

DECLARES LAW VOID

Judge Frazer Annuls Fire-Escape Ordinance.

HELD TO BE UNCONSTITUTIONAL

W. K. Smith, Fined \$50. In Municipal Court for a Violation, Wins on Appeal to Circuit Court.

The city ordinance requiring owners and lessees of buildings to provide them with fire escapes was declared unconstitutional and void by Judge Frazer yesterday. The decision was rendered in the writ of review case brought by W. K. Smith. He was convicted in the Municipal Court on March 22, 1902, of violation of the ordinance in having refused to place a fire escape on a three-story building at the northwest corner of Front and Washington streets, and was fined \$50. The ordinance provides that a person can be fined \$50 a week after he has been notified by the Board of Fire Commissioners to comply with the ordinance until the order is obeyed. Judge Frazer held that the ordinance is unreasonable on its face, because it requires that people shall be punished for acts they are not responsible for. The ordinance was susceptible to the objection that cases might arise where it would be impossible for a person to obey the ordinance. A man might not have the money to build a fire escape, and under the terms of the ordinance could be fined \$50 a week and kept in jail forever if the fines were not paid. This would be contrary to the constitutional provision that there shall be no imprisonment for debt. Judge Frazer reviewed the case at length, and among other things said: "There were four points raised. One was that the failure to erect fire escapes is not a crime, and if it is, it is not punishable by imprisonment; that the ordinance is not properly prepared; that the evidence is insufficient, and that the ordinance is repugnant to the constitution of Oregon and of the United States. This last point is the vital one. Ordinances requiring something that might be impossible cannot be enforced. The cases cited by the City Attorney in support of the ordinance along the lines of this case. This ordinance applies to tenants as well as owners, and whether the building is occupied or not. The ordinance provides for notice of 30 days, and if fire escapes are not made at the end of that time, a fine of \$25 to \$100 may be imposed, and a further fine of \$50 for each week's delay. I can see where a poor man with a family, who has a mortgage, who had borrowed all he could, and was unable to borrow any more, would not be able to put up fire escapes. He would thus be subject to arrest, and sent to jail for life. There are many ways in which such an ordinance could be enforced, by providing, for instance, that a building without fire escapes cannot be occupied, but the cost of a lien upon the property. The writ of review will be sustained, and the ordinance declared unconstitutional. Mr. Smith will be entitled to recover his costs."

NEW DISTRIBUTIVE RATES

All the Railroads Agreed to It—Various Articles. The reduction in distributive freight rates referred to in the proceedings of the Chamber of Commerce committee yesterday morning affected all points in the Northwest between the Coeur d'Alene mines and Huntington, on the east, and the Puget Sound cities, on the west. The reduced rates were not quoted by the Northern Pacific, Great Northern and O. R. & N. had agreed upon them, and all went into effect October 10. The third-class rate was reduced from \$1.00 to 85 cents per 100 pounds, and fourth-class rate from 75 to 65 cents. Besides these, canned goods in carloads now go for 55 cents per 100 pounds instead of 65 cents, as formerly, and the rate on cereals in lots less than carloads was reduced from a range between \$1.45 and 92 cents to a level rate of 50 cents. Coast jobbers are benefited by this change, but not to the extent that many suppose. If rates were in fact what they are in theory, if the transcontinental rate to Spokane, for example, were really the rate to the Coast plus the local back rate, town would not be able to do a jobbing business, for Portland or Seattle could ship to Spokane's neighbors at least as cheaply as Spokane could. But the fact is that the transcontinental rate to Spokane is still materially less than the full transcontinental plus the local back rate. Therefore the distributive rates from the Coast will operate to give the Coast jobbers an advantage in the outer edges of the field that has been served by Spokane.

UNITED STATES CASE AGAIN.

Anti-Merger Hearing Resumed Before Examiner in New York. NEW YORK, Nov. 12.—The hearing in the suit of the United States to test the alleged transfer of control of the Great Northern and Northern Pacific Railroads to the Northern Securities Company was continued today in the United States court. The hearing was begun last January at St. Paul, and F. G. Ingersoll was appointed special examiner to take testimony. The complainant, which consists of the Sherman anti-trust law has been violated, has completed its case, and the hearing today is for the defense.

LITTLE HOPE FOR EGAN.

Still No Sign of the Missing Railway Superintendent. SPOKANE, Nov. 12.—The hopes of finding Superintendent Benjamin F. Egan, of the Great Northern Railway, continue to diminish. All the larger searching parties have come in without finding traces of him. Some experienced woodsmen under pay of the railway are expected to keep up the search for eight or 10 days more, and there are also individuals who are searching in the hope of gaining the reward offered, but hope is small.

