

# COMING

Marion — Hotel Kumfort

THURSDAY  
SEPTEMBER 28th.

8 a. m. to 4 p. m. 1 day each month. Also evening before, after 7:30 p. m.



## Dr. A. A. Thomen

Cleveland and Columbus  
SPECIALIST

Medical Director of the Columbia Sanatorium, Chief Examining and Consulting Physician of the -Hay Medical Institute.

Every Man Read This

Have you failed to reach success in life?

Are your powers of mind and body declining?

Have you lost your confidence?

Are you Nervous, Sleepless, Despondent?

Have you Heart Trouble, Trembling Dizziness?

Is Your Memory Failing?

You are in great danger. See me before it is too late.

EXAMINATION AND CONSULTATION FREE.

Dr. Thomen's treatment for catarrh introduces the medicine direct into the blood current.

This same treatment is equally powerful and active in asthma, bronchitis, chronic pneumonia and consumption if used before there is destruction to the lung tissue.

DISEASE OF WOMEN—After years of experience we have discovered the greatest treatment known for diseases peculiar to sex.

Our treatment is perfectly harmless and easily applied. Try it and you will exclaim like hundreds of others, "Oh I feel like a different woman!"

LIVER, STOMACH AND BOWEL DISEASES

YOUNG AND MIDDLE-AGED MEN who suffer from the effects of youthful indiscretions and nervous debility may call with confidence.

VARICOLE treated without the use of a knife.

KIDNEY AND BLADDER DISEASES—Bright's disease, diabetes, inflammation of the bladder, enlarged prostate, frequent and dribbling urination.

STRUCTURE an dull forms of disease of the urethra and prostate gland treated by our Medical Bougie method of treatment without pain or detention of business.

BLOOD POISON treated without use of injurious drugs.

HEART, BLOOD AND SKIN DISEASES—Ulcers, sores, pimples, eczema.

BRAIN, SPINAL and NERVE DISEASES—Such as paralysis, locomotor ataxia, epilepsy, fits, neuralgia, sciatica, headaches, sleeplessness, dizziness, brain and nerve exhaustion.

DR. A. A. THOMEN  
X-Ray Medical Institute, Cleveland  
Office 3903 Quinby Ave. N. E.

## Coronation Suitings

The one way to be sure of a perfect fitting suit is to have it made to your measure by JOE VOLL, the Tailor—the one way to be sure of durable cloth and exclusive patterns is to select from the latest fabrics. We have them—may we measure you today for your new Suit?

Joe Voll

Merchant Tailor.

425 1-2 North Main Street.

## CIRCUIT COURT MAKES REPORT

Loring J. Smith Not Guilty of Embezzlement.

LENGTHY OPINION DELIVERED

Judgment of Common Pleas Court is Reversed.

Case Against William Masse is Also Reversed After He Has Served About Six Months in the Workhouse Two Liquor Cases Reversed and the Owen Company Held Responsible for Death of Elmer Burch.

After being in session four days, the circuit court made its report at 7:30 o'clock Friday evening. Perhaps the most interesting of the cases ruled on by this body was that of Loring J. Smith against the state of Ohio.

Smith was the secretary of the Ohio Ohio Milling & Elevator company in 1905. He was arrested and indicted for the embezzlement of \$198, and, in the common pleas court was found guilty by a jury and sentenced to two years by that court. Smith then appealed the case on error and the decision of the circuit court is a virtual victory for him.

Judge Crow read the opinion of the court. He held that the evidence showed that Smith was indebted to the City National bank on four personal notes, November 9, 1905, Smith issued a check on the Marion Savings bank against the checking account of the Milling company and in favor of the City National bank, for \$198, which amount was credited as interest on the four notes held against Smith.

The evidence also showed that at the time this check was issued, the milling company had no actual money in the Marion Savings bank, but that the bank had arranged to take care of the milling company's checks and paper. The circuit court held that Smith never received the money on the check upon which his indictment was based. The Smith check passed through the regular channels and was paid on November 11, 1905. The evidence showed that the milling company's account at the Marion Savings bank was overdrawn more than \$900 when the Smith check was issued. At the close of business on November 11, the milling company's account was more than \$1,100 overdrawn.

No Conversion of Money. The circuit court holds that the check for \$198 was charged to the milling company and credited to Smith's account as interest. Smith received no money, but certainly benefited some by the extinguishment of the interest on his notes. But, as secretary of the company, Smith had authority to issue checks on the company. The court holds that Smith received something of value by reason of issuing the check, but asks whether or not that something was money within the meaning of the indictment and the statute.

