issued a statement in which it is declared that the beginning of this work of extermination in 1906 over 8,000 square miles of territory have been freed from ticks and released from quarantine. It is the intention, therefore, to attempt the much more difficult task of exterminating tuberculosis in cattle and to this end the necessary amendment to the interstate commerce law will be urged with vigor during the present session. There can scarcely be a subject of more vital interest to the community at large than this.

OBJECT OF ORDER.

There was passed around to the various departments a short time ago an executive order prohibiting clerks, chiefs of bureaus and divisions from giving any information concerning the business of various departments to members of Congress or others without direct authority from the head of the department. This executive order was the outcome of a great mass of misinformation which was sent to Congress during the recent tariff debate. On one occasion three different senators arose and made three different statements concerning the same thing which were in direct variance with each other and yet each senator declared he had obtained the information from the treasury department.

The order which is now in effect will, of course be modified otherwise it will be impossible for anyone to obtain any information whatever concerning current business in the executive departments without first consulting the cabinet officer at the head of the department. But this whole matter brings to mind an order of Mr. Hillis, one of the assistant secretaries of the treasury. Soon after he assumed his duties Mr.

Hillis sent a notification to each of the bureaus directing that two carbon copies of every letter written in every branch of the department be sent to his office. The order for the assistant secretary under whose direct jurisdiction the bureau is and the other to the secretary himself. Within a week the secretary of the treasury had piled in his office a mass of carbon copies of letters which exceeded three feet in height. He was literally swamped and it did not take him long to countermand the order of his assistant.

Some years ago Mr. Vanderbilt was assistant secretary of the treasury. He issued an order to the chief clerk of the bureau under his immediate jurisdiction to the effect that every letter that was sent out by those bureaus should be signed by the assistant secretary, Mr. Vanderbilt. Probably the clerks got busy the morning the order was received, perhaps they were a little more industrious than usual, but that night when the order had been returned it was promptly revoked. Mr. Vanderbilt, however, was game. He signed every one of that bunch of letters and it took three days to do it. Since that time heads of departments have been careful how they issue ill considered orders which may result in piling enormous amounts of work upon them. But the present executive order is a good one in principle and will probably result in the withholding of a great deal of mis-information from Congress.

SUPERANNUATED EMPLOYEES.

One of the hardest problems that confront the executive and his assistants today is what should be done with the superannuated clerks and employees who have grown old in the service. There are hundreds of cases in the departments of Washington wherein worn out employees are retained in their positions although their usefulness has long since passed. One of these is that of an old lady now nearly 90 years of age that has been employed for a third of a century and who during nearly all of that time has devoted her salary to the support and care of an insane daughter who should have been cared for by the government itself in the asylum of the insane. This old lady was marked for dismissal until her case was brought to the attention of her chief clerk who properly ordered that she be placed on the payroll for about two-thirds of her former salary saying as he issued instructions to the appointment clerk that inasmuch as the government has been relieved of the cost of the care of the afflicted daughter for 20 years it was only right in its judgment that the government should continue to care for the mother as well as the daughter even though the services rendered were of little or no value. There are scores of old fellows who were literally shot to pieces during the war and who held positions in the various departments, the duties of which are too much for their strength although in the old days they did excellent work. These are the men whose services seem to be insignificant but are in reality valuable and it is because of these that the president and his secretaries have urged the Congress to create a civil pension list which will prevent these old servants of the government from becoming paupers in the last years of their lives.

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FUNERAL OF ELIJAH LAYCOCK AT RAYMOND, CANADA.

(Special Correspondence.)

RAYMOND, Alta, Canada, Dec. 10.—Rather severe weather prevails at present, and it has been continuous for the past two days, but all indications point to a great clearing and the unimpaired chinook is preparing to do business. The Knight Sugar Co. is shipping to a Winnipeg firm 1,300 head of beef steers, which, it is said, are going direct to the English market. In ranch parlance it is a "fine bunch of beef," and will require a train of about 60 cars to transport them.

FUNERAL OF ELIJAH LAYCOCK.

RAYMOND, Dec. 10.—The funeral of Elijah Laycock was held here yesterday in the meetinghouse. A large concourse of his friends assembled to testify of the esteem in which he was held. The deceased all spoke in the highest terms of the cleanliness and integrity of his life, and those of them who are his oldest friends, men who have known him since boyhood, spoke most earnestly of his great kindness and unswerving honesty. His home before coming to Canada was Kaysville, Utah, and the many Raymond residents from Kaysville and Layton count him as a descendant. He had just passed his sixty-first year, and until a week before his death had been in robust health. He leaves one son, a daughter and a granddaughter, the members of his immediate family. At the time of his death he was a member of the town council, the members of which officiated as his pallbearers.

DEATH OF MRS. JESSIE GIBB.

RAYMOND, Alta, Dec. 10.—Another startling death occurred this morning in the person of Mrs. Jessie Gibb, wife of David Gibb. She is a daughter of Mr. and Mrs. Joseph Young, now living in Preston, Idaho, but formerly of Raymond. The young woman leaves two children and her husband to mourn her early departure from this life. The youngest a babe of but six weeks.

RICHFIELD BRIEFS.

(Special Correspondence.)

RICHFIELD, Dec. 10.—Soren Christensen of this city returned home on Wednesday last from a mission to Norway, where he has been laboring for the past 22 months. Mrs. Christensen went to Salt Lake to meet her husband and there was a joyful family reunion when he reached home. The Salt Lake high school dramatic company will appear here next Thursday in the Shakespearean comedy, "Much Ado About Nothing." The proceeds will go to the local high school.

