BREAK PILOT RING

Chamber of Commerce Wants Something Done.

TWO TUGBOATS NOT ENOUGH

Service Might Be Improved in Numerous Ways—Nine Bar Autocrats Who Do as They Please When They Please.

The report of the navigation committee of the Chamber of Commerce was adopted yesterday, with a few minor amendments. Most of the changes were in the interest of more explicit expression. The clause reading that the tugboats operate without the present pool of pilots was changed as follows: "That the O. R. & N. Co. be requested, when no state pilot is available, to employ its towboats to tow ships in and out without state pilots, or when requested to do so by the ship."

Besides the trustees, there were present the members of the navigation committee, George Taylor, Jr., W. D. Wheelwright, W. S. Sibson, Alfred Tucker and E. T. Williams. The report was gone over carefully, and debated piecemeal; in fact, in very fine pieces. The argument was so finely drawn, and some of the speakers pursued the echo of argument so far into the labyrinths of the subject, that they preferred not to have the dear public fully advised as to the grapevine route which they had taken to unmuzzle their wisdom. The reason of this might have been that, although they had full knowledge of the subject (they could not have spoken without it) they were afraid their words would stand better in the innocuous desuetude of oratory than in the cold severity of print. What they said was, of course, worth while, else they would not have said it. However, the expedient seemed best of not exposing it to the harsh tenderness of a carping world.

One good voice, which did unbend its strength to think so brainsickly of things, declared that for The Oregonian to print the current discussion would, for example, give Mr. Mohler unfair advantage, in that he would learn what was going to hit him next. It was not explained that the Antaeus argument depended for its strength on the footing which it had on Mr. Mohler's ignorance of what he was to encounter—this was taken for granted. The opinion had considerable vogue that the argument would have more strength if it sneaked around the corner on Mr. Mohler. Therefore, as the eye of childhood fears a painted devil, there was a mortal horrer of the specter that might arise from publicity, on the part of those who were met by the compunctious visitings of Nature.

The Oregonian was lambasted for printing a synopsis of the navigation committee's report yesterday. The Oregonian thought it was good news, and as such offered it to the public. It is really too bad the public took so much interest in a public matter. Readers will understand why they are deprived this morning of a full account of the discussion.

The report, as amended, is as follows:

Service at the Bar.

The navigation committee, after investigating the condition of the pilot and towage service at the mouth of the Columbia River, report that the situation is thoroughly unsatisfactory, and calls for energetic action to improve it. The pilotage is all done by nine men, who pool their earnings and control a pilot schooner, which they monopolize. They also have transportation on the O. R. & N. Co.'s boats, for which they pay the company 10 per cent of the pool's earnings, and as they know they will receive the rates fixed by law on all the tonnage that passes over the bar, regardless of when or how the service is performed, or whether it is performed at all (pilotage being compulsory), there is absolutely no incentive to diligence or dispatch. The O. R. & N. Co.'s boats make a practice of tying up in Astoria overnight, going down to the bar each morning and coming back in the afternoon if they do not sight anything, and the pilots naturally prefer a berth on one of these boats to one on the pilot schooner. This may account for the frequent complaints on the part of incoming ships that they sight pilot boats without any pilot on board. It is undoubtedly the fact that both pilots and towboats pass too much time in Asoria and too little on the bar, and it is a question whether nine pilots are enough to do the business, while there is no question that both pilotage and towage service have failed to keep pace with the development of commerce and the increased size and number of ships.

That the towboat service is deficient in number of boats and in power, is shown by the fact that the Columbia River bar has two boats, viz.: The Tatoosh, 277 tons gross, 1000 indicated horse-power, and the Wallula, 167 tons gross, 550 indicated horse-power, as against nine boats of the Puget Sound Tugboat Company, of which six are as follows: Tyee, 816 tons gross, 1500 indicated horse-power; Lorne, 288 tons gross, 1000 indicated horse-power; Tacoma, 239 tons gross, 900 indicated horse-power; Wanderer, 212 tons gross, 900 indicated horse-power; Sea Lion, 185 tons gross, 850 indicated horse-power; Richard Holyoke, 181 tons gross, 650 indicated horse-power. All of greater power than the Wallula, which is unable to handle the large ships when conditions are at all unfavorable. It may be remarked here that the total foreign tonnage passing over the Columbia River bar during the years 1900 and 1901 was 426,739 tons, making 213,369 tons to be handled by each towboat, as against 549,776 tons in and out of Puget Sound during that time, requiring each of the nine tugs of the Puget Sound Tugboat Company to handle 61,086 tons, provided those tugs did it all.