It is held that inasmuch as the milling company has an overdraft at the bank, there was no actual money of the company in the bank and it could therefore not lose money. The court asks how embezzlement can be charged when there was no money in the bank and Smith received no money. All Smith's check did was to augment the overdraft and the company's indebtedness to the bank. On the contrary, the milling company had something like \$1,100 of the bank's money. For the judgment of the circuit court was not based wholly on the technical grounds explained above. It was also held that the Metzgar case, in Toledo, was not a parallel case.

The court found that there was no conversion of money on Smith's part; that there is error in the proceedings of the lower court and that the verdict was not sustained by the evidence. The judgment and verdict were therefore set aside and Smith is awarded a new trial.

Dry Territory Slang. In the liquor case of Henry Sauer against the state, Judge Donnelly rendered the court's decision. Incidentally, he remarked that in figuring out the evidence it was found necessary to become familiar with dry territory slang. He said the evidence showed that a friend met Sauer on the street and asked him if he "had anything on his hip." An affirmative answer led to the query of whether or not he "would stand for a twist." It seems that Sauer would, and then, it is charged, he drew a bottle of whiskey from his pocket and gave the friend a drink. About that time a policeman happened along, arrested Sauer who was held to be guilty, and fined for a violation of the liquor laws. The evidence that Sauer actually gave the second party a drink was very slim, but the mayor considered it sufficient for a conviction. The mayor's judgment was affirmed by the common pleas court.

Judge Donnelly held that the state

## FIRST PHOTOGRAPH OF PRINCIPALS IN FLORIDA SHAKER SETTLEMENT TRAGEDY



Principals in the Tragedy

This first photograph of the actors in the tragedy enacted in a little Shaker settlement in a remote part of Florida has just been received from Kissimmee, that state. It was taken several months before Sister Elizabeth Sears and Brother Egbert B. Gillette, yielding to the prayers of Sister Sadie Marchant, administered chloroform to her when she was dying in agony from tuberculosis. The dead woman is shown on the left. The others are under arrest.

failed to make a case and characterized the case as a trivial thing that ought not to be dignified with the title of an action by the state. The judgment of the lower courts was reversed and remanded for execution, at the costs of the defendant in error.

The opinion in the case of the Marion Malleable company against John Weston was read by Judge Kinder. Weston was injured several years ago while employed by the company, brought an action and was given a judgment for \$3,750. The Malleable company went to the circuit court on error.

This case was largely a technical matter connected with the filing of a certain bill of exceptions before the expiration of the time allowed by law. The bill of exceptions was attached to an exhibit, a heavy annealing pot, and seemingly escaped the notice of the clerk until the time had expired. An effort was made to get in touch with the trial judge, who was found to be out of the state and the bill was not submitted to the trial court until about six weeks after it properly should have been submitted. However, the circuit court held that there was good reason for this and the rights of the parties should be preserved, so the motion to strike the petition in error and the bill of exceptions from the files was overruled.

Masse Case Reversed. The case of William Masse against the state, an error proceeding, was then taken up. Judge Donnelly held Masse was arrested and sent to the workhouse on a charge of having abused his wife, "tormenting and torturing" being a portion of the language in the affidavit. Masse appealed the case to the common pleas court and that court sustained the lower court. Masse then went to the circuit court for relief—and got it—after having served about six months in the workhouse where he still is after escaping and being recaptured about a month ago.

The evidence showed that Masse was a man with a wooden leg. He had been having some trouble with his wife, and upon the occasion of the alleged cruelty, had gone to the home of a neighbor to visit her, endeavoring to get her to come back to him. In this process it is said that Masse "kicked" her, that in return she bit him several times, and both rolled from a couch to the floor, where Masse's wooden leg struck his wife in the breast. She refused to have anything to do with him and finally had him arrested. The court says this is absolutely all the evidence to show "torture" or "torment."

The court was of the opinion that the offense was not such as was charged; that it might properly come under the head of assault but there was not sufficient evidence to justify the conviction and sentence. The lower court is reversed and costs taxed against the state and the case remanded for further proceedings.

The matter of William P. Fetter against the state, error in a liquor case in which Fetter was convicted of violating the local option laws, was also handled by Judge Donnelly. He found no error in the proceedings of the lower court and the costs in

the case were taxed against the plaintiff in error.

Judge Donnelly also delivered the opinion in the case of William Miller against the state. This is an error case in which Miller was convicted of violating the local option laws by driving a delivery wagon in which several cases of beer were found. The mayor's court was sustained by the common pleas court and Miller carried the case up on error.

The circuit court holds that the only evidence shows that Miller was found driving a vehicle on the streets of Marion and several cases of beer were found in the vehicle. No effort was made to show where the beer came from, what label the boxes or bottles bore or that the beer came from within dry territory. It is held that a common carrier has a right to deliver beer or whisky in dry territory, and in this case, Miller's rig is held to be a common carrier.

Judge Donnelly holds that the evidence is too slim to warrant a conviction and therefore reverses the judgment of both the lower courts, assessing the costs against the defendant in error.

