Morning Oregonian.

VOL. XLV.—NO. 13,840. PORTLAND, OREGON, TUESDAY, APRIL 18, 1905. PRICE FIVE CENTS.

BIG LAND-FRAUD BATTLE BEGINS

Heney Strongly Argues on the Abatement Plea of Senator Mitchell.

HEARING IN ARRAIGNMENT

All of the Leading Defendants, Mitchell, Hermann, Williamson, and the Smaller Offenders Are in Attendance.

The work of the skirmisher is done in the land-fraud investigations and trials, the battle of the little ones has passed and yesterday saw the first battle of the artillery, saw the giant guns of the Nation's cause turned against the defense of the most prominent and perhaps the most powerful gathering of defendants ever gathered together in one common cause in the history of the country.

When Judge Bellinger convened his court yesterday morning he had before him the best legal talent of the state, which is yet to be augmented and strengthened by some of the most famous attorneys of the Nation, all pitted against the one lone representative of the Government, standing ready to meet and repel the attacks on the work which he has been doing for the months that have passed.

Main Event of Day.

The main event of the day's session was the argument of the Mitchell plea in abatement, and gathered to hear this was a crowded room of defendants, attorneys and spectators. Senator Mitchell, silent and dignified, sat beside his attorneys, A. S. Bennett and H. S. Wilson, of The Dalles. Binger Hermann, unmoved, as usual, and with unconcern sat in the jury-box, seemingly unmindful that he had trusted his interests and perhaps his liberty to the guidance and care of his old-time and bitter political enemy, Joseph Simon, who, as one of his attorneys, sat beside the long table before the bench. John M. Gearin, also representing Mr. Hermann, as a member of the firm of Dolph, Mallory, Simon & Gearin, appeared actively for the Congressman in his arraignment.

Congressman Williamson, another of the indicted, sat in the rear of the room, and is under the guidance of Bennett & Wilson, The Dalles. Dan R. Murphy, for Henry Meldrum; A. C. Woodcock and Lew Tarpley, as sponsors for James H. Booth and Frank E. Alley; Thomas O'Day, for Charles Nickell, and S. B. Huston, representing W. N. Jones, were among those of Oregon's distinguished lawyers who sat within the charmed circle of the bar.

In the argument made by Heney, he attacked the contentions of the defense as to their plea separately, piece by piece, and part by part, until it seemed to the laity as though there was nothing of fact left for the attorneys to stand upon in their reply that is to be made today. Each point in the argument was backed and strengthened by citation after citation bearing on the cases, all of them favorable and none of them against.

Porto Rican Case Cited.

The Government places particular stress upon the decision of the Supreme Court of the United States in the case of Crowder vs. the United States, known as the Porto Rican case, the opinion in which was written by Justice Harlan. The decision here holds that the local laws govern the choice and qualifications of jurors as well as the right of challenge. It was also argued that the same principle was applied to the different states by section 722, of the revised statutes of the United States.

Perhaps the greatest interest of the day, however, centered around the action of Binger Hermann, who appeared in court yesterday for the first time since the three indictments were returned against him. Hermann, however, did nothing to gratify any curiosity on the part of the spectators, as he did all his talking through his attorney, John M. Gearin, of the firm of Dolph, Mallory, Simon & Gearin. When the Congressman was arraigned he demurred to the indictments against him on the ground that they were not definite and certain and did not allege crime. It was also stipulated by the attorney for Hermann that in event the abatement proceedings instituted by Senator Mitchell should be decided in favor of the defendant the quashing of the indictment against Mitchell would serve in the case of Hermann as well. This stipulation was agreed to by Heney.

Other Arraignments Had.

Several other arraignments were also had at the morning session. Edwin Mays, who was indicted for complicity in the Butte Creek land case, pleaded not guilty to the indictment. John H. Hall, indicted for fencing public land in connection with the Butte Creek Company, pleaded not guilty and asked for an immediate trial. Under the indictment charging him with having been party to a conspiracy to obstruct the progress of justice by an attempt to defame the character of United States Attorney Heney, Hall filed a plea in abatement, which will be argued at the close of the arguments now before the court.