The causes of this situation seem, therefore, to be:

First—The monopoly of the pilot service and the resulting indifference of the nine men who control it and seem to be able to prevent the issuing of license to other qualified persons.

Second—The insufficiency of towboats and the fact that they are not managed as effectively as they might be.

And in both departments there is the same underlying cause, viz.: Lack of competition, and the fact that diligent and effective service will not increase by $1 the income derived from it, however poorly it may be performed.

The only cure in the case of the pilots is competition, and the only remedy in the case of the towboats is the performance of the service by the O. R. & N. Co. in the same manner as if they were contending against formidable opposition. If a dozen or more pilots were competing for the business, would any of them neglect a chance to get on the pilot schooner or on a towboat and stand by until he got a ship? Or, if the towing business were free to all, and other ocean-going tugs were there and could compete, would the O. R. & N. Co.'s boats be content to leave Astoria in the forenoon and return every afternoon? There can be but one answer to the above questions, and your committee therefore recommends:

First—That the Pilot Commissioners grant licenses to all applicants who prove themselves qualified to act as pilots.

Second—That the Commissioners appoint a competent man as superintendent of pilots, who will see that each one does his work promptly and satisfactorily, or bring him before the Commissioners on charges. As it is at present, each pilot is a law unto himself, and there is no discipline whatever.

Third—That the O. R. & N. Co. transport any pilot offering himself for business on its boats for 10 per cent of the pilotage fee that may be earned.

Fourth—That the bar be lighted so that vessels may avail of favorable conditions at night, and that the trustees memorialize the Lighthouse Board, at Washington, D. C., in the matter.

The above policy should have the effect to make each pilot eager (instead of indifferent, as they now are,) to get ships, either in or out, and to give his best service. There will be more men on the pilot schooner, and they will be more eager to get hold of ships bound in, knowing that they will have the competition of the pilots on the O. R. & N. Co.'s boats.

Fifth—You committee also recommends that the O. R. & N. Co. be urged to put a competent man in charge of its tugboat service at Astoria and on the bar, with full authority to see that the boats are worked to the very best advantage; that it keep one boat cruising outside the bar practically all the time with pilots on board and one inside—this might be the smallest tug that can pilot and bring in the light-draft ships to Sand Island.

Sixth—Your committee appreciates that some of the above suggestions may be impracticable, and it hesitates to urge too strongly on the O. R. & N. Co. the expenditure necessary to put three powerful ocean-going tugs on the bar at the mouth of the river, one to remain outside, one inside and the other in reserve (which would, we believe be a complete solution of the whole problem). But it thinks that said company should at least employ another boat equal to the Tatoosh, or better, in the active shipping service, thus making three in all, with the Wallula.

Seventh—It recommends that the O. R. & N. Co. be requested, when no state pilot is available, to employ its towboats to tow ships in and out without state pilots, or when requested to do so by the ship.

Eighth—In conclusion, your committee recommends that if the Pilot Commissioners refuse to carry out the recommendation to grant licenses to all qualified applicants, an appeal be made to the Governor of the state to bring his influence to bear in the matter.

A Limit on Pilots?

Mr. Burns thought a limit should be put on the number of pilots, say 15. He thought the Chamber of Commerce should recommend at least 15.

