

RAILROADS MUST SETTLE FEELINGS

Federal Court Rules Against Discrimination in Supplying Cars for Grain.

SUIT AGAINST O. R. & N.

Judge Wolverton Dismisses Motion to Quash Proceeding on Ground That Warehouses Are Depositories for the Public.

In dismissing the motion to quash the mandamus proceeding brought by the Northwestern Warehouse Company against the O. R. & N. Company to compel the defendant company to make an equitable distribution of its cars among shippers, Judge Wolverton discusses in plain terms the duty of transportation agencies to shippers under the provisions of the interstate commerce act. The motion was disposed of yesterday and, in doing so, Judge Wolverton holds that warehouses, although owned by private interests, are public depositories for the storage of grain and cannot in any way be discriminated against by railroads in the distribution of cars.

Refused Cars to Company.

The suit was a proceeding by writ of mandamus to require the O. R. & N. Company to furnish cars for the transportation of grain for the complaining warehouse company in proportion to the number of cars furnished for a like service for the use of railroads' competitors engaged in the same business. The warehouse company in its complaint, represented that it had between 15,000 and 17,000 tons of wheat stored in warehouses, principally in Adams and Whitman Counties, Washington, on the lines of the defendant railroad company.

It was charged by the shippers that the railroad company operated a discriminatory policy in the distribution of its cars for shipping purposes, with the result that the complainants were unable to receive a reasonable quantity of cars for their grain. In dismissing the motion of the railroad to quash the proceeding, Judge Wolverton discusses the duty of transportation agencies to all shippers as follows:

The railroad company owes a duty to the shipper that it will not unduly and unreasonably discriminate in the distribution of its cars for shipping purposes. This duty is imposed by law and requires that the carrier shall not give preference or advantage to any particular person, company, firm, corporation or locality in the distribution of its cars in any respect whatever, or subject any particular company, firm, corporation or locality to any undue or unreasonable prejudice or disadvantage in any market whatever. Such an effect, in the provisions of the interstate commerce act of Congress.

In arguing the motion to quash, counsel for the railroad company contended that the warehouses interested in the complaint were owned by private parties; that the cars were constructed and remained upon the company's right of way by its consent and were not recognized by it as public depositories for the storage of grain and are open to all who desire the service, and for that reason discrimination cannot be practiced. On this point the court says:

Here, then, are two public, or rather quasi-public, agencies operating together. Both are performing a public service—one the street, and the other the carrier of a staple commodity of large volume, taking its course in the channels of commerce. The store has a special duty to perform, namely: to receive and receipt for and to load aboard cars when furnished, and the carrier to furnish the cars and to transport the commodity when requested to do so. While it might be, in strict legal right, that the carrier could refuse service to whomsoever it would, yet after it to all, the railroad company cannot refuse service to any requiring it, under like or similar circumstances and conditions.

The court further questions the right of the railroad company to insist that orders for cars be made through warehousemen, contending that this practice operates against the individual shipper and in favor of the larger firms operating on the company's line. As a result, during the recent car shortage, the court comments on the fact that the misappropriation of cars for shipping purposes was encouraged by the enforcement of this rule, which was manifestly unfair to the small shipper. Continuing the court says:

The rule insisted against, while primarily and ordinarily not unreasonable, does not meet the exigencies of the present situation. The duty of the railroad company against it is clear that under the present operation of the rule, the warehousemen are obtaining preference and advantages, while the other shippers and shippers are being subjected to prejudice and disadvantage. The railroad company is guilty of an inequality, for it is altogether unjust and unreasonable.

Chit-Chat of Sporting World

WILLIAM G. MAC RAE. HILLES San Francisco fight fans are warring over whether Jeffries could whip John L. Sullivan, both in their prime. New York fans are telling over what was the better, Joe Gans or "Elbows" McFadden. The English fight fans use, like their arguments, is a bit wobbly. They aren't up to the parade and are struggling behind asking their way.

Here is a hot one: The Mayor of Havana will not permit fighting during the carnival week. The Mayor says prize fighting is more brutal than bull fighting. What a keen sense of decency those Cubans have!

Have you heard that United States Marshal C. J. Reed has taken up pistol target practice? Just ask the Marshal about the bullethead he made the other day. He might get peevish, but don't mind that.