W. N. Jones, Thaddeus S. Potter, E. K. Brown and Mrs. E. K. Brown, indicted for conspiracy to defraud the Government of lands, filed pleas in abatement, while Daniel Clark pleaded not guilty to his indictment charging complicity in the W. K. Jones Siletz Indian land case.

In the afternoon Henry Meldrum, indicted for false surveys, was arraigned and given until Monday in which to plead. The same action was taken with Frank E. Kincart, Stephen W. Cornell, David Kinnaird and Livy Stipp.

Have Forensic Battle.

The morning session was enlivened by a forensic battle between Heney and Bennett over the action of the former in presenting affidavits made by himself and George Guistin in support of the Government's contention that the former was not in any way prejudiced against any of the defendants, that he was qualified to serve as a District Attorney, while in the latter case the documents showed that the former juror was by record and upon his oath a citizen of the United States.

Bennett objected to the introduction of the affidavits maintaining that there was no authority for such action on the part of the Government attorney, and that since the defense had introduced no evidence the Government could not do so until the way was paved by the defense, who were the affirmative in the plea. Heney contended that the action of himself was covered by Federal statute, and court was adjourned to produce the citation in support of his contention.

Heney's Strong Argument.

Heney in the afternoon continued with his argument upon the plea in abatement offered by Senator Mitchell. He held that the objection raised was on technical grounds entirely and not on the allegation that any constitutional right of the defendant had been jeopardized. The right to challenge the empaneling of a grand jury has been barred in most of the states for many years. In the old common law the right to challenge had been allowed for the reason that the selection of the jury was in the hands of the Sheriff, who was from the fact supposed to be prejudiced toward the defendant. Now, however, there were so many safeguards thrown around the selection of a jury that the right to challenge had practically passed. The grand juries of the present time were selected neither by the court nor the marshals and the selection was guarded in every way.

Further, it was argued by Heney that the Federal law provides the selection of a grand jury and the qualifications of the jurors shall be governed by the state laws in which the Federal investigation, or trial, was to be held.

It was also argued that the court must be satisfied as to the qualifications of the jurors before admitting them to serve, in which case the act of the court passed upon the qualifications and established them. It was supposed that, under the requirements of the law, the court took notice of the qualifications of each and every juror and if satisfied allowed the juror to be sworn. When accepted by the court the qualifications had been fixed and were not subject to appeal. According to the Oregon law the acceptance of the juror fixes the qualifications, for such acceptance presupposes a trial of qualification by the court before acceptance.

Cites the Oregon Law.

In refutation of the contention in Senator Mitchell's plea that some of the jurors were not on the assessment list, it was claimed by Heney that the Oregon law did not provide that such should be the case. It was stated in the section of the statutes relating to selection that the lists should be drawn from the assessment roll, but nothing was said of the matter in the section relating to qualifications.

The only way to attack an indictment under Oregon law, it was argued, was by motion, either by demurrer or by plea of guilty, not guilty or former conviction or acquittal of the identical offense. There was no provision made for a plea of abatement in the Oregon law.

Mr. Heney then took up the contention regarding the jurors, and it was stated by the court that W. E. Robertson had been excused by the court for cause, as it was shown that the juror was an exempt fireman and not liable to jury service under the law. Peebler had been drawn and sworn and had then been excused by the court for cause to it sufficient. Buffum had been out of the state at the commencement of the sessions, but had been sworn as soon as he returned.

In the case of George Guistin certified copies of his final papers were presented by Heney taken from the records of Clatsop County, showing that he was naturalized with C. W. Fulton as one of his witnesses. Affidavits were also presented showing that Guistin had been a resident of Portland for many years and had been in business here for the greater part of the time.

His Own Qualifications.

As to Heney's qualifications as a District Attorney, the attorney pointed to the records of the court which could not be disputed. In alleging prejudice and undue influence, Mr. Heney held the defendants made claim to what they knew not of. He argued that it would be an insult to the manhood of the Oregon jurors to plead that they would be influenced to indict former friends and neighbors by the simple influence of words from one prejudiced against the person sought to be indicted.

It was admitted that the statutes held the attorney should reside in the district to which he was appointed, but Heney contended that this means he should be there to do business at his office, not to make it his domicile.

Heney concluded his argument at 4:30 o'clock and the court was adjourned until 10 o'clock this morning, when Bennett will present the side of the defense.

Senator Thurston Is Retained.