Mr. Ayer said that from the Washington side three pilots have been working and from the Oregon side eight pilots. Mr. Williams insisted that there should be no limit to the number of pilots, and that competition should have full sway. If only 15 pilots were allowed, the pool would still persist, because the additional pilots, or some of them, would be only puppets or ornaments. As to the dangers to which pilots were subjected, it was not proved that pilots are in more dangerous occupations than railroad employes. Vessels enter Puget Sound without pilots, and are picked up by tugboats. The O. R. & N. could do this as well as it is done at Puget Sound. And since the Columbia River is in sharp competition with Puget Sound, this matter was worth attention.

Mr. Burns said the O. R. & N. was not willing to take upon itself so great a risk. It was replied that the only risk the company would take would be that of its own negligence. As to whether pilotage is compulsory, Mr. Williams said it is, as far as fees are concerned, when a vessel is hailed. The recommendation was finally left unchanged. The law makes it illegal for a pilot to enter into contract under salary, but it was agreed this could be remedied by arranging that pilots pay the O. R. & N. a certain percentage of their earnings. In this way the O. R. & N. could have its own pilots. Mr. Wheelright said if the pilot-boat could be made to compete with the O. R. & N. tugboats, much good would result. The tugboats would then be on the alert.

The second recommendation was adopted after short discussion, in which Mr. Mears questioned the legal authority for it, and Mr. Burns doubted its practicability. The third was also quickly adopted.

Mr. Wheelright thought that proper lighting of the bar at night would soon be undertaken by the Government.

At this stage of the game the reporter retired, and the public will have to imagine the rest.

IN FAVOR OF MRS. POSSON

Judge Frazer Sustains Demurrer in Building Association Suit.

In the suit of Lorena Posson against the Guaranty Savings & Loan Society, to compel the cancellation of a mortgage, Judge Frazer yesterday sustained the demurrer to the plea in abatement. The plea in abatement was that the mortgage had been sold by the company to Arnold Guesner, and that the company has no further interest in it. William Reid, attorney for Mrs. Posson, argued at the hearing that this plea does not constitute a defense. He contended that as the association is required by law to deposit all its mortgage and other securities with a trust company or with the State Auditor of the state in which it is incorporated in trust for the benefit of all its stockholders and creditors, it has no power to assign a mortgage.

Judge Frazer took this view of the case, and had little to say except that these building and loan contracts have been frequently passed upon by the courts of late, and intimated that under the recent opinions of the Supreme Court the debt, according to the pleadings had been fully paid.

In Massachusetts 44 per cent of the population are native born of native parents, and 56 per cent are foreigners.

PETITIONERS LOSE CASE

CANNOT FORCE GILBERTS INTO INVOLUNTARY BANKRUPTCY.

Judge Bellinger Decides That Efforts to Show Insolvency of the Salem Bankers Failed.

The petition for involuntary bankruptcy against A. T. and F. N. Gilbert, Salem bankers, under the name of Gilbert Bros., was dismissed by Judge Bellinger in the United States District Court yesterday. The court decided that it had not been shown that A. T. Gilbert was insolvent, in fact, that the contrary presumption would obtain. The contention that F. N. Gilbert was a partner in the business was material only in case bankruptcy was proved, and, such proof failing, the court did not pronounce upon F. N. Gilbert's relation to the business house of Gilbert Bros. This ends the proceeding in the United States Court. Cases are pending in the state court at Salem against A. T. Gilbert. F. N. Gilbert, now of the firm of Allen & Gilbert, in this city, is not involved in defense of further proceedings against the Salem institution.

About a year ago this matter was taken into court on petition of Ida Muths, William Iwan and A. S. Eppley, creditors of Gilbert Bros. In the aggregate sum of $1978. Subsequently Loo Jim, a creditor in the sum of $500, also filed a petition praying for an order of adjudication in bankruptcy. The acts of bankruptcy relied upon by the petitioners are alleged as follows: That Gilbert Bros., being insolvent, did within four months of the filing of the original petition transfer securities by way of preference to certain creditors, to the aggregate amount in value of about $7000; that subsequent to the filing of the original petition A. T. Gilbert entered into a written stipulation in a suit then pending against Gilbert Bros., brought by or in the interest of the heirs of William Cosper, deceased, whereby it was stipulated that Claud Gatch might be appointed receiver of said firm, and that said Gatch should convert the assets of the firm into cash for the payment of all the firm's creditors and the winding up of its business; that to this end A. T. Gilbert suffered a decree to be entered in said suit, and that he thereafter transferred the assets of the firm to the receiver. Other acts of bankruptcy were alleged in the petitions filed, but upon the hearing these were abandoned.

