

VICTORY FOR MOSES

Supreme Court Decides in Favor of Creechley.

WILL GET A NEW TRIAL

Opinion Based on the Former Acquittal.

Interesting Point Brought Out in the Decision—Judge McCarty Dissents.

The plea of "autrefois acquit" is learnedly discussed in an opinion of the State Supreme court handed down yesterday in the case of the State vs. Moses Creechley, appellant. The defendant was charged with the crime of perjury alleged to have been committed while testifying in a criminal action prosecuted against him in the Second District court in Morgan county. The defendant entered plea of "not guilty" and of "former acquittal" to the information. At the trial the jury returned a verdict of "guilty as charged in the information," but made no finding upon the other plea of "autrefois acquit."

A motion for a new trial was overruled by the court and the defendant sentenced to six years in the State prison. The case was thereupon appealed to the Supreme court, the point raised being that the court erred in passing and rendering judgment against the appellant, the jury having failed to find or return any verdict upon the appellant's plea of former acquittal.

NEW TRIAL IS GRANTED.

This contention is held to be sound by the Supreme court and the cause is remanded to the court below with directions to grant a new trial.

The opinion holds, "Whenever a defendant in a criminal action enters the plea of autrefois acquit, it becomes the plain duty of the court to require the jury, before discharging it, to find upon the issue thus raised. This is so notwithstanding the fact, as insisted by the respondent, that the burden of proving his former acquittal of the same offense is upon the accused. Whether or not there was proof showing a former acquittal of the identical offense, the plea raised a question of fact, for the determination of the jury, as much so as the plea of not guilty."

"So in this case the court having discharged the jury without a finding upon that plea, it was ground for a new trial, and the motion therefor ought to have been granted."

JUDGE MCCARTY DISSENTS.

The opinion, which is written by Justice Bartsch and concurred in by Chief Justice Baskin, is dissented to by Justice McCarty. Justice McCarty holds that the former acquittal of the defendant of the crime of grand larceny, at which trial the alleged crime of perjury was committed, had nothing to do with his pleading in the second trial for perjury. He holds that the appellant pleaded his former acquittal on the charge of larceny, as a bar to a prosecution for perjury. "That is, he pleads he was acquitted of the crime of perjury in the very case in which he is charged with having committed the crime. At the trial he introduced no evidence in support of the plea of former acquittal, and the jury failed to find on that issue. The burden of proving his plea of former acquittal was on the defendant. "I am, therefore, decidedly of the opinion that the court did right in ignoring the plea as it was, in effect, changed by the stipulation, as it raised no issue that could in any way affect the rights of the defendant, and that the judgment of the trial court ought to be affirmed."

NO DATE FIXED FOR WADE.

Man Who Killed the Chinaman at Alta Arraigned.

James Wade, charged with murder in the first degree for the killing of a Chinaman, Lee Yon, at Alta on December 19th, was arraigned in the District court yesterday and entered a plea of not guilty to the information against him. It was impossible to agree upon a date for the trial of the case and the setting was postponed.

Thomas McKelvie, the young man who pleaded guilty to the charge of burglary last Tuesday, was sentenced by Judge Morse yesterday to a term of eighteen months in the State prison. McKelvie was charged with having burglarized the Germania second-hand store on State street.

John Rodas of Bingham, charged with assault with a deadly weapon, and whose arraignment had been set for yesterday, failed to put in an appearance. The defendant, who has been out on bail, had been given notice that his case was set for yesterday. On the motion of District Attorney Eichnor the case was continued until next Wednesday, and if Rodas does not turn up then his bail will be declared forfeited.

The case against Leary Mitton, charged with burglary, was set for trial on Tuesday, February 2nd, and that of H. W. Angler, charged with forgery, for Wednesday, February 2nd.

Mike Marine on Trial.

Michael Marine, the young man who created considerable excitement last fall by making charges of extreme cruelty against the attendants at the State Mental hospital, was examined for the third time yesterday as to his sanity before County Clerk John James and District Attorney Eichnor. There was no evidence to show that the young man is in the least dangerous, but it seems that he is rather weak-minded. He is said to have been affected in this way by a joint attack of diphtheria and scarlet fever when a boy. Michael says he is willing to work, but cannot get a job. He says he cannot understand why the coal companies won't give him work when they are sending tickets all the time to Italians

A STYLISH COAT.



DESIGN BY MAY MANTON.

