CHARITON COURIER.

C. P. VANDIVER, Editor and Proprietor. | *MAN WAS MADE TO HUSTLE.* | TERMS: 1.00 A YEAR IF PAID IN ADVANCE IF NOT PAID IN ADVANCE, $1.50.

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CIRCUIT COURT PROCEEDINGS.

Regular July, 1897, Term at Salisbury

In addition to the proceedings of the regular July, 1897, term of circuit court, published in the COURIER last week, the following proceedings have been had up to this (Friday) morning at 8 o'clock:

CIVIL CASES.

In the matter of the assignment of the Salisbury Lumber Co., W. A Wight, assignee, assignment; final report filed and cause continued for assignee to publish notice.

J. A. Egan vs. Martin & Applegate, reversal; continued by agreement.

G. W. Rody vs. Thos. Sportsman, ejectment; judgment for plaintiff for possession of premises sued for, $10 damages and $4 monthly rents and profits until possession is delivered to plaintiff.

J. P. Christian vs. B. F. Moore et al, debt; defendants have 60 days to plead and cause continued on the application of and at cost of defendants.

A. D. Hurt vs. J. R. Carson et al, suit on note; alias summons to Chariton county for defendant, J. R. Carson; order of publication for H. S. and J. R. Carson Jr., in *Press-Spectator*, and cause continued.

Ola Bentley vs. Tony Bentley, divorce; plaintiff divorced upon payment of costs.

Eddie Stacy vs. Perry M. Stacy, same; same.

Judge W. W. Rucker vacated the bench just before noon on Friday, and Hon. C. Hammond was elected as special judge for the remainder of the present term of this court.

In the matter of the estate of M. G. Jackson, appeal; trial by court, and verdict for defendant. Plaintiff files affidavit for an appeal, and appeal is granted to the Kansas City court of appeals.

R. X. DeGraw and C. C. H. Zillman, exparte, application to be admitted to the bar; examination in open court by committee of three, composed of C. B. Crawley, P. S. Rader and Fred Lamb, and license granted

V. F. Minor vs. M. D. Minor, divorce; plaintiff divorced on payment of costs, and given custody of four minor children, Frank, Walter, Gilbert and Annie. Clarence permitted to remain in care of John Gerhart.

R. A. Gaudy vs. James Sanderson, appeal; dismissed by order of the appellant.

Lucy Brummall vs. Jno. M. Tillerson, suit to quiet title; by agreement cause is transferred to circuit court at Keytesville, and to be set for trial on Saturday of the first week of the October term.

Kate Plattner vs. John Plattner, divorce; judgment of divorce for plaintiff and given $2,500 alimony, which is to be paid within 30 days.

Fuller & Johnson Mfg. Co. vs. M. Neal, debt; judgment for plaintiff for $231.58 with interest from date at 6 per cent.

Walter Hayes vs. Mary Hayes, divorce; decree *nisi*, and cause continued.

B. J. Moore vs. Fred Young, suit on account; trial by court and judgment by plaintiff for $37.14 with interest from date at 6 per cent.