There is one more candidate for the divorce mill and the human punching bag society. Miss Lena M. Heath mistook Jimmy Walsh, the fighter, for a Harvard football player and married him. Walsh indignantly denied that he was a football player and confessed to being a fighter. Yet the minister tied the knot.

Pat Donahue went East with a head full of conceit and his breath full of lies about the Coast League. Chit-Chat predicted that he would be farmed out, and he has been. He has been chased to Toronto.

The working workers in the nut factory are willing overtime. The brain of the baseball bug is throwing his usual Spring spasm already.

CALL BERKELEY CREW NORTH

University of Washington Will Pay Expenses of Californians. SEATTLE, Wash., Feb. 24.—(Special.)—Anxious to race the crews of Berkeley and Stanford, and having been informed that the California collegians cannot stand the expense of defraying the trip of the University of Washington oarsmen south, the latter institution has made arrangements to bring the southern crew here to row on Lake Washington this spring.

Coach Garnet, of California, in a letter to Coach Conbar, of Washington, says that he wishes it possible to arrange for a match between the freshmen crews of the respective universities and this will probably be arranged for. It is the intention of the Washington men to make the coming regatta one of the biggest things of its kind ever held on the Pacific Coast.

SHERIFF STOPS PRIZE FIGHT

Lewis County Authorities Spoil Sunday Afternoon Fun Near Chehalis. TACOMA, Wash., Feb. 24.—Deputy Sheriff King, of Lewis County, stopped a fight in the second round of what was to have been a 20-round contest between Billy Rose and Fred Darboe, near Centralia, yesterday afternoon. The principals and referee Kelly were arrested and are held under \$200 bonds. A crowd of 200 persons witnessed the contest, which was pulled off in an open field about a mile from the city limits of Centralia.

At the Theaters

What the Press Agents Say. CLOSE OF "NEW DOMINION" Clay Clement Will Appear as Baron Hohenstaufen Again Tonight.

Tonight the Marquans will offer Clay Clement, the distinctive American actor in his classical conception of Baron Hohenstaufen, in the production of the most famous plays that have adorned the American stage in the past 20 years.

"GRAUSTARK" AT THE BAKER

First Production in Portland of the Beautiful Romantic Play. The Baker Theater Company has the honor of presenting to Portland theater-goers this week the beautiful and romantic play, "Graustark," by George Barr McCutcheon's famous romantic drama. "Graustark" is dramatized from the popular novel and the work is a masterpiece of fiction are delighted with its appearance here. Miss Beeta Jewel as the beautiful Princess Yevie is rapidly increasing her hold on the Portland public.

At the Empire.

A play of interest to women especially is being staged at the Empire this week. It deals with Dolores, a beautiful Mexican girl, who, scorned and cast aside by the man she loved, takes a game of terrible and just vengeance. Bitter as she is in the pursuit of her desire, the result is that the man got just what he deserved.

Star Matinee Today.

This afternoon there will be a matinee of "The Walls of Jericho" at the Star Theater. This new play is being well presented and staged by the French Stock Company, the best popular Portland production in the country. This week's attraction is not a lurid melodrama, but a refined sensation play, with novel situations and some new scenic and realistic effects.

COMING ATTRACTIONS.

Herbert Kealey and Effie Shannon in "The Walls of Jericho." The attraction at the Hellig Theater, Fourteenth and Washington streets, for four weeks, is the celebrated stars, Herbert Kealey and Effie Shannon, in the society drama, "The Walls of Jericho." The play is a masterpiece and will open next Friday at the theater box office for the entire engagement.

"The Belts" at the Marquans. Tomorrow afternoon and night Clay Clement and his matchless company will present "The Belts" at the Marquans. Already the most sale indicates the heaviest kind of an attendance and local theatergoers are evidently very much interested in the forthcoming performances.

"Way Out West" Coming. Next Sunday afternoon the French Company will present the greatest love drama offered the Portland public in many weeks. This is not one of the "blood-and-thunder" class, but one of those nice, smooth love stories that is sure to please every one of the Star patrons.