THROUGH THE COLUMBIA RIVER GORGE.

A delightful trip of a few hours will be made through the Columbia River Gorge, the greatest combination of river and mountain scenery on earth. O. R. & N. train leaves Portland daily at 10 A. M. Return can be made by steamer from Cascade Locks. Special low rates for this trip. Get particulars at O. R. & N. ticket office, Third and Washington.

POPULAR POTTER IN SERVICE.

Queen of River Boats is Now Making the Astoria Run. The traveling public will be delighted to know that the popular steamer, the T. J. Potter, is now making the Astoria run. Sec. O. R. & N. time card.

THE OTHER TWO ANSWER.

Northern Securities and Great Northern Also Deny Impression. WASHINGTON, Nov. 12.—The answers of the Northern Securities and the Great Northern Railway Companies in the suit of the State of Washington against the

Securities Company and the Great Northern and Northern Pacific Railroads were filed in the Supreme Court of the United States today. They are practically duplicates of the answer of the Northern Pacific, which was filed yesterday. In its statement the Securities Company admits that it has no agent or representative in the State of Washington on whom a legal process may be served, and that it owns no property of any nature whatever in that state. It denies "that any of the matters alleged in the complaint tend to or do create a monopoly in railway traffic in the State of Washington or elsewhere, or tend to or do deprive said state or its citizens of the privilege of competition between stations on one line or the railways of the defendant companies within said state."

It also denies that in its organization it promotes the interests of the purposes alleged in the bill, or that it or either of the defendant railroad companies has, or at any time had, any of the purposes, intents or designs charged in the bill. It also denies that it is a carrier of the railroad company or that any of the acts complained of violate or evade the laws of the land or the settled public policy or laws of the State of Washington. It is further stated that the Securities Company is the owner and holder of a large amount of property and stocks in other corporations than the defendant railway companies.

NO DIFFERENCE TO RAILROADS.

State of Government Irrigation in Deschutes Valley. "I wonder who has been representing to the Interior Department that a railroad will be built into the Deschutes country if the Government takes up the irrigation of that section, but it will not go there if irrigation proceeds under private auspices," asked President E. E. Lytle, of the Columbia Southern Railroad, upon his return yesterday afternoon from a trip to Montana. He had reference to the statement telegraphed from Washington and published in The Oregonian Monday morning. "I also wonder if anybody believes such stuff," he continued. "It is evident that somebody has not been done the matter of representing against the present enterprises for irrigation of the Deschutes Valley. I am not specially interested in defending them, but I am interested in the development of that country, and I will say that, so far as the Columbia Southern is concerned, we don't care who does it. We will do just as much if development proceeds under the auspices as we will if it is done by the Government. What we want is business. I don't know of any other railroad that is now or is likely soon to be in position to handle the business of the Deschutes valley, but I will guarantee that any railroad that would build into that country would build just as soon for private development as for development under Government auspices. "I would like to add, too, that I regret to see so much hostility to the irrigation enterprises now on foot in the Deschutes Valley. Even if these are not the best we could do under present conditions—and I am not entirely sure of that—they are under the sanction and invitation of the law, and are entitled to reasonable consideration. To impute to them wrong motives will not contribute to the settlement of the matter that is now up. We must deal with matters as they are, not as we should like to have them, and we must make any progress. And the sooner we get on the right basis the sooner we shall get results."

Additional Northwestern Stock.

NEW YORK, Nov. 12.—According to statements made by a person who has been cited, the Herald says it is the intention of the Chicago & Northwestern Railway Company to issue additional capital stock amounting to \$10,000,000. The present capital of the company is \$61,538,333. The new stock, if issued, probably will go to stockholders at par. Somewhat of a mystery surrounds the purpose of the proposed issue, but it was said that the proceeds would be used to reimburse the treasury for capital outlays now charged for operating expenses and carried in other financial statements. The Chicago & Northwestern has been carrying out a policy of extensive improvements, the expenses of which might properly be charged up to capital, but which were carried in other accounts.

To Extend to the Coast.

DENVER, Colo., Nov. 12.—The Times says: The visit of H. D. Moffatt, W. G. Evans and Rodney Curtis to New York was undoubtedly for the purpose of making arrangements to extend the Denver, Northwestern & Pacific Railroad from Salt Lake City to San Francisco, and the celebration of construction proceed at the same time the line east of Salt Lake is being built. This was confirmed by Sylvester Smith, president of the Colorado-Utah Construction Company.