GIRLS' LONG COAT #396. Coats are always becoming to girlish figures and are among the notable features of present styles. This smart coat shows one of the military sort, and is adapted to all evening materials. The model, however, is made of royal blue melton simply stitched and trimmed with curved gold buttons. When liked, the cape can be omitted and the fronts can be raised open to form revers. To make the coat for a girl of 12 years of age will be required three and one-eighth yards of material 44 or 46 inches wide. A May Manton pattern, No. 496, sizes 8 to 14 years, will be mailed to any address by the fashion department of this paper on receipt of 10 cents.

Form for ordering patterns, including fields for Name, Address, City, State, and Zip, and a note that orders are filled from the East.

to come here and go to work. He was lectured by Mr. Eichnor and his case continued until February 5th.

Court Notes.

Alta Weber of Ogden filed a petition in voluntary bankruptcy in the Federal court yesterday, confessing to debts amounting to \$715.60, with assets of \$359, claimed to be exempt.

Complaint for divorce was filed in the District court yesterday by A. E. Miller against her husband, Edward J. Miller, whom she charged with desertion and non-support. The couple intermarried in this city on August 25, 1901.

District Judge Morse yesterday granted a decree of divorce to Frankie Gibbs from James Gibbs on the ground of non-support. The couple married in this city June 1, 1899, and have one child, the custody of which is granted to the plaintiff.

A distribution of the estate of George A. Lowe, deceased, according to the provisions of the will as admitted to probate in the District court, was ordered by Judge Hall yesterday. The court approved the final account of the executor and confirmed the sale of certain real estate. Attorneys' fees amounting to \$3900 were also approved.

Boston Copper Market.

Table with columns for Sales, High, Low, Close, and various copper grades like Amalgamated, Bingham, etc.

BOSTON MINING STOCKS.

Table with columns for Stock Name, Price, and other details like Adventure, Alliance, etc.

Not How Cheap—But How Good.

Blue Point Perfectos, Utah's Favorite Cigar.

Lost Money.

On several pianos sold yesterday rather than pay two cents. Better come to one; Carstensen & Anson Co., 74 Main St. Old stand Daynes Music Co.

SOCIETY.

Mr. and Mrs. E. O. Howard entertained at dinner last evening in honor of Rev. Elmer J. Goshen. The table decorations were all in green and white and were beautiful indeed. White tulle, dotted with fern leaves, covered the entire table, in the center of which was a mound of narcissus and plumosa. Crystal candelsticks, holding white candles, but without shades, stood at either end of the table. Covers were laid for eight.

Miss Jessie Goddard returned Thursday evening from a six months' tour of Europe.

Mr. and Mrs. Jack Jevns left yesterday at noon for Los Angeles after a delightful visit with Salt Lake friends.

Mrs. J. C. Weiser, who has many friends made during a former residence in this city, is visiting here for a time, the guest of Mrs. A. J. Gorham.

Col. E. F. Helms leaves today for the East. He will go as far as Washington and will be away some weeks.

Mr. and Mrs. Perry S. Heath will be at the New Willard, Washington, until Tuesday next, when they will start for the West.

The Misses Bubb entertained at an informal chaffing-dish party at the Post on Thursday evening. Their guests were the Misses Starling, the Misses Alexander, Capt. Hirst, H. B. Windsor, Gordon Hutchins and Wing B. Allen.

Mrs. Jessie Eldredge Southwick of Boston, one of the best known readers of the country, will be in Salt Lake on the 1st of February, and will give a dramatic reading at the First Congregational church on that night. Mrs. Southwick is accompanied by Mrs. D. A. Melvin as vocal soloist.

John T. Donnellan is expected home the first of next week from an Eastern and Southern trip covering several months.

Mrs. Anna D. Katz leaves today for her home in Boise. Mrs. Gue of New York will go to Boise later to spend some time with her sister.

A leap year sleighing party will be given on Monday evening by the Misses Minerva Banks, Violet, Nell, Lillian, Connelly, Leta Rawlins, Leta Chamberlain and Ivy Cleghorn. Miss Mary Teasdale will chaperone the young people.

Mrs. John Reed goes to Ogden shortly to spend a week or two visiting friends there.

The piano pupils of Mrs. Graham F. Putnam will give a recital at her home next Wednesday evening. Mrs. Putnam will be assisted by Miss Bartsch.