Greats, paints and professional supplies at Woodard, Clarke & Co. LEAPS TO WATERY GRAVE. BELLINGHAM, Wash., Feb. 24.—M. Nelson, a seaman on the ship Star of Alaska, discharging ballast in the harbor, leaped overboard this afternoon and was drowned. No cause is known for the suicide.

SHOT BY PLAYMATE

Hector Brault Killed at Mount Angel College.

THOUGHT GUN WAS EMPTY

Lloyd Holman Raises Shotgun to Prove That It Is Not Loaded and Fires the Shot That Proves Fatal.

The body of Hector Brault, the Mount Angel College student who was shot and killed by Lloyd Holman Saturday, while the boys were out hunting, was brought to Portland by his father, A. J. Brault, and taken to the home of his parents, 231 Chapman street. The funeral will be held on Wednesday. The shooting and killing of Hector Brault, while it was an accident, is shrouded in mystery, for instead of young Brault meeting death by the wounds of a 22 rifle, the 10-year-old lad was shot by a 16-gauge shotgun. What is yet to be explained is where young Holman got the shotgun. The first story of the shooting given out was that young Brault had received his death-wound from a 22 rifle which his father had given him for a Christmas present. Who is responsible for possessing the dangerous weapon is not known.

It seems that both of the boys had been given permission to hunt on Friday, and that students of the college have permission to have firearms with them at school. Not content with the fun of the Friday hunt, Brault and Holman made up their minds to have another day in the woods. One of the boys had asked for permission to go hunting, and it had been denied, so it was decided to play truant.

The boys, after being out several hours, were hastening back, so as not to be caught. They had reached a clearing when Holman, who had extracted the shell from the gun, but inadvertently replaced it, aimed at his companion and fired, thinking to show him that the gun was empty. The weapon was discharged, and the contents of the shell found lodged in Brault's abdomen. In spite of the mortal wound he had received, young Brault is said to have staggered to his feet and broken open the weapon. The empty cartridge was found by Mr. Brault near the spot where his son was shot.

After the shooting young Holman ran screaming to the college for help. The wounded child was carried to the school, but he died a few minutes later. Mr. Brault was notified and he did not reach the college until several hours after his son had died.

When the news of the accidental shooting reached the college, the first report to the homes of parents whose boys were attending the college. The fact that the names of the boys that were parties to the sorrowful accident were not known caused a great deal of anxiety. Anxious mothers and fathers kept the telephone busy yesterday for assurances that it was not their child who had met death.

Arrangements for the funeral of Hector Brault have not been completed.

TRIES TO PROVE NOT LOADED

Lloyd Holman Aims at Playmate and Pulls Gun's Trigger.

MOUNT ANGEL, Or., Feb. 24.—(Special.)—Saturday afternoon Hector Brault, aged 10 years, was shot and killed by Lloyd Holman, aged 12. Both boys were students at Mount Angel College, their parents residing in Portland. Lloyd, who owns a shotgun, asked permission of the president of the college to go hunting. The request being refused, he went without permission, and together with him, the boys, about half past 2 in the afternoon, attempted to return without being seen. In his hurry and excitement to escape observation by the college authorities, he extracted the shell from his gun and inadvertently replaced it. The replacement of the charge in the gun was observed by Hector, who called Lloyd's attention to the fact. Lloyd, to prove to his little friend that the gun was empty, pulled the trigger, and to his dismay and horror, the gun went off, the full charge of shot passing through Hector's abdomen. The fatal distance was soon called, but nothing could be done to save the unfortunate boy's life. He died at 11 o'clock at night, his remains being consigned until near the end.

His parents were notified of the lamentable occurrence and arrived only a few minutes before life passed away. The body was shipped to Portland this afternoon. The remains were accompanied to the depot by the faculty and student body. No blame is attached to the college for this most unfortunate affair. It is another case of "didn't know it was loaded."

FUNERAL OF E. M. BRANNICK

SERVICES OVER THE REMAINS HELD AT CATHEDRAL. Body Will Be Shipped to Davenport, Ia., This Morning for Interment.