SIOUX CITY, Ia., April 17.—John M. Thurston, ex-United States Senator from Nebraska, has been retained to press claims for indemnity on account of the massacre of several Americans by Yaqui Indians in Sonora, Mex., January 19. The claims will aggregate $450,000, $100,000 each for the four men killed, J. K. McKenzie and Dr. Robert McCoy, of Chicago; Walter Stubinger, of Kewanee, Ill., and M. H. Call, of Sioux City, and $25,000 each for the terrible experience of the two survivors, C. E. Terrington, of Salem, O., and H. E. Miller, of Los Angeles.

End of Storey Cotton Company.

LIVERPOOL, April 17.—The Lancashire Chancery Court, sitting here, today ordered the winding up of the Storey Cotton Company.

BENSON LOSES IN SUPREME COURT

Must Stand Trial at Washington for Conspiracy to Defraud Government.

DECISION IS SIGNIFICANT

Highest Tribunal in the Land Shown to Be in Accord With Policy to Bring the Guilty to Justice.

OREGONIAN NEWS BUREAU, Washington, April 17.—By its decision in the John A. Benson case affirming the decision of the New York Federal Court refusing a writ of habeas corpus, the United States Supreme Court today showed that it is in entire harmony with the Government policy of dealing out justice to men implicated in public land frauds, regardless of their station or influence. Benson striving to resist removal to the District of Columbia for trial on the charge of conspiracy to defraud the Government. Under today's decision Benson will be brought to Washington for trial.

This principal figure in the Benson-Hyde land ring that operated so extensively in Oregon and California has for more than a year successfully fought removal from New York to Washington, fearing that trial in this city would result in conviction.

Belief in Guilt Shown.

While today's decision nominally means the removal of Benson to Washington for trial, it signifies that in the opinion of the Supreme Court Benson and others of his firm did commit an offense against the United States.

The decision foreshadows the action that will be taken in the case of Frederick A. Hyde and Henry P. Dimond, others of the ring, who are fighting removal from San Francisco to Washington for trial. Their case was not passed upon today. But today's decision was even more significant. It shows what course this court is apt to take if members of the San Francisco land ring eventually bring their case to the highest tribunal in this country.

They need not expect that the lower courts will be reversed if the lower courts find them guilty as indicted.

First of the Indictments.

Benson, together with Hyde, Dimond and others, was indicted in this city December 31, 1903, one year to a day before the first indictment of Senator Mitchell and Representative Hermann.

Questions involved in the Benson-Hyde case are similar to those in some Oregon cases, and the attitude of the Supreme Court is doubly interesting on that account.

The especial charge in this case on which Benson was indicted by a grand jury of the District of Columbia was that of bribing an officer of the Interior Department to reveal to him the purport of a report to the department. He was arrested in New York and sought to prevent removal to this city by means of a writ of habeas corpus, which was denied by the Circuit Court of the United States for the Southern District of New York. There were three points raised in the case, as follows:

"First—That the indictment charges no crime against the United States.

"Second—That the District of Columbia is not a district of the United States within the meaning of the law.

"Third—That the crime was committed in California and is only triable there."

All Points Overruled.

All these points were overruled. Commenting on the suggestion that the District of Columbia is not a judicial district, Justice Brown said in his written opinion:

"It may be said that any construction of the law which would preclude the extradition to the District of Columbia of offenders arrested elsewhere would be attended by such abhorrent consequences that nothing but the clearest language would authorize such construction."

He added informally:

"The Constitution follows the flag in the District of Columbia."

The Benson case was argued for the Government by Francis J. Heney, now United States District Attorney of Oregon, assisted by Solicitor-General Henry M. Hoyt. The defense was represented by William Hornblower, of New York, who was approved by Grover Cleveland for Justice of the Supreme Court, but whose appointment was defeated by David B. Hill; by Frank H. Platt, a son of Senator Thomas Platt; J. C. Campbell, of San Francisco, and William C. Cole, an ex-member of the Supreme Bench of the District of Columbia, who died a couple of weeks after the argument as the result of pneumonia contracted while attending the trial.

The defendant was indicted for having bribed certain clerks in the General Land Office to give advance information to him in regard to the creation of California forest reserves. The Government now has evidence that the Oregon land-fraud ring had the same clerks bribed to give information in the case of Oregon reserves.