Clarence Gaines has gone to Ogden, to be away several weeks.

Mr. and Mrs. W. C. Dewey of Nampa, Ida., spent yesterday in Salt Lake on their way East. They attended on their wedding trip and will not return from Nampa for some weeks.

The informal hop and band concert at the Post last evening was, as always, very enjoyable affair. A number of young

Only Medicine in the Barracks.

Physical health has a great influence on a person's life. A sick mother means a wretched home, especially so when the family is poor and cannot afford to keep help. I have known hundreds of women, poor sick mothers, worn out working women, and invalids or chronic patients who became well and happy through the use of Wine of Cardui. My special attention was called to it four years ago when I caught a severe cold, being exposed for over an hour in the rain away from home. Inflammation of the womb followed, with all the painful and serious consequences. One of our ladies advised me strongly to use Wine of Cardui, telling me of a number who had been cured through its use. I used it and felt ten years younger. I have since advised sick women to use it since. It is the only medicine we keep constantly on hand for sick women in our barracks. It has never failed so far to relieve, to cure and to bless sick women. I heartily endorse it.

GREEN LAKE, WASH., May 6, 1903.

Carrie Habely, CAPTAIN, SALVATION ARMY.



Advertisement for Wine of Cardui, featuring the name 'WINE of CARDUI' in large letters and a testimonial from Carrie Habely.

"HELLO BILL" WILL HELP.

Members of the Stranded Company and Local Talent Will Play for Charity.

A theatrical performance which cannot but attract unusual attention and interest is to be given in the Grand theater Saturday, January 23rd, afternoon and evening. It is to be a combination benefit for the families of Brighton and Gleason, the murdered street car men, and the actors who were left stranded here by the manager of the "Hello Bill" company, who forfeited his bond after having been arrested on complaint of a member of the company as an absconding debtor.

The four actors who are here are those who carried the leading roles of the "Hello Bill" company. They are John Day Murphy, Frank Mosey Kelly, Edwin P. Greer and Miss Kathleen Clifton. They were, practically, the "Hello Bill" company, and the uniformly flattering press notices they received from the local newspapers during the company's recent engagement here, together with the excellent houses to which they played at every one of their four performances, should be ample evidence of their histrionic abilities.

It is the purpose of these four professionals, added by the best local talent in the city, including such well-known people as Miss Madge Landis, Miss Christine Johnson, Miss Rennie Peterson, J. C. Leary, Dana T. Smith and Walter Little besides one or two others, to put on at the Grand a sprightly comedy, the receipts from which will be divided equally between the Gleason and Brighton families and the actors. The local lodge of Elks will give its heartfelt support to the project, including the donating of the use of its lodgeroom for rehearsals, and some of the leading society people have already sent their intention of giving box parties at one or both performances. It is understood that the street railway people will also take up the sale of tickets and aid the cause in every other way possible, while the splendid array of professional and amateur talent together with the wonderful power which will appeal to all theater-goers, besides many who are not often seen in play houses.

NO SOUND CAN ENTER HERE.

Millionaire Builds for Himself a Noise-Proof Dwelling.

Not every man whose nerves are on edge can withdraw into a "soundproof" of his own devising and shut out the jar and jangle of the world. One man at least in this big noisy city has a refuge of this sort, and he, needless to say, is a millionaire, who, with his millions, accumulated a terrific case of "nerves." He is a well-known newspaper figure, a captain of industry and noted for his philanthropic bequests, but all his money is powerless to prevent an overworked nervous system from transmitting excruciating tortures at sounds that an ordinary man hardly hears.

The ordinary man, if he did suffer from nerves, probably would have to squirm and bear his sufferings, but this millionaire's wealth assures him some solace. He has built for himself in the very heart of town a retreat where noise is a vain frigate and the waves of sound that pass the guards and barriers are toned down to faint whispers.

The retreat is a wing of his great mansion and all that money could secure and human ingenuity devise has been used to insure a restful calm. The walls and the floors are thick enough for a fortress. What would be partitions in an ordinary home are solid brick walls here. Each room, in fact, is practically a castle of masonry, and pandemonium could break out in one room without an echo of it penetrating to the adjoining room.