Oscar Bjoregaard of Ephraim and Kate Middleton of Cedar City, two school teachers from Elsinore, were married by Bishop G. W. Coons of Richfield last Saturday. They are now teaching at that place.

Mr. and Mrs. Will Hudson arrived here a few days ago from Mexico to visit with Mrs. Hudson's brother, Senator Sevy. They had not met for several years. Mr. and Mrs. Hudson are on their way to join their children in Idaho where they will probably make their home.

FRED NIELSON LOSES SUIT AGAINST EPHRAIM

(Special Correspondence.)

EPHRAIM, Utah, Dec. 10.—The case of Fred Nielson against the city of Ephraim in which the plaintiff alleged that his property had been damaged by the reason of raising the sidewalk grade in front of his store, has been decided in favor of the defendant. The court held that the benefits derived from the improvements exceed the damages.

Person returned from a rabbit hunt this afternoon. They state that the bunnies are very plentiful, having killed over 150 in less than two hours.

President Henry Bees of this city received a message yesterday from London stating that his son Owen, who is laboring there as a missionary in the interest of the Mormon Church, was dangerously ill with pneumonia.

Dr. Olsen of Manti, who makes a trip to this city twice a week, came nearly being run over by the southbound passenger train. He was walking on the track just before the arrival of the train, which was reported to be two hours late, when the train came suddenly upon him, and before he could step aside, he was brushed off the track by the cow catcher and thrown into the snow, which prevented him receiving severe injuries, as the snow was nearly 12 inches deep.

The county commissioners met in regular session at the county court house yesterday afternoon and transacted much business pertaining to the roads through the county. The regular bills were allowed. Franklin W. Snow was appointed the constable of Sterling.

Miss Alice Lund and Miss Ada Johnson of Spring City returned from Salt Lake yesterday, where they were in attendance at the charity ball which was given there Friday night last.

Miss Sarah Jensen, one of Ephraim's popular young ladies, was married at Ogden during the week to Roy Elliot of Castle Gate. The ceremony was performed at the home of the bride's sister, Mrs. Eliot, who has been one of the operators in the Rocky Mountain Bell telephone exchange in this city during the past year and has a host of friends here.

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NORTH OGDEN MAKES GOOD SHOWING FOR YEAR

(Special Correspondence.)

NORTH OGDEN, Dec. 13.—The past season generally has been a prosperous one though fruit crops in some instances have been short, but that was partially compensated for by an advance in price over the previous season. The tomato crop was fair and the beet crop good. The crop is now all in and amounted to nearly 150 cars loaded on the North Ogden siding.

James Valtor Rasmussen, son of James E. Randall and Isabel Chadwick was given a farewell entertainment to assist him on his mission to Europe whence he departs Dec. 15. North Ogden already has nine missionaries on in various fields as follows: Charles W. Ellis in Australia, Thomas E. Orton in Eastern States, Nephil J. Brown in England, James J. C. in the South, Earl R. Berritt in Germany, Emil Chaitlin in the Southern States, John Curry Bailey and Joseph Polkman in the Eastern States, and John W. Nordland in the Samoan mission.

The church statistics make the following showing for the year: Twenty-three births, 25 children blessed, 3 baptisms, 25 ordinations, 27 members and children received, 62 removed, 5 died, leaving a net population of 21 high priests, 42 seventies, 90 elders, 14 priests, 14 teachers, 48 deacons, 28 members, 18 children under 8 years, making a total of 809 against 811 last year.

The people of North Ogden have been practically free from sickness, except a few cases of chronic ailments, incident generally to advanced years, and have had only five deaths, two infants, two from old age and one from heart failure.

WEEK OF RAIN AND SNOW IN DIXIE

(Special Correspondence.)

BLOOMINGTON, Washington Co., Utah, Dec. 10.—It has been snowing and raining here the greater part of the week and Dixie has been almost impassable. The district school is in a flourishing condition.

TEACHERS' INSTITUTE AND OLD FOLKS' FETE AT MONROE

(Special Correspondence.)

MONROE, Dec. 9.—Friday last the teachers of Sevier county met here in

Volume Five Church History

Published by the Church With Introduction by Elder B. H. Roberts.

This volume deals with the history of the Church from May 3, 1842, to 31st of August, 1843. It therefore, covers a period of about sixteen months. The main external events may be set down as follows: First, exposure of the wickedness of John C. Bennett, and his departure from Nauvoo; (2) the charge against Joseph Smith of complicity in an attempted assassination of Ex-governor Lilburn W. Boggs, under whose celebrated exterminating order the body of the Church was driven from Missouri; (3) the attempt of the state of Missouri to extradite the Prophet from the state of Illinois, to be tried as an accessory to the murder of the Prophet; (4) the attempt on the part of Missouri to extradite the Prophet from the state of Illinois, to be tried as an accessory to the murder of the Prophet; (5) a preliminary prospecting of the west, doubtless with a view to the contemplated removal of the Saints to the Rocky Mountains.

Of events that relate more nearly to the Church as an organization there should be mentioned: (1) the introduction of the endowment ceremonies and enlarged instructions on the subject of baptism for the dead; (2) an extension of auxiliary organization by bringing into existence the Young Men's and Women's Society.

Another item of great interest in this volume is the manifest development of the character and spiritual strength of the Prophet during this period. The trying experiences through which he passed seemed to discover new qualities of soul power within him, and to emphasize those which he was known to have possessed.

The doctrinal development of the period covered by this volume deals with several items which may be regarded as preliminary to that richer unfolding of philosophical thought to which the last year of the Prophet's teaching was so largely devoted. Vol. 5 is now ready.

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