Miller Alimony Case. The opinion in the rather involved error case of the C. R. Parish company against Martha Miller, was rendered by Judge Crow. This case was started by Martha Miller bringing an action for divorce from Samuel Miller. In this petition she described certain real estate and asked to be awarded suitable alimony which she asked to be made a lien on this property. The record shows that after the filing of this petition, certain creditors of Samuel Miller recovered judgments against him, but no executions were levied on these judgments.

Following the granting of a decree of divorce and alimony to Mrs. Miller, Samuel Miller made an assignment for the benefit of his creditors. The assignee then started proceedings in the probate court to sell the real estate and then arose the question of the payment of Mrs. Miller's alimony. The common pleas court held that the alimony judgment was prior to the other judgments against Miller and he inherits dower rights were superior to her judgment. The Parish company took the matter to the circuit court on error, and that court affirms the decision of the lower court. No error was found.

Judge Kinder read the opinion in the two cases of William J. Mautz against the Toledo Computing Scales company. Mautz sought to have a judgment entered and assigned numerous reasons why he had paid the notes in which the judgment was taken, by default. The court couldn't quite see why a man should wish to waive a judgment which he claims he has paid. No error was found and the costs of the case were taxed against the plaintiff in error.

Holds Stone Company Responsible. Judge Donnelly rendered the opinion in the case of John D. Owens & Son against John W. Clark, administrator of the estate of Elmer Burch, deceased. Elmer Burch, a 14-year-old boy, was killed at the Owen stone quarries by being suffocated in a bin of stone dust which was being loaded onto cars from the bin through an iron chute. The boy was run through the chute and Clark, as administrator, sued the company for \$10,000, alleging negligence on the part of the company. A verdict for \$1,800 was awarded in the common pleas court, after Harriet J. Burch had been substituted for John Clark as administrator of the dead boy's estate, in this action.

This substitution was alleged as a ground of error by the company, which filed its petition in the circuit court. Judge Donnelly held that the substitution did not in any way affect the rights of the defendant, that it could not possibly be held to be prejudicial to the company. He said that the evidence showed that this 14-year-old boy was hired by a man named Cook, a foreman at the quarry. A day or two afterward young Burch was sent to the quarry in charge of a man named Lilly. The boy was in the bin scattering the dust when a trap door releasing the dust into the chute, was opened without

warning, and the boy met his death as a result. The court held that this was negligence on the part of the master and fellow servant and that the boy could in no way be held responsible for contributory negligence. No error on the part of the lower court was found and the judgment of that court is affirmed.

Bingham Verdict Sustained.

The judgment of the lower court in the error case of the Hall-Cronin company against John Bingham, was also sustained by the circuit court. It was held that the company was responsible for an accident occurring while Bingham was an employee of the company. He was employed to carry away steel rails that were being thrown from a car. He realized that his position was dangerous and refused to work further until a man was placed on the car to warn him when rails were thrown out. A man was so placed and Bingham proceeded.

After working awhile they were stopped by rain and sought shelter. When work was resumed after the rain, the guard did not get back on the car and keep Bingham warned, and as a result a heavy steel billet was flung over the edge of the car, struck him on the head and inflicted injuries for which he asked \$10,000 damages. He was given a verdict for \$3,500 in the common pleas court.

This case was carried up on error but the circuit court, after going into the matter deeply, failed to find where the lower court should be reversed, and so affirmed the judgment of that court. It was held that the presence of the man on the car, after the request to so place a man, involved at least an implied promise to look out for his safety, and this, it was held, was not proven to have been done.

The common pleas court was reversed in the matter of Lucinda Miller against Susanna Concklin. Susanna Concklin inherited some property from Catherine Planck, against whom Lucinda Miller had a claim for \$200 for personal services. She brought an action in the common pleas court and the defendant filed a demurrer to the petition. The demurrer was sustained.

An amended petition was then filed by the plaintiff and to this demurrer was also interposed and sustained. Without further pleading, the plaintiff filed a petition in error in the circuit court, which holds that the demurrers should not have been sustained and the case is remanded for further trial. Judge Crow rendered this decision.

Children's hats a specialty with us, from 50c up, all colors. Mrs. Jennie Thomas.

Children's school shoes—all solid—\$1.25 values, sizes 8 1-2, 9, 9 1-2, 10, 10 1-2 and 11, at \$1.00 per pair. Starr's Shoe Store. 22-23

Hold Two For Murder.

Hamilton, O., Sept. 23.—As the result of the killing of Joseph Hardesty a week ago, and the assault upon Mrs. Hardesty, Carl Schultheis and his father, Emil Schultheis, were each charged with second degree murder and assault to kill, and held under \$5,000 bond each. Chris Dill, arrested during the inquest on Hardesty's death, had the same charges placed against him, and his bond was fixed at \$2,000.