William J. Burns, who has been assisting Mr. Heney while in Oregon, had charge of the work of collecting the evidence in the Benson case.

BEAVERS SUBJECT TO REMOVAL

Trial Will Now Probably Take Place at Washington.

WASHINGTON, April 17.—The Supreme Court of the United States today decided the case involving the removal of George W. Beavers from Brooklyn to Washington against Beavers, holding him subject to removal.

The effect of the decision affecting the Lower Court will be to bring Beavers to Washington for trial unless he finds other means of proceeding. The case grows out of the several indictments against Beavers in connection with the postoffice irregularities of 1903 and 1904.

Beavers was chief of the division of salaries and allowances of the department and was indicted both in Brooklyn, where he lives, and in this city, on charges of conspiracy to defraud the Government, and the present proceeding grows out of an effort to prevent his removal from Brooklyn to Washington for trial.

Mandate in Securities Case.

WASHINGTON, April 17.—In accordance with the previous announcement by Chief Justice Fuller, the mandate of the Supreme Court of the United States in the Northern Securities case was issued today. It was directed to W. P. Clough, chief counsel for the Securities Company, and the essential part of it is as follows:

"Whereas, in the present term the cause came on to be heard before the Supreme Court and was argued by counsel, it is now and here ordered, adjudged and decreed by this court that the decree of the United States Circuit Court of Appeals in this cause be and the same is hereby affirmed with costs; and that the said appellant, Northern Securities Company, recover against the said appellees $30 for its costs herein expended and have execution therefor; and it is further ordered that this cause be and the same is hereby remanded to the Circuit Court of the United States for the District of New Jersey."

Discrimination Is Denied.

WASHINGTON, April 17.—The Supreme Court of the United States today affirmed the decision of the United States Circuit Court for the Eastern District of Kentucky in the case of the City of Covington vs. the National Bank of Covington, holding to be invalid the Kentucky law requiring National banks of that state to make return of all shares for taxation purposes.

The opinion was by Justice Day, and was based on the ground of discrimination against National banks.

Mrs. Craven Adjudged Insane.

BURLINGTON, Iowa, April 17.—The Des Moines County Commission of the Insane today adjudged insane Mrs. Nettie Craven, who once sued the estate of Senator Fair, alleging that she had been a common law wife of the Senator. Mrs. Craven will be sent to Mt. Pleasant Asylum.

CONTENTS TODAY'S PAPER

CANNOT LIMIT HOURS OF WORK

Supreme Court Declares New York Baker's Law Is Unconstitutional.

FOUR MEMBERS ADVERSE

Justice Peckham, in Giving His Decision, Says Exercise of Rights of Contract Cannot Be Interfered With.

WASHINGTON, April 17.—In an opinion by Justice Peckham, the Supreme Court of the United States held to be unconstitutional the New York state law making ten hours a day's work and 60 hours a week's work in bakeries in this state. Justice Harlan, White, Day and Holmes dissented and Justice Harlan declared that no more important decision had been rendered in the last century.

The opinion was handed down in the case of Lockner vs. the State of New York, and was based on the ground that the law interferes with the free exercise of the rights of contract between individuals. The Court of Appeals of the state upheld the law and affirmed the judgment of the trial court, holding Lockner guilty. Judge Parker wrote the opinion of the New York Court of Appeals supporting the law and the court divided four to three on the question of validity.

Master Baker Was Fined.

The law involved in the case is section 110 of the New York State labor law, prescribing the hours of labor in bakeries in the state. Lachner is a baker in the city of Utica and was found guilty of permitting an employe to work in his bakery more than 60 hours in a week, and fined $50. The judgment was affirmed by the New York Appellate Courts.

Today's opinion dealt entirely with the Constitutional question involved. Justice Peckham said that the law is not an act merely fixing the number of hours which shall constitute a legal day's work, but an absolute prohibition upon the employer permitting, under any circumstances, more than ten hours' work to be done in his establishment. He continued:

"The employe may desire to earn the extra money which would arise from his working more than the prescribed time, but this statute forbids the employer from permitting the employed to earn it. It necessarily interferes with the right of contract between the employer and employed concerning the number of hours in which the latter may labor in the bakery of the employer.