Otto Gas Engine Co. vs. James and John Bushnell replevin; the court gave to the jury a peremptory instruction to find the issues for plaintiff. Verdict of jury for possession of property named in chattel mortgage, value of property assessed at $450, and nominal damages. This was a veritable case where a man paid 'too much for his whistle." In September, 1895, James and John Bushnell bought of the Otto Gas Engine company of Philadelphia, through their agent, George M. Watson, at Kansas City, one of the company's 10-horse power engines. The engine was simply intended by the company for a farmer's or stockman's purposes, and is never sold by the company itself to run threshing separators. It was sold with a written guarantee that it was a full 10-horse power engine. The company made the mechanical tests before the engine left the shops to determine whether it came up to the required test, which it performed satisfactorily. Messrs. Bushnell received the engine at Keytesville in September, and in October executed their notes secured by chattel mortgage on the engine and a lot of horses and milch cows, the notes to the company amounting to $900 and one for $200 to Geo. M. Watson for money borrowed of him to make the first payment, making the cost of the engine $1,100. Messrs. Bushnell used the engine during the fall, winter and spring months in sawing wood and crushing corn, the class of work for which it was really intended, with perfect satisfaction beyond a few minor hindrances that will always occur when inexperienced men undertake to handle machinery of this character. When the threshing season came around in the following July they hitched it to a 32-inch cylinder thresher and attempted to thresh wheat. This is a class of work for which the company's agent declared, on oath the engine was never intended and for which they never recommend them. Consequently the machine failed to perform its new duty satisfactorily, and had to be abandoned for a steam engine. Then the Messrs. Bushnell claimed that they had mainly bought the engine to run a separator, because of the warranty by Watson, the agent, that it would run a separator perfectly and that it had as much power as any 10-horse power steam engine, and would run any machine that such 10 horse power steam engine would run, and because it would not run the separator they claimed it was not a 10-horse power engine, and thereupon brought the engine to Keytesville and notified the company of the claimed failure of warranty, and thereupon refused to pay any more of the notes. Mr. Watson brought suit for the recovery of the $200 he had loaned them on the first payment to the company. That case was tried in the justice's court, where the jury very promptly found for defendants, the Messrs. Bushnell, because of the alleged fraud practiced by Watson in procuring the contract of sale in warranting the engine to pull a separator and do any kind of work a 10-horse power steam engine would do. Judge Rucker in the circuit court just as promptly instructed the jury that they must find for the plaintiff, and in this case tried at Salisbury before Judge C. Hammond, special judge, there was the same result—the jury was peremptorily instructed to find for plaintiff. As showing the bent of juries in cases of this kind, the jury that tried this case at Salisbury last Tuesday at first agreed to report a verdict in favor of defendants, although there was not a particle of evidence left before them by the judge tending to prove fraud in the procurement of the contract, or that the engine was not a full 10-horse power engine, and in spite of the further fact that the only instructions given them directed a verdict for the Otto Gas Engine company.

Kansas Moline Plow Co. vs. Cecil Wayland et al, debt; by agreement this cause is transferred to circuit court at Keytesville.

In the matter of the assignment of C. M. Rumsey, F. M. Clements, assignee, assignment; C. C. Hammond appointed to examine assignee's report, and make his report to this term of this court, Thursday, July 22nd. Report of C. C. Hammond, commissioner, filed, taken up and examined and approved and assignee discharged.

Emma A. Taylor vs. John R. Taylor, divorce; non-suit.

Eli Shire, assignee, vs. B. F. Moore, suit on account; motion to make account more specific overruled. Defendant is given 60 days to answer, and cause continued.

B. J. Moore vs. J. D. and W. J. Atterberry, suit on note; continued by plaintiff.

Bank of Marceline vs. Mary C. Fuller, suit on note; by agreement change of venue is granted in this cause to the circuit court of Linn county, at Brookfield.

CRIMINAL CASES.

State vs. S. Swearingen, felonious assault; defendant by consent of prosecuting attorney allowed to plead guilty to common assault. Something over a year ago defendant was a merchant at Guthridge Mills. He had an account against R. F. and James Hazelwood, father and son, for goods sold them on credit. His debtors drove up in front of his store one day riding in a spring wagon. He dunned them for the debt they owed. An altercation of words ensued. Swearingen became enraged at some of their insolence, ran into his store and returning with a pistol in his hand began firing in their direction as they drove off, but simply into the air to frighten them, as he declared. Upon pleading guilty to common assault he was fined $10 and costs, which he could not pay and was sent to jail.

State vs. Ben Gardener, felonious assault; *nolle prosequi*. Gardener was indicted by the grand jury at the July, 1896, term of circuit court at Salisbury for making a felonious assault on Oscar Wiley, alias "Steeple Jack," in front of J. A. C. Phillips' livery stable in Keytesville on June 16th, 1896. Gardener and Wiley had had some trouble over a settlement of wages due him (Gardener) by the said Wiley, which culminated in Gardener knocking "Steeple Jack" down with a club from a blow on the head. The case has been continued by the state from term to term on account of the absence of the principal witness and despairing of ever getting him to attend, the prosecuting attorney dismissed the case.

State vs. Samuel Croff, perjury; Hon. C. Hammond of Brunswick, counsel for defendant, having been elected special judge in the absence of Judge Rucker, this cause was, by agreement, continued to the next term of court.

State vs. Jno. Leonard, felonious assault; *nolle prosequi*. Leonard was charged with felonious assault on Wm. B Cokely, near Triplett, a year ago this month. Cokely seems to have had no desire to prosecute the case as he failed to put in his appearance during this term of court.

