

AGAINST DR. JORDAN.

Supreme Court Decision in the Histogenetic Case.

THE OSCAR SPRINGER CASE.

Presenting Witness John Watson Holds to Appear—One Divorce Granted.

The supreme court has handed down a decision reversing the judgment of the superior court in the case of the Columbia and Puget Sound Railroad Company vs. The Histogenetic Medicine Company, of which Dr. Jordan was the head, and remanding the case for further proceedings in accordance with the opinion. The prime question to be determined by the supreme court was whether rental value can properly be considered as an element of damages under the statutes and the allegations of the complaint.

The case dates back to September, 1893, at which time the railroad company leased to Emma McClanahan a piece of property on Elliot bay for five years at \$50 a month. The lease took possession of the premises and erected a three-story building on it, pursuant to the terms of the lease, and paid the rent until December 1, 1895, when the lease expired. On December 1, 1895, Mrs. McClanahan and husband conveyed the building and appurtenances, especially the right to purchase the land upon which the building was situated, to the state under the land act of March, 1890. On April 17, 1895, the railroad company began an action in the superior court against Mrs. McClanahan and the tenants occupying the premises for a forfeiture of the lease and to recover back rent. No defense was made to the action, either by Mrs. McClanahan or the tenants, but the Histogenetic Company filed a petition in intervention and was granted leave to defend the same. By its petition for intervention the defendant disclaimed holding under the lease, or claiming any interest in the premises, but claimed to be holding under the rights acquired by Mrs. McClanahan as improver of tide lands and not otherwise. The trial resulted in a judgment for the plaintiff for the rent due at the commencement of the action and judgment was entered. An appeal was taken, which was finally dismissed on July 2, 1895.

On August 20, 1895, a writ of restitution was issued by the trial court, and on the following day the plaintiff was restored to the possession of the premises. The complaint in the case set forth that the plaintiff was and is the owner of the premises; that the defendant took possession in December, 1890, and continued to occupy the same until August 31, 1895; that a fair rental value was \$500 a month, and by reason of the defendant withholding the property for twenty-eight months the plaintiff was damaged for \$5,400, for which amount judgment was asked. There was an answer served in the case, but not filed, that denied the rental value of the premises was \$500, and was not worth more than \$20 a month at the time the defendant occupied the premises, and that the defendant introduced testimony as to the rental value of the premises, and that the plaintiff had no cause of action against the defendant. This objection was sustained, the court being of the opinion that the defendant had no cause of action against the plaintiff, but intimating that the pleading should be amended so as to state a cause of action for the return of the premises, and the plaintiff declined to amend its complaint, and a motion for a new trial having been made and overruled, judgment was entered for the defendant, dismissing the action, from which the appeal was taken.

The supreme court in deciding the appeal by a majority of five to four, has reversed the judgment of the superior court, and has granted a new trial. The court held that the complaint in form states a cause of action for use and occupation, and that the proof introduced was only preliminary to an action in trespass for means, profits, or, in other words, that plaintiff introduced in support of use and occupation, and that the plaintiff had no cause of action against the defendant. This objection was sustained, the court being of the opinion that the defendant had no cause of action against the plaintiff, but intimating that the pleading should be amended so as to state a cause of action for the return of the premises, and the plaintiff declined to amend its complaint, and a motion for a new trial having been made and overruled, judgment was entered for the defendant, dismissing the action, from which the appeal was taken.

Another Broken Water Main Case Knocked Out. Another damage case against the city has been knocked out. The city had sued for the bursting of a water pipe on Pioneer place last winter during the paving. They claimed the value of the glass put in to replace that broken. The city maintained that it should be replaced by the value of the glass put in to replace that broken. The value of the glass put in to replace that broken, the value of the glass put in to replace that broken, the value of the glass put in to replace that broken.

THE CITY WINS. Judge Hummel Disposes of Several Cases. From the appearance of Cecil King, with R. D. Livingston and Charles H. McGrew as sureties, was declared forfeited yesterday by Judge Hummel and a writ of habeas corpus issued for the woman. Cecil King is the colored woman who, several weeks ago, robbed a miner of \$200 in the Paris lodging house, and had been arrested to escape on the Rosalie with her lover, Steve Lyons. She was released on bonds provided by Livingston, McGrew and a crew and at the first opportunity skipped out.

TO DECIDE TODAY. Confirmation of the Sale of the Lake Shore Road. The petition of the Northern Pacific Railroad Company for certain matters to set aside the recent sale of the Seattle, Lake Shore and Eastern property, came up before Judge Hanson yesterday morning. The former being represented by J. M. Ashton and the latter by James Hamilton Lewis. Mr. Ashton had presented his statement on Saturday evening, and at the conclusion of the argument Judge Hanson took the case under advisement, intimating that he would render a decision this morning.

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REPORT OF HEALTH OFFICER At the Board's Monthly Meeting—Provisions of the New Garbage Ordinance.

The regular monthly meeting of the board of health was held yesterday afternoon, with President Russell, Dr. George M. Horton, Dr. S. J. Holmes and Secretary Palmer present.

There were 19 cases of, and 1 death from, scarlatina, as compared with 3 cases during the previous month.

Nothing This Session. Senator Squire, in a letter of acknowledgment to George Stetson, president of the Seattle Lumber Exchange, referring to the exchange's resolution in favor of the timber testing station bill, states that the bill is now in the hands of the committee on agriculture, and that Senator Proctor, chairman of that committee, has

AMUSEMENTS. Eddie Foy Tonight. Eddie Foy, surrounded by a company of more than usual merit, will be the attraction at the Seattle theater tonight, presenting the New York and London success of the "Strange Adventures of Mister Brown."

THE SCHOOL BOARD. Pupils From Outside Districts Must Pay Tuition in Advance. The school board held its regular monthly meeting last night and the routine business of the past month was disposed of.

World Like His Money. William H. Reeves believes he is entitled to \$200,000 from the Alford estate.

MEASLES HAVE A RUN Sixty-nine cases Reported During May.

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reduce their salaries during these periods of inaction. It was also suggested that an addition be built to the Cascade school to take the place of the rookery now rented of Mrs. Pontius, across the street from the school, and used for school purposes. The board then adjourned to meet again subject to call.

nothing to report the bill favorably, as it is being opposed by the department of agriculture. Senator Squire does not think anything can be done for the bill during the present session.

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