Protected by the Constitution.

"The general rights to make a contract in relation to his business is part of the liberty of the individual protected by the 14th amendment to the Federal Constitution. Under that provision no state can deprive any person of life, liberty or property without due process of law. The right to purchase or to sell the labor is part of the liberty protected by this amendment, unless there are circumstances which exclude the rights."

The Justice quoted statistics to show that the trade of a baker is not an especially unhealthy one, and said men could not be prevented from earning a living for their families. He concluded:

"It seems to us that the real object and purpose was simply to regulate the hours between the master and his employes, all being men sui generis, in a private business not dangerous in any degree to the morals or in any real and substantial degree to the health of employe Under such circumstances the freedom of master and employe to contract with each other in relation to their employment and in difining the same cannot be prohibited or interfered with without violating the Federal Constitution."

Harlan Speaks for Three.

Justices Holmes and Harlan both delivered dissenting opinions and Justices White and Day concurred in Justice Harlan's views. He said in part:

"I do not stop to consider whether any particular views of this economic question presents the sounder theory. The question is one about which there is room for debate and for an honest difference of opinion. No one can doubt that there are many reasons, based upon the experience of mankind, in support of the theory that, all things considered, more than ten hours' steady work each day, from week to week, in a bakery or confectionery establishment may endanger the health, impair the usefulness and shorten the lives of the workmen.

"If such reason exists, that ought to be the end of this case, for the state is not amenable to the judiciary, in respect of its legislative enactments, unless such enactments are plainly, palpably, beyond all question, inconsistent with the Constitution of the United States. We are not to presume that the State of New York has acted in bad faith.

State Acted in Good Faith.

"Nor can we assume that its Legislature acted without due deliberation or that it did not determine this question upon the fullest attainable information, and for the common good. We cannot say that the state has acted without reason or that its action is a mere sham.

"Our duty, then, is to sustain the statute as not being inconsistent with the Federal Constitution, for the reason—and such is an all-sufficient reason—it is not shown to be plainly and palpably inconsistent with that instrument. Let the state alone in the management of its purely domestic affairs so long as it does not appear beyond all question that it has violated the Federal Constitution.

"This view necessarily results from the principle that the health and safety of the people of a state are primarily for the state to guard and protect and is not a matter ordinarily of concern to the National Government."

BEER LAW IS SUSTAINED.

Collection of Inspection Charge Is a Police Measure.

WASHINGTON, April 17.—The Supreme Court of the United States today affirmed the decision of the Circuit Court of the Western District of Missouri in the case of Pabst vs. Crenshaw, attacking the validity of the beer-inspection law of the State of Missouri. The effect of this decision is to sustain the law as not antagonistic to the commerce clause of the Constitution. The decision was delivered by Justice White. The Chief Justice and Justices Brewer, Brown and Day united in a dissenting opinion.

In this case the Pabst Brewing Company, a Wisconsin corporation, filed a bill in the United States Circuit Court for the Western District of Missouri, to enjoin Grenshaw, the State Beer Inspector, from collecting an inspection charge imposed by a state law on malt liquors shipped from other states. The law was attacked as repugnant to the interstate provision of the National Constitution, but Justice White said:

"As the Supreme Court of Missouri has determined that the statute does not conflict with the state constitution and is valid because it is a police regulation imposing conditions upon the business of manufacturing and selling beer in Missouri, a traffic which it is conceded the state had the power to prohibit entirely, it follows that we are without power, from a consideration of the state constitution, to treat the law as invalid because of the revenue provisions of the state constitution or other limitations imposed by that constitution upon the state government."

Justice Brown was the spokesman for the dissenting Justices. He said in part:

"The consequences of this decision seem to me extremely serious. If the states may in the assumed exercise of police powers enact inspection laws which are not such in fact, and thereby indirectly impose a revenue tax on liquors, it is difficult to see any limit to this power of taxation or why it may not be applied to any other articles bought within the state."

GRAVEDIGGER CAN DRIVE.

Secretary Shaw's Neck Would Not Be in Danger.

WASHINGTON, April 17.—The recent employment by the Government of an alleged gravedigger as coachman to Secretary of the Treasury Shaw, under certification from the Civil Service Commission, was reviewed in the issuance of a statement today by Commissioner Cooley. The statement defends the three names certified, from which Secretary Shaw could choose. It shows that the alleged gravedigger was for many years coachman to the superintendent of the Government Hospital for the Insane, and Mr. Cooley states there has been no criticism of his ability to perform the duties of coachman.