Merger in Southern California.

LOS ANGELES, Cal., Nov. 12.—At a meeting of the stockholders of the Southern California Railway Company held in this city all of the shares were re-elected. Plans to merge the Southern California railway lines with the general Santa Fe system, as provided for under the laws of California, are being perfected.

Railroad Notes.

President Mellen, of the Northern Pacific Railroad, is expected in Portland the latter part of this week or fore part of next. The first snow of the season fell in the Elisky Mountains Tuesday night, the ground being covered half an inch at Elisky station. General Passenger Agent Craig, of the O. R. & N. left last evening for the East to attend a meeting of the Transcontinental Passenger Association.

FAMOUS CHATEAU LAID LOW.

Fire at Seat of Duke of Orleans Works Great Damage. ROUEN, France, Nov. 12.—The fire which broke out at the Chateau d'Eau, the seat of the Duke of Orleans, yesterday evening, practically destroyed the building. Only one wing, the chapel and some of the art treasures were saved. The destruction of the chateau was caused by a fire in one of the chimneys, which was at first thought to be not dangerous. Owing to the great height of the building, the pressure of water was insufficient to permit of reaching the flames and the chateau soon became a vast furnace. The greatest efforts were made to save the art treasures, but they were not entirely successful. Many objects of great value were destroyed, including two-thirds of the library of 30,000 volumes. Among the art works which were rescued was a statue of "Psyche." This statue was presented to the late Duke of Orleans on the occasion of his marriage in 1837 by the City of Paris. A large bronze statue by Princess Marie of Orleans was also saved.

FIGHT FOR WOMAN'S MONEY.

New Complications in the Battle for Mrs. Rice's Millions. NEW YORK, Nov. 12.—Complications have arisen, says the Herald, relative to the estate of Mrs. Elizabeth Baldwin Rice, who was the wife of William Marsh Rice, Albert T. Patrick is now under sentence of death in the State Prison for having been guilty of causing the death of the latter. Both estates are likely to be involved in further litigation in the Surrogate's Court of this county. One of the legatees under her will, in the name of Adele Baldwin, of Baldwinville, N. Y., whose bequest is \$25,000, claim they have not yet been paid and want letters of administration on her estate. The matter will be taken to prosecute a claim against the estate of Mr. Rice. The case will come before Surrogate Fitzgerald next month. Mrs. Rice died on January 27, 1897, at

FAIR MEN NOT DOWNCAST.

EXTRA SESSION LOST BUT THEY ARE HOPEFUL.

Will Take Their Chances at Regular Session and Try to Get an Early Appropriation.

Governor Geer's refusal to call an extra session was widely read yesterday, but as it was merely an utterance of what had been known to be his intention for some time, it aroused little comment. Nobody who desired to have a special session expected His Excellency to convoke the Legislature before the regular period for electing a United States Senator. This reason was whispered about as the weightiest that had outbalanced the petition for the session. When the Legislature shall meet in January, by that time its members may be more disposed to obey the mandate of the people. Not a few citizens apprehend that failure to get the session will bring ill effects to the affairs of the city and to the Lewis and Clark Exposition. "We're up against it, now," said A. L. Mills, president of the Board of Public

HELD FOR LARCENY.

"Gold-Tongued" New York Orator Arrested in San Francisco.

SAN FRANCISCO, Nov. 12.—Benjamin Chadey, an attorney well known throughout the State of New York as the "gold-tongued orator," was arrested here today on a New York warrant charging him with grand larceny. Chadey came to this city today on the steamer Newport, from Panama. He was registered as B. C. Franks. The arrest was made by the local police, to whom the prisoner stoutly

WILL NOT BE RETURNED TO CONGRESS FROM HAWAII.



ROBERT W. WILCOX.

Works, and a leader of the Taxpayers' League, as victims of more impassioned roadways kaleidoscope before his mind. Then he remembered the Fair, of which he is a director, and had more vision. "We're up against it," he sighed, "but I don't suppose we could persuade the Governor to change his mind, even if we should try." J. N. Teal, another leader of the Taxpayers' League, took the matter philosophically and said he would endeavor to look only on the sunny side of it. "What will the league do next?" he responded. "Well, there doesn't seem to be any 'next.' What will the league say? Well, it looks as if the last say has been said. The Governor has said it."

DRUGGED AND ROBBED.