Funeral services over the remains of the late E. M. Brannick were held yesterday morning preparatory to shipping the body to Davenport, Iowa, where it will be interred. The body was removed from the chapel of Dunsmuir College for this morning's funeral. Frederick V. Holman, Edgar R. Piper, Colonel David M. Dunne and C. J. Reed, of Portland; C. A. Quigley, of Salt Lake City, and W. F. Wiggins, of Chicago, all life-long friends of the deceased, acted as pallbearers. A large delegation of members of the G. A. R., the Knights of the Ku Klux Klan, with which organizations the deceased was actively affiliated, were in attendance at the ceremonies.

As showing the esteem in which Mr. Brannick was held by his employer and fellow-employees, the Studebaker Company instructed all its representatives who could possibly reach here in time to attend the services and arranged for C. A. Quigley, manager of the Salt Lake branch, to accompany the remains to Davenport, Ia., the place of interment. At the interment the company will be represented by Mr. Flah, president of the Studebaker Company, Northwest, and officers of the home company at South Bend, Ind., and associate man-

agers of Central and Eastern states in paying a last tribute to Mr. Brannick. Among the telegrams received by Mrs. Brannick yesterday were messages of condolence from J. M. Studebaker, head of the corporation, and his son-in-law, E. S. Flah, a prominent official of the company. Mr. Studebaker's message was as follows:

"I can sympathize with you in the loss of your husband, because he has been with us so long that it seems like a brother to me. He was a grand, good man and our company loses a representative whose fidelity, industry and capacity are rarely equaled."

Mr. Brannick died on the following tributes: "My personal sorrow, the great loss sustained by the Portland company, also the loss to the City of Portland, through Mr. Brannick's death, I cannot adequately express in a telegram. My sympathy for you and your son can only be measured by the affection I bore your husband."

The following representatives of the Studebaker Company were present yesterday at the funeral of Mr. Brannick: W. B. Pond, factory manager, South Bend, Ind.; C. A. Quigley, general manager, Studebaker Brothers Company, of Salt Lake; C. N. Weaver, office manager, South Bend, Ind.; M. W. Kneale, manager Seattle branch Studebaker Brothers Company, Northwest; J. Coffman, representative at Spokane, Wash.; John Smith, representative at Walla Walla; Mr. Swinson, representative at Tacoma.

The body will be taken East over the O. R. & N., starting this morning, and accompanying it, besides Mr. Quigley, will be Edward J. Brannick and Mrs. E. M. Brannick, son and widow of the dead man, and his sister, Mrs. Desmond, of Davenport, Ia.

Tribute to E. M. Brannick.

WOODBURN, Or., Feb. 24.—(To the Editor.)—As president of the Oregon Retail Hardware and Implement Dealers' Association, I desire to express our sorrow and mourn with Portland and his relatives in the death of E. M. Brannick. In him we have lost a true friend whom we all loved, honored and cherished. To the bereaved family we extend our sympathies.

LEG BROKEN IN RUNAWAY

Another Man and the Horse Badly Cut by Wire Fence. EUGENE, Or., Feb. 24.—(Special.)—L. S. Hills, superintendent of logging camps for the Booth-Kelly Company, suffered a broken leg in a runaway yesterday, while Fred Brockman was seriously cut, and the head by being thrown into a wire fence. One of the horses was fatally injured by being cut on the fence.

DEAD OF THE NORTHWEST

Captain Couvrette, One Time Commodore to the Astors. CHEHALIS, Wash., Feb. 24.—Captain C. L. Couvrette died in Chehalis last night at St. Helen's Hospital, of cancer. He was 67 years old. The deceased was for 27 years captain on the Great Lakes and at one time commodore of the yacht club, when it was owned by the Astors. Subsequently he was Government Inspector of Locks on the Lake. Two children survive Captain Couvrette, Rev. C. Couvrette, of France, Wash., and Miss May Couvrette, of Rochester, N. Y.

John Milton Watson.

TACOMA, Wash., Feb. 24.—(Special.)—John Milton Watson, aged 67 years, died at the Soldiers' Home at Oreg. yesterday of paralysis. He was first stricken a year ago while living with his family in Tacoma, but remained at home until four months ago when he was deemed advisable to give him the care to which he was entitled in the hospital of the Soldiers' Home.