After going over the testimony as to the various items of assets of A. T. Gilbert, Judge Bellinger said:

The opinions in this case pro and con are mere guesses, signifying little, proving nothing. In such a case, where a long and hostile inquiry has left the question of the solvency of A. T. Gilbert in doubt, what must the conclusion be as to what A. T. Gilbert himself thought of his solvency at the time the transfers complained of were made? Under the old bankruptcy act, inability to pay debts as they matured constituted insolvency. Then the matter of solvency was a simple one. Now a new test is prescribed: Does the respondent's property, at a fair valuation, equal his liabilities? And this is a thing about which the owner may not know, but if he himself thinks he is solvent, it is enough; and in a case like this, where others, equally capable with those who think otherwise of forming a trustworthy opinion, think the respondent solvent, it is a necessary conclusion that he thought himself so, and that he was honest in that opinion. Where the facts and circumstances permit it, the presumption must be in favor of good faith rather than the contrary.

Judge Bellinger also figures out that the preferences complained of, if set aside, would yield only 1 per cent additional for the unsecured claims, while the extra expense of running the estate through bankruptcy under the United States statute would equal 1.6 per cent on those claims. Thus a decision in favor of the petitioners would cause them really to lose money to the extent of six-tenths of 1 per cent on their claims. The opinion of the court closes as follows:

The petitioners, however, express a hope that the bankruptcy court may succeed in discovering other assets that have been misapplied or covered up; but what the receivers have not found and the large amount of testimony taken so far has not disclosed is not worth considering in estimating the possible advantage to result from the exercise of jurisdiction in what is at least a doubtful case.

It is due to the petitioners, however, to state that in the petitions filed in this case certain transfers to Ladd & Bush, A. Bush and the First National Bank of Portland, aggregating a large amount, were alleged to be preferences, but upon the hearing it was stated that the petitioners had ascertained that these transfers were for a present consideration and valid, and the complaint as to them was abandoned. Petition dismissed.

How Decision Is Viewed in Salem.

SALEM, Or., Jan. 29.—The news of Judge Bellinger's decision in the Gilbert Bros. bank case was received here with great interest, and many expressions of both approval and dissatisfaction. People had already formed their opinions, and viewed the decision accordingly. Receiver Gatch will now be in unquestioned control of the bank's affairs, and will proceed to enforce the collection of its assets. He has been hampered by the uncertainty regarding the bankruptcy proceedings. Mr. Gatch said tonight that he could give no estimate of the per cent of liabilities that will be paid. The piano notes are being paid better than he expected, but he has now on hand only about $10,000.

LAND GOES BACK TO MINOR.

Conveyance for Purpose of Mortgage Is Not a Sale.

Petition of Letitia Lombard for rehearing in the case of Lewis McArthur La Dow vs. the North American Trust Company and Letitia Lombard was denied by Judge Bellinger in the Circuit Court. This involved title to several parcels of land near Pendleton that had been conveyed from a minor through guardian's sale for the purpose of borrowing money upon it. "The property was conveyed, not sold, "says the court, "in order that it might be mortgaged, and the party taking title with the understanding that he should reconvey to a third person after the mortgage without other consideration, was manifestly acting to protect the mortgagee. No disguise can conceal the fact that when a man takes property upon an agreement to pay and thereafter avoids payment he to that extent gets something for nothing, and when he does this it is usually at the expense of the owner of the property so acquired."

The effect of this decision will be that the property in question will be reconveyed back to the plaintiff upon extinguishment of the mortgage debt.

VOLP'S LICENSE IS VOID.

Board of Medical Examiners Had No Authority to Issue It.