State vs. Wm. Collet, selling intoxicating liquor without license; the prosecuting attorney being disqualified by reason of relationship to defendant, A. W. Johnson was appointed to prosecute. A *nolle prosequi* was entered in this case and the defendant discharged. This is the last of several Marceline fair cases, originating over the alleged illicit sale of intoxicants in July, 1896.

State vs. W. D. Fansler, arson; mistrial, and prosecuting attorney enters a *nolle prosequi*. All the evidence was presented at the trial that it was possible for the state to procure, and as the jury stood 5 for conviction to 7 for acquittal the state despaired of ever being able to convict, and to save useless expense dismissed the case and discharged the defendant. Fansler was charged with burning his drug store at Prairie Hill in July, 1895.

Same vs. Edgar Farrester, change of venue from Carroll county; continued. Farrester is charged with defaming the character of Miss Notie Snider, a Carroll county young lady, in June, 1893.

Same vs. John D. Smith, grand larceny; trial by jury, verdict of not guilty and defendant discharged. Smith is one of the parties who was charged with the theft of eight head of cattle belonging to I. N. Long of near Meadon in November, 1896.

Same vs. Jesse McKee and David Barnhart, grand larceny; *nolle prosequi* as to Jesse McKee. Defendant, David Barnhart, enters plea of guilty, whereupon his punishment is fixed at imprisonment in the penitentiary for two years. McKee and Barnhart were indicted, in last January for the theft of the Long cattle as was also John D. Smith, but as there was no evidence to establish McKee's guilt the case against him was dismissed. Under the provisions of a new law, passed by the last general assembly of Missouri, Barnhart was permitted to enter into a parol bond in the sum of $500, with Joseph Barnhart and I. N. Long as securities, for a period of two years, and if he will, during that time, conduct himself as a law-abiding citizen should he may eventually be discharged and escape his sentence to the penitentiary, otherwise he is liable to arrest and incarceration in state prison whenever he shall step beyond the bounds of good behavior. By the further provision of his parol Barnhart is also required to pay the costs in the prosecution against him, which amounts to $21.60.

Same vs. John Johnson, gambling; defendant waives formal arraignment and pleads guilty. Punishment assessed at a fine of $5. Johnson is a would-be Salisbury sport.

Same vs. Ed. Whitefield, felonious assault; *nolle prosequi*. Whitefield is the Dean Lake negro who painted that village a deep crimson in December, 1896, during a drunken spree, and also drew a double-barrelled shotgun on J. J. Utley. Whitefield had already served out, in the county jail, a fine of $25 and costs, imposed in 'Squire L. H. Shipp's court at Triplett for disturbing the peace on the above occasion.

Same vs. B. F. Bivens, change of venue from Linn county; *nolle prosequi*. Bivens was charged with unlawfully and feloniously receiving into his possession and converting to his own use a certain steer of the value of $32, stolen from Warren McCullough by Wm. P. Taylor, since hung, who was one of the notorious Taylor Bros., the murderers of the Meeks family.

Same vs. Hollis Hayes, petit larceny; defendant withdraws plea of not guilty and enters plea of guilty. Punishment assessed at 30 days in the county jail. Hayes is the 16-year-old Salisbury negro boy who stole a watch from C. F. Warson of that city a few weeks since.

Same vs. Cab Turner, appeal; defendant pleads guilty. Punishment assessed at a fine of $10. Turner is the Brunswick negro who assaulted George Heisner in that city on the 9th of last May by striking and beating him in the face with his fist. The defendant was arrested and tried by jury in 'Squire C. E. Finch's court at Brunswick, found guilty and fined $15 and costs. He took an appeal to circuit court, with the result already stated. Cab is now serving out his fine and costs in the county jail, in the absence of sufficient "filthy lucre" to liquidate.

Same vs. George Crawford, felonious assault; trial by jury, defendant found guilty. Punishment assessed at a fine of $100. Crawford is the man who drew a shot-gun on Everett B. Lentz on the 1st day of July, 1896, near Brunswick.

Same vs. Lilburn Coleman, Harrison Coleman, William Adams, Jr., John Courtney and Walter Courtney, disturbing the peace; severances granted John and Walter Courtney, both of whom pleaded guilty and were fined 5 and $10, respectively. The other three defendants have not yet had their trial. These five young men were indicted last January for disturbing the peace at a Christmas tree at Oldham school-house on the evening of December 24th, 1896.