DOCTORS FAILED. RESTORED BY PERUNA.

Catarrh of the Lungs Threatened Her Life.

Miss Ninette Porter, Braintree, Vermont, writes: "I have been cured by Peruna."

"I had several hemorrhages of the lungs. The doctors did not help me much and would never have cured me. I saw a testimonial in a Peruna almanac of a case similar to mine, and I commenced using it."

"I was not able to wait on myself when I began using it. I gained very slowly at first, but I could see that it was helping me."

"After I had taken it a while I commenced to raise up a stringy, sticky substance from my lungs. This grew less and less in quantity as I continued the treatment."

"I grew more fleshy than I had been for a long time, and now I call myself well."

J. PIERPONT MORGAN  
Financier Who Prevented Panic in Wall Street.



Photo by American Press Association.

## STEEL TRUST WILL NOT BE DISSOLVED

Panic on Stock Market Averted By Morgan Money.

New York, Sept. 23.—The stock market was overwhelmed by a wild burst of selling, which for a time resulted in demoralization and swift depreciation in market values. Alarm at the reports of approaching dissolution of the United States Steel corporation resulted in an enormous volume of selling by holders of the corporation's stock in all parts of the country and in Europe. The defeat of reciprocity in the Canadian elections contributed to the unsettlement of the market. Large buying orders placed by J. P. Morgan & Company had the effect of checking the wild stampede.

Wall street was in utter confusion. Officials of the steel corporation maintained their silence and the situation remained virtually unchanged. The only fact which stood out from the confused rumors and opinions was a definite statement from Attorney General Wickesham that no arrangements for the dissolution of the corporation had been made and that no such action had been proposed to the department of justice. This put an end to the widely-circulated reports that the corporation had proposed a plan of dissolution to the department of justice, with the idea of averting a dissolution suit. It is the general impression that the steel corporation has already mapped out an aggressive program in anticipation of an adverse report from the Stanley investigating committee, and will fight a dissolution order to the last ditch.

Call at our Booth in the Art hall, and hear the matchless

SCHUMANN PIANO  
"Built like a Violin"

We will have complete line Pianos and Player Pianos to show you.

Peters - Gebhardt - Peters  
110 North State St.

To trim the edges of lawns easily a New Hampshire man has invented a rotary sod cutter.

## SPECIAL SALE

Friday and Saturday on Millinery. See the bargains here before you buy. New white hats at special low prices. You can save 25 per cent on your millinery here Friday and Saturday.

Special for a few days We will trim your old hat and make it look like new, and the special price is only from 15c up. Get your orders in at once as we will be very busy Fair Week.

D. B. GOODSSELL  
Opp. Pilgrim Inn.

Dr. H. W. Sager

can be consulted at his office, at 129 1-2 West Center Street, Marion, Ohio, every day from 8:00 to 10:15 a. m., 6:00 to 8:30 p. m., except Saturdays, office hours from 8:00 to 11:00 a. m. and 1:30 to 4:00 and 6:00 to 8:00 p. m.

All calls promptly answered, Phone 175.

DR. C. C. KELTNER  
DENTIST

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## The Schumann

At the County Fair.

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SCHUMANN PIANO  
"Built like a Violin"

We will have complete line Pianos and Player Pianos to show you.

Peters - Gebhardt - Peters  
110 North State St.

To trim the edges of lawns easily a New Hampshire man has invented a rotary sod cutter.

## Stomach Blood and Liver Troubles

Much sickness starts with weak stomach, and consequent poor, impoverished blood. Nervous and pale people lack good, rich, red blood. Their stomachs need invigorating for, after all, a man can be no stronger than his stomach. A remedy that makes the stomach strong and the liver active, makes rich red blood and overcomes and drives out disease-producing bacteria and cures a whole multitude of diseases.

Get rid of your Stomach Weakness and Liver Laziness by taking a course of Dr. Pierce's Golden Medical Discovery—the Great Stomach Restorative, Liver Invigorator and Blood Cleanser.

You can't afford to accept any medicine of unknown composition as a substitute for "Golden Medical Discovery," which is a medicine of known composition, having a complete list of ingredients in plain English on its bottle-wrapper, same being attested as correct under oath.

Dr. Pierce's Pleasant Pellets regulate and invigorate Stomach, Liver and Bowels.



## Bring Your Dollars

Where They Get You Most Comfort, Style and Service.

That's here, of course. For instance, we received yesterday another shipment of the famous "Taylor Made" Rockers, the best balanced, best shaped line of Rockers we have ever found at any price. They are medium priced Rockers in leather seats and backs with full spring seats and are hand set and tied, softer and more serviceable than any other construction. The frames are built on artistic lines and for real service.

We price them so that when you see them and sit in them you cannot resist buying.



\$9.00 Up

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