The necessary doors and windows are unique. Each window has three sets of shutters and the doors look exactly like the huge steel doors of a modern bank vault. On each side of the hardwood door proper, which the thickness of the walls permits being hung in a deep jamb, there is attached to an upper level a heavy eight-inch cushion, which fits snugly around the edges of the door when closed. This protection means that in order to penetrate to one of the rooms the sound waves must pass through an eight-inch cushion, next three inches of heavy wood and then another eight-inch cushion.

This cushioned door is used in every room whence a disagreeable noise might issue. The eerie song of the electric elevator is shut out, the clatter and chatter of the chef's domain are muffled, and the grating clang of the basement confined to its subterranean quarters. Over the courts and areas are heavy glass awnings to exclude the voices of servants and tradespeople. A slammed door is impossible, as every door in the house is fitted with an automatic closer and door check, and if this should fail there is the additional precaution of felt strips nailed to the door and the edge of the jamb.

One of the most difficult noises to overcome proved to be that caused by the handling of the family's trunks. Although the baggage-room is far down in the subbasement, whenever a trunk was dropped on the floor or was banged against the walls by careless expression the master's nerves recorded that fact in no pleasant manner.

Many experiments were tried before the noise emanating from this department could be suppressed. The cost of these experiments amounted to several thousands of dollars, for the baggage-room was reconstructed again and again, until finally it was floored with cork to the depth of a foot and the side walls cushioned with springs and heavy padding.

The result of all these devices is to produce in the house a quiet akin to that of an empty cathedral, but in the rooms devoted to the sick man's personal use there is a silence which is weird and unnatural. No echo or murmur of the familiar street sounds enters here. The stillness is so intense as to be almost oppressive. It would make the normal person long for the companionship of everyday sounds. But the silence is medicine to the afflicted millionaire and provides rest for his nerve-racked body.—New York Press.

Advertisement for THE PARIS MILLINERY CO. featuring a circular logo with the company name.

ANNUAL MUSLIN UNDERWEAR SALE

\$5,000 worth of the Best and Newest

Muslin Underwear

On Sale This Week at Greatly Reduced Prices

Our new 1904 stock, consisting of the latest styles in GOWNS, CHEMISES, SKIRTS, DRAWERS, CORSET COVERS, and INFANTS' WEAR, is made from the Best Material, finest MUSLINS, CAMBRICS, NAINSOOKS, SWISS, ETC., and trimmed with the finest laces and embroideries, and offered during this sale at unequalled Low Prices: Ladies' and Misses' \$20.00

- List of clothing items and prices: Suits for \$9.40, \$2.95, \$5.00, \$10.00, \$15.00.

SEE WINDOW. All Hosiery and Underwear at Wholesale Cost. All Gloves, Belts at Clearance Prices. All Children's Coats and Dresses at half price and less.

THIS WEEK ONLY!

25 dozen broken lots of Shirts, in soft and stiff bosoms—goods that retailed for 75c, \$1.00, \$1.25, \$1.50—choice—...45c EACH

Rowe & Kelly Co.

One Price. 132 MAIN ST. Plain Figures

RED

Red is the color of danger, whether on the semaphore or on the skin. When the face is reddened by eruptions, when boils break out on the body, or the angry red sores and ulcers is displayed in the flesh, it is nature's danger signal. The blood is obstructed and tainted by impurities, and there can be no safety until the blood is made pure.

Dr. Pierce's Golden Medical Discovery purifies the blood, and removes the effete matter which clogs and corrupts it. It cures pimples, boils, eczema, scrofula, sores, ulcers and other consequences of impure blood.

"I feel greatly thankful for what your medicine has done for me," writes Mrs. Chas. Reed of Haverhill, Mass. "I suffered with scrofula of the head for twelve years. Tried every kind of medicine that I heard of, but found no cure. Every one that looked at my head said they never saw anything like it. The last doctor I doctored with before applying to you I got worse every day. Was so miserable that I was unable to do any work at all. After for a week or three bottles of your Golden Medical Discovery, and using the local treatment you prescribed for me, I was cured and my head was entirely free from scrofula."

Accept no substitute for Doctor Pierce's Golden Medical Discovery. There is no other medicine which is "just as good" for diseases of the blood and the eruptions which are caused by the blood's impurity.

FREE. Dr. Pierce's Common Sense Medical Adviser is sent free on receipt of stamps to pay expense of mailing only. Send twenty-one one-cent stamps for the book in paper covers, or thirty-one stamps for every cloth-bound volume. Address Dr. R. V. Pierce, Buffalo, N. Y.