French Miner Becomes Insane When He Realizes His Loss. NEW YORK, Nov. 12.—Homeward bound with a bag of gold nuggets and his pockets full of cash, \$500 in all, won in the game of French Guiana, Jacques La Travers, a native of France, was robbed in this city, and is now in the insane ward of Bellevue. Travers and his partner had reached this city on their way back to France, and as neither understood any English, they took refuge in a lodging-house near the docks. Both displayed their treasures carelessly, and when Travers went out alone to purchase a watch he is believed to have been induced to take a drugged drink. He returned shortly to his room, his gold gone. When he realized his loss, he became violently insane, and was taken in charge by the police.

COST OF MOLINEUX TRIALS.

Half a Million Dollars Spent, and a Record Established. NEW YORK, Nov. 12.—It has been estimated that the trial of Roland B. Molineux has cost more than any other for a capital offense in any country where the English system of jurisprudence is in vogue. The trial of the County of New York in the first trial amounted to \$250,000. This was expended in various directions, largely in fees for handwriting experts, who were brought from distant states, and for detectives, who endeavored to track Molineux's movements from his 15th birthday to the time of his arrest. The defense expended about \$15,000 in the first trial, and it is estimated that the total on both sides for the two hearings will foot up nearly \$500,000.

Big Reward for Embesler.

NEW YORK, Nov. 12.—A large reward has been offered on behalf of his government by Austro-Hungarian Consul-General Deszeofy, of this city, for the arrest of Victor Kesckemethy, who is charged with having left Budapest with \$17,000 in government funds, which he was carrying to a tank.

Cheyenne Sentenced to Be Hanged.

CHENEY, Wyo., Nov. 12.—In the District Court this afternoon Judge Scott denied the motion for a new trial for the murder of Ike Finkelstein, a politician, began here today. John Walker, indicted with Levich, will be given a separate trial after the present case is disposed of.

Shot by His Own Daughter.

GIG TIMBER, Mont., Nov. 12.—Word has been received here of the murder of Guy Barton, at Arvada, Wyo., by Agatha Barton, his daughter. He was shot and instantly killed. The news was brought by a special messenger on horseback a distance of 50 miles. Particulars are lacking.

On Trial for Murder of Politician.

DES MOINES, Ia., Nov. 12.—The trial of Harry Levich, charged with the murder of Ike Finkelstein, a politician, began here today. John Walker, indicted with Levich, will be given a separate trial after the present case is disposed of.

GEORGE SMITH TO HANG.

WIFE-MURDERER SENTENCED TO DIE DECEMBER 19.

Judge George Names the Penalty—Appeal to the Supreme Court Will Be Taken.

George Smith, colored, who murdered his white wife, Annie Smith, was sentenced to be hanged on December 19, by Judge George yesterday. The execution, however, may be stayed. Charles J. Petrini, attorney for the prisoner, asked and was granted 15 days' time to prepare a bill of exceptions to be used in an appeal to the Supreme Court. Petrini's attorney made any statement to the court before sentence was pronounced. There were few persons in the courtroom, except jurors, attorneys and Courthouse attaches, and the whole affair was over in five minutes. Judge George remarked: "This is the time for passing sentence upon George Smith. Has the defendant or his attorney anything to say? Do you think Smith anything? I have nothing to say at this time, Your Honor." "Have you anything to say, Mr. Petrini?" continued the court. The attorney shook his head. "You have been charged with the heinous crime of having murdered your wife," said Judge George, "you entered a plea of not guilty, and a jury of your country returned a verdict against you. The court tried you, and thinks it did give you a fair trial. It only remains for the court to pronounce sentence. "You are sentenced to be hanged by the Sheriff of Multnomah County and confined in the County Jail until the 19th day of December, and on that day you will be taken thence by the Sheriff to the jail enclosure and hanged by the neck until you are dead, and may the Father of us all have mercy on your soul!" Smith acted coolly while hearing the announcement of his doom, and after the last word had been spoken by the Judge he arose quickly from his seat and followed Deputy Sheriff Penumbra Kelly to the stairway leading to the County Jail. Petrini's attorney has taken the steps preliminary to an appeal to the higher court, he has not yet fully determined that he will carry the case up.

HARRIS GETS NINE MONTHS.

Portland's Star Third Baseman Sentenced for Larceny.