Dr. H. Volp has no license to practice medicine in this state, and never had any, according to a decision rendered yesterday by Judge Frazer in the mandamus proceeding of Dr. Volp against the State Board of Medical Examiners, consisting of W. H. Saylor, Byron E. Miller, W. E. Carll, A. B. Gillis and H. E. Curry.

The court held that the demurrer to the answer should be overruled. Volp in his petition set forth that the board revoked his license without cause, and without filing charges against him, and giving him a hearing as provided for by law.

In the answer the Medical Board sets up that in order to work no hardship upon applicants for medical licenses, who might be deficient in the examination in some studies, a rule was adopted to grant limited permits authorizing such persons to practice.

Dr. Volp, the answer states, on June 1, 1891, presented himself to the board, and failed to pass a satisfactory examination and was therefore granted a permit to hang out a physician's sign and do as well as he could until December 13, 1891. In March, 1892, the answer further recites, Volp presented himself again for examination, and once more was backward in some studies, and was given a permit to continue to keep a doctor's shingle hanging in front of his door and treat the ills of all who should require his services until March, 1893.

It is alleged that in March, 1895, Volp appeared before the State Medical Board with the permit granted to him in 1891, and, having erased the time limit contained thereon, deceived the board into believing that he had been granted a perpetual license in June, 1891, and that he afterwards registered this license in the office of the County Clerk.

The personnel of the Medical Board was changed between the years 1891 and 1895. In conclusion the answer recites that this change was discovered by the board, and in May, 1900, a charge was filed against Volp charging him with having obtained a license fraudulently, and the license was revoked.

Judge Frazer handed down a decision some months ago to the effect that the Board of Medical Examiners had no right to grant a license for a limited time, and that if Volp was given authority to practice medicine for a time, it was good for all time unless revoked for a violation of the statute for one of the things enumerated therein, such as malpractice, habitual drunkenness, etc.

Judge Frazer now makes a distinction between the permit granted to Volp and a license, and holds that the board exceeded its authority in granting a permit, and that it was a nullity, and that Volp never had a license.

Judge Frazer said the permit could not be considered a license in any sense of the word.

A million dollars a week is the cost of the United States Army.

ONE MORE DAY TO LIVE

MORROW'S MURDERERS WILL BE HANGED TOMORROW AT 8 A. M.

Dalton Suffering From Nervous Collapse, but Will Probably Be Able to Undergo Ordeal.

At 8 o'clock tomorrow morning Jack Wade and William Dalton will pay the penalty imposed by the law, and the murder of James B. Morrow will have been leagally avenged. Sheriff Frazier does not regard it as probable that Dalton's illness will be sufficiently serious to make it necessary to ask the Governor for a reprieve. In case such action is necessary the date of Wade's execution will also be postponed, and the double hanging will take place at a subsequent date. Yesterday the condemned murderers were shaved for the last time. All possible precaution was taken, even to the extent of using a safety razor, that no sudden lunge on the part of the prisoner while the blade was traversing his neck, would furnish an opportunity for self-destruction.

In the office of the jailer are two plain black suits, which will be furnished the condemned men the morning of the execution. Tonight an extra guard will be placed on duty. He will spend the night directly in front of the cells occupied by the two murderers, and will not relax his vigil until the procession forms for the gallows. If Dalton wishes a spiritual advisor may accompany him to the scaffold. County Physician Harry McKay and Dr. H. R. Littlefield will be present, and will determine when life is extinct. After the bodies have been cut down they will be delivered to the Coroner. It is understood that Wade's body will be shipped to his relatives in Pennsylvania, money having been deposited with the Sheriff for that purpose.

While Dalton is more or less ill, and suffers considerable pain from swollen tonsils, he is in a state of nervous prostration, and has all but collapsed. The fact that there is no hope has been forcibly brought to his mind, and it has unnerved him. Despite the consolation Dalton professed to have found in religion, he never abandoned a forlorn hope that intercession by the Governor would commute the death penalty to life imprisonment. On the other hand, Wade gives every indication of going to the scaffold bravely, and no trouble is expected from him.