His widow he is survived by two sons, Charles and David, who are at present near Portland, Or., the former being superintendent of construction for Grand Street & Company, contractors on the North Bank Railroad on the Columbia River, and David, who is an accountant. In one of the camps for the same company.

Walla Walla Pioneer of '59.

SEATTLE, Wash., Feb. 24.—(Special.)—William W. Wiseman, 79 years old, one of the early settlers of the Northwest, died this morning at the home of his son, R. E. Wiseman, in this city, from complications of paralysis. He was born in the West. General debility incident to old age was the cause. Mr. Wiseman was born September 27, 1828. He crossed the plains by horse and settled in the Walla Walla Valley. Mr. Wiseman is survived by the following children: Mrs. John A. Wiseman, of Los Angeles; Mrs. Susan Johnson, of Los Angeles; R. B. Wiseman, of Seattle; Thomas Wiseman, of Goldfield, Nev.; Benjamin Wiseman, of Los Angeles, and Harry Wiseman.

Spanish War Veteran.

VANCOUVER, Wash., Feb. 24.—(Special.)—Joseph Trissler, veteran of the Spanish War and Philippine campaigns, died this morning at the home of his mother, in this city, from complications resulting from his Army service. Trissler served in Company G, First Washington Infantry, and participated in all the campaigns of his regiment. The funeral will be held Wednesday afternoon, under the auspices of John Barlow Camp, Spanish-American War Veterans.

RESUME WORK AT TACOMA

Northern Pacific Shops to Take on Full Crew March 1. TACOMA, Wash., Feb. 24.—(Special.)—It is announced unofficially that operations with a full crew will be resumed at the Tacoma shops of the Northern Pacific shops, March 1. A number of men were laid off early in the winter, and all departments have not run full time for several months. The improvement of business conditions and an increase in traffic make the resumption of work necessary.

Uses Razor on Her Rival.

ASTORIA, Or., Feb. 24.—(Special.)—During a quarrel over the lover, who was claimed by each, Lottie Lewis, a colored denizen of the restricted district, slashed Effie Moore, a white woman, in the abdomen and chest with a razor, inflicting injuries that are expected to result fatally. Both the Lewis woman and the colored man who was the cause of the quarrel are under arrest.

Pleased With Capistrano.

ABERDEEN, Wash., Feb. 24.—(Special.)—Inasmuch as a great deal of stock on the new steamer Capistrano is held here, the result of her trial trip in Portland Harbor is received with good feeling. The Capistrano was taken for a trial trip down the Willamette and Columbia rivers Saturday in command of Captain P. R. Harriman. Pilot Harry Emmons and Chief Engineer C. M. Martin. A large number of invited guests made the trip.

Loot Schooner's Larder.

ABERDEEN, Wash., Feb. 24.—(Special.)—During early morning sailing, while the vessel was left temporarily without one aboard, deck thieves went through



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9780 I'm Afraid to Come Home in the Dark . . . . . Billy Murray
9781 The Marriage of Figaro Overture . . . . . Edison Concert Band
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9783 To the Work . . . . . Edison Mixed Quartets
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9785 "Smile, Smile, Smile" and "Kiss, Kiss, Kiss"
9786 Bygone Days . . . . . (Bells Solo) Albert Benzler
9787 Muggsy's Dream . . . . . Harry Anthony
9788 I Marched Around Again . . . . . Ade Jones & Len Spencer
9789 The Merry Widow Selection . . . . . Edison Symphony Orchestra
9790 Flanagan's St. Patrick's Day . . . . . Steve Porter
9791 The Sword of Bunker Hill . . . . . Edison Male Quartette
9792 She Forgot to Forget Him Back . . . . . Ada Jones
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the larder of the schooner Comet, loaded with Aberdeen Lumber & Shingles Company's mill, and got away with a quantity of provisions.

Slow to Register in Lane. EUGENE, Or., Feb. 24.—(Special.)—Registration in Lane County is progressing slowly, 2000 voters having registered thus far. The parties are represented as follows: Republicans, 1200; Democrats, 555; Socialists, 75; no party, 60; Independents, 50; Prohibitionists, 24. A meeting of the

Republican county central committee will be held at the Aberdeen Lumber & Shingles Company's mill, and on Wednesday evening, February 25, organization of the Republican Club will be completed.

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