Same vs. G. W. Lawhorn, selling liquor illegally; trial by jury, and verdict of not guilty. The defendant in this case is a practicing physician and druggist at Forest Green, and under such circumstances convictions are seldom obtained for the illicit sale of liquor, especially when the prosecuting witness offers testimony before the grand jury that will secure an indictment, and then becomes "a know-nothing" when the case goes to trial in circuit court. A few determined prosecutions for perjury would doubtless have a very wholesome effect in such cases.

State vs. Robt. W. Green, No. 2, rape; special venire for 60 men ordered for Wednesday, July 21st, at 4 o'clock p. m. From this venire the following jury was impaneled yesterday evening, to try the case the trial being in progress as we go to to press.

THE JURY.

T. A. LaGrass,	Jas. Eadie,
G. W. Morehead,	Geo. Wright,
Geo. Addis,	Chas Jessup,
Geo. Richardson,	T. A. Ryals,
J. B. Dameron,	W. C. Moredock,
Wm. Warden,	E. M. Conger.

Robt. W. Green is the Clark township farmer, who has been indicted on five difierent counts for raping his own daughter, Grace Green, on dates ranging from August, 1893, to March, 1896. The first offense is alleged to have been committed when Grace was only 13 years of age.

A Lawyer of Wonderful Resources.

His brother lawyers are telling an anecdote that well illustrates the wonderful resources of Maj. W. H. Bradley of Salisbury as a criminal lawyer. Mr. Bradley has been retained to defend Burl Jones, the man indicted for stealing 1,000 pounds of wool from G. B. Hurt of near Shannondale some time in June.

It will become necessary in the trial of the case for defendant to explain his attempt at escape from Deputy Sheriff Embree at Clark while being brought from Marshall, where he was arrested, and also to account for his whereabouts at the time of the disappearance of the wool from Mr. Hurt's tobacco factory. This he was not prepared to do at the present term of court on account of the absence of material witnesses to the facts. In order to give him time to procure this evidence Maj. Bradley asked for a continuance for his client, and filed an affidavit in support of his motion. In that affidavit Mr. Jones swears that he can prove he jumped from the train while in custody of the deputy sheriff, as it was pulling into Clark at the crossing of the C. & A. and Wabash railroads, because the conductor orderded him to jump off. He had no intention of attempting to escape the officer, but jumped entirely through fear of that terrible conductor.

In his affidavit Jones also alleges that on or about the time of the disappearance of the wool he stopped with a man in Glasgow, but he failed to give the name of the man or to allege that the man saw him. Judge Rucker called attention to this deficiency in the affidavit, and said he would like to have an explanation of the failure of the man with whom Jones staid all night to see him. The explanation was so easy that Mr. Bradley had inadvertently, it is presumed, failed to state it. He retired with the affidavit for the necessary amendment, and soon returned with it containing the additional information that the man's name was "Jack," and that he did not see Jones on the occasion mentioned because 'he was blind and could not see."

The court and prosecuting attorney seeing the futility of contending against fate, guided by a lawyer possessed of such boundless resources, abandoned the contest, and allowed the continuance of Jones' case until the next January term of the Salisbury court without further opposition.

Judge Rucker admitted the defendant to bail in the sum of $750, but it is believed that he will not be able to furnish bond in the required amount, and will be compelled to languish in jail until the time set for his trial.

There has not yet been any apprehension of the man, who, it is thought, was connected with Jones in the theft of Mr. Hurt's wool, and it begins to look as though the accessory was going to be successful in eluding capture, especially since Jones firmly and persistently refuses to make any admissions whatever in the premises.

Struck It Rich.

A special dispatch from Mexico, Mo., to the St. Louis *Chronicle* under date of July 19th, says:

"Word has reached Mexico that Frank Purcell, formerly a Mexico merchant, now a resident of Montgomery county, is *en route* home from the gold mines of Alaska with $30,000 in gold. He went there to seek his fortune only last year."

Mr. Purcell is an ex-citizen of Chariton county. He moved from near Indian Grove to Mexico, Mo., 10 or 12 years ago where he embarked in the grocery business, but subsequently failed, after which he cast his lot in Montgomery county.

A little more than a year ago he was met on the train by M. F. Courtney, Prosecuting Attorney J. C. Wallace and Sheriff J. E. Dempsey of this place, and informed them that he was on his way to Alaska.

Mr. Purcell's Chariton county friends will be glad to learn that he has "struck it rich."