William Harris, Portland's star third baseman, charged with larceny of a pair of trousers in the store of the Star Woolen Mills, about a month ago, pleaded guilty to petit larceny yesterday, and was sentenced by Judge George to nine months' imprisonment in the County Jail. George Hammond, who certainly indicted with Harris for the crime, was tried and convicted by a jury, and will have to go to the penitentiary. Lenency was not extended to Hammond as in the case of Harris, for the reason that Hammond was convicted four years ago on a charge of larceny of a hat, and on account of his youth was let off with a County Jail sentence. The jury yesterday took compassion on him, and recommended him to the mercy of the court, and he may consequently not receive as severe punishment as he might if there had been no such recommendation. This, however, is a matter discretionary with the court. The younger men were arrested by Detective Weiner, and gave him a lively chase, jumping over a fence, and finally hiding in a room in a saloon. The attorney for Hammond tried to influence the jury to return a verdict of simple larceny, but this was opposed by Attorney Spencer, who represented the state.

SETTLED AN OLD SUIT.

Case of Luceita P. Beers vs. Hamlin and Aylesworth is Dismissed.

The suit of Luceita P. Beers against Robert Hamlin and C. A. Aylesworth, garnishee, which has been pending several years, was dismissed by Judge George yesterday on motion of Attorneys Seton & Strahan, for the plaintiff, a settlement having been arrived at. Hamlin is a storekeeper at Latourel, and in 1888 was sued for damages by Mrs. Beers, a native of France, who had knocked her down. She obtained a verdict for \$50, and previously Hamlin was fined \$30 for assault and battery in the East Side Justice Court. He alleged that she did not own the store, and collected the judgment the plaintiff's attorneys garnished shares of stock in the Larch Mountain Investment Company. Aylesworth said he owned the store at the time, and that there were two trials in the lower court to determine the matter, and the case was appealed to the Supreme Court. The defendants lost, and had to pay the costs of the trial, which amounted to \$115. The case was finally settled for \$400. Since the litigation was begun, Charles Aylesworth, a son of C. A. Aylesworth, married Mrs. Beers.

JACKSON SEEKS RELIEF.

Negro Detained as Witness 100 Days in Jail Says He is in Need.

Andrew Jackson, a negro, who was detained in the County Jail for 96 days as a witness in the Gladis murder case, yesterday filed a petition in the County Court asking for compensation. He states that because of his imprisonment he has been prevented from following his usual employment, and is without sufficient clothing to keep him comfortable, has no means, and is sick and unable to work at the present time.

Testimony in Stockpile Suit.

The taking of testimony in the case of Mary A. Stackpole against the Northern Pacific Railway Company was completed in the United States District Court yesterday. The testimony was examined were the conductor, porter and brakeman of the train on which Mrs. Stackpole was a passenger, and on which she alleged she was seriously injured by a collision with a freight car. The conductor and the other trainmen said they suffered no injury from the collision, and they hardly noticed the jar. When all the testimony was in Judge Bellinger gave instructions that the stenographic notes be extended and that the final arguments to the court be made. The arguments will probably be made Saturday or the early part of next week.

Busted Gets \$120.

In the suit of Richard Busted, a cigar salesman, against Kahler & Stock, a Chicago firm, to recover \$58 for services performed and traveling expenses, Judge Frazer yesterday rendered a decision in favor of Busted for \$120. Busted, in his complaint, alleged that he was entitled to 30 days' notice, or compensation for the time being \$150 salary and \$240 expenses. He also asserted that there was a balance due him for services. The defendant entered a denial, and contested the suit. Busted's attorney, Judge Bellinger, gave instructions that the stenographic notes be extended and that the final arguments to the court be made. The arguments will probably be made Saturday or the early part of next week.

County Court Twice a Week.

The County Commissioners' Court will hereafter hold sessions in the courtroom on Wednesday and Friday of each week. There is a large amount of business to transact each month, and it is thought that two regular sessions a week will serve to expedite matters. Persons having anything to present pertaining to county affairs will be expected to attend the sessions of the court and be prepared to proceed in a proper manner.

Wells Suit Settled.

The damage suit of Mary C. Wells against the City & Suburban Railway Company, set for trial in the State Cir-

REFORM FINANCES AT ONCE.

Vice-Governor Wright Discusses the Philippine Situation.

San Francisco, Nov. 12.—Vice-Governor Luke E. Wright, of the Philippines, speaking of financial affairs in the islands, said in an interview that the money market is continually fluctuating. "A bill to afford the necessary relief was presented to Congress, but it has not yet passed. It is for the benefit of the commerce the matter should again be taken up at the next session of Congress. It has been suggested that a bill to afford relief should be introduced in the islands. This dollar should be worth actually 50 cents of our gold money. I think such a coin would remedy the present financial situation. A monetary system would be similar to the one now in use in Japan."

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