Elaborate arrangements have been made effectually and forever to conceal the identity of the man who springs the trap, and even he himself will never know, according to Sheriff Frazier's plans. Three men, the names of whom will not be made public until after the hanging, will be in a small house in the scaffold enclosure. Each will pull a rope. Two will be blind pulls, and the third will be effective; but which one of the three will remain a secret. The same lever will release both traps, and the two murderers will drop into eternity together.

A cordon of policemen will be detailed to keep curious ones away from the enclosure, and particularly to keep the small boys from the trees overlooking the scaffold. There will not be room to accommodate the spectators if all invitations issued will be accepted. Sheriff Frazier has given out 400 admission cards, and 200 persons will be all that can possibly crowd into the enclosed space. But one of the jurors who tried the men has applied for an admission card, and it was given him. The rush of requests come from the morbidly curious, and it is expected that upon reflection, many holders will not avail themselves of the privilege of witnessing the execution.

NO REDRESS IN COURTS.

Mrs. Weissenfluh Must First Appeal to A. O. U. W. Supreme Lodge.

Judge Frazer, in the suit of Louisa Weissenfluh against the Grand Lodge, A. O. U. W., to recover $2000 insurance issued in her favor on the life of her husband, Albert Weissenfluh, deceased, decided that she must first exhaust the remedies provided by the constitution of the order before coming into curt.

Weissenfluh committed suicide by shooting himself in the head, on March 7, 1901. He was a member of Portland Lodge No. 27.

The application for membership contains the proviso that if a member within two years after receiving the workman degree shall commit suicide, whether sane or insane, except in delirium resulting from disease, or while under treatment for insanity, or after judicial declaration of insanity, then the only sum which shall be paid to the beneficiaries shall be the amount paid into the beneficiary fund.

The A. O. U. W. filed an answer and plea in abatement, setting forth that Weissenfluh killed himself about a month after he joined the order, and also that the beneficiary, according to the laws of the order in case of a dispute concerning the payment of insurance, should refer the case to a board of arbitration of the grand lodge for settlement, and if dissatisfied with its decision, should appeal to the supreme lodge, which she had not done. Judge Frazer sustained the plea in abatement.

Court Notes.

Clyde T. Bonney, of Tygh Valley, filed an application for discharge from bankruptcy in the United States District Court yesterday.

John Everson was appointed administrator of the estate of Josephine Johnson, deceased, valued at $500, in the County Court yesterday.

John R. Traynor was appointed by Judge Cake yesterday administrator of the estate of James Murray, deceased, valued at $300. The heirs are a brother and a sister in Pennsylvania. Murray was an engineer and was found dead in his room Tuesday.

In the suit of C. O. Bergman against Inman, Poulsen & Co., to recover the value of some sawlogs used by Inman, Poulsen & Co., on which Bergman had a lien, Judge George yesterday denied a motion for a new trial. Bergman recently obtained a verdict for $3000, and judgment on the verdict was rendered. The case has been pending for about 10 years, and if it is appealed to the Supreme Court it will be kept going yet for some time to come.

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TEST YOUR URINE. Put some morning urine in a glass or bottle, let it stand 24 hours; if there is a reddish sediment in the bottom of the glass, or if the urine is cloudy or milky, or if you see particles or germs floating about in it, your kidneys are diseased and you should lose no time, but get a bottle of Warner's Safe Cure, as it is dangerous to neglect your kidneys for even one day.

WARNER'S SAFE CURE is the only positive cure for all forms of kidney, liver, bladder and blood diseases, uric acid poison, rheumatic gout, diabetes, pain in the back, scalding and painful passage of urine, frequent desire to urinate, painful periods, bearing down and so-called female weakness.

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Refuse substitutes. There is none "just as good" as Warner's Safe Cure. It has cured all forms of kidney disease during the last 30 years. It is prescribed by all doctors and used in the leading hospitals as the only absolute cure for all forms of disease of the kidney, liver, bladder and blood and so-called female weakness.

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