Mr. Cooley then proceeds to show that the fourth name on the eligible list, Robert B. Shepard, was the one Secretary Shaw apparently wanted to reach. According to Mr. Shepard's sworn statement, he had not driven a horse for several years. Mr. Cooley concludes as follows:

"Our action in this case was dictated solely by a desire to guard the Secretary of the Treasury from possible physical injury at the hands of the apparently inexperienced driver who was being forced upon him by political influence.

Try Machen, Lorenz and Crawford.

WASHINGTON, April 17.—United States District Attorney Beach announced today that the trial of Machen, Lorenz and Crawford on a charge of conspiracy in connection with Postoffice frauds will begin here May 2.

MAYOR AT HIS WITS' END

Gives Hope of Settling the Chicago Teamsters' Strike.

CHICAGO, April 17.—After a conference held late this afternoon with the representatives of the union teamsters, Mayor Dunne announced that he had practically given up hope of settling the Montgomery Ward & Co. strike.

"I will hold conferences tomorrow," said the Mayor, "with representatives of both sides, but I have no idea at the present time that anything will result from the meetings."

There were numerous disturbances in the streets during the day, and others around the freight houses. Several non-union men on their way home were followed by strike sympathizers and badly beaten, one of them, Henry Auten, being beaten so badly with brass knuckles that he may die.

The most serious disturbance of the day occurred late in the afternoon at the intersection of State and Madison avenues. A mob numbering fully 2000 people gathered about a State street cable car, on which James Jackson and Moses Flood, two colored men, who had driven a wagon to Montgomery Ward & Co.'s, were riding. Stones and sticks were hurled at the car, and in a twinkling every window in the car was smashed. Two policemen rushed into the car and in order to protect the colored men placed them under arrest.

A riot call was sent to the central station, and it required 20 officers, who responded in 30 minutes' time, to drive the crowd away and open the streets to traffic.

USE PROSCRIBED LANGUAGE

Petitions to Governor-General Published in Polish Tongue.

WARSAW, April 17.—Something of a sensation has been caused by the simultaneous appearance in all the Polish papers of a petition to the Governor-General in the Polish language.

Zemstvos for Siberia.

ST. PETERSBURG, April 17.—An imperial rescript issued today orders Count Kutaiszoff, Governor of Irkutsk, to elaborate a scheme for the introduction of Zemstvos in Irkutsk, Tomsk and Tobolsk in accordance with the suggestions of the imperial ukase, adding that the development of emigration to Siberia from European Russia necessitates some form of popular representation.

Pope Issues Encyclical.

ROME, April 17.—The Pope today addressed an encyclical to all the members of the Roman Catholic episcopacy throughout the world on the manner of teaching the Christian doctrine.

FRANTIC BOYS ARE CRUSHED TO DEATH

Scared by False Alarm of Fire, They Pile Up in Narrow Space.

OVER A SCORE INJURED

Hundreds Were Waiting on the Staircase of the Indianapolis Masonic Temple for Distribution of Tickets.

INDIANAPOLIS, Ind., April 17.—Frenzied by a false alarm of fire, several hundred eager newsboys, struggling to obtain their share of free tickets to a local theater, which were being distributed by a traveling representative of a patent medicine company, stampeded in a narrow stairway in the Masonic Temple tonight, crushing the life out of four boys and seriously injuring several others. The dead:

EDWARD MORRISSEY, aged 12.
LOUIS SCHEIGERT, aged 15.
FLOYD POLAND, aged 8.
HOMER WILLIAMSON, aged 11.

The seriously injured—August Overtree, aged 13; Calvin Collester, aged 13; Talmadge Walters, aged 9; Fred Walters, aged 10; Jay James, Edward Meany, Roy Washburn, Oscar Sattinger; unidentified boy of 13, may die. Twenty-three others suffered injuries.

One Boy Yelled "Fire."

Long before the time approached for the distribution of the tickets, the stairs of the Masonic Temple, at the southwest corner of Washington street and Capitol avenue, were crowded with a pushing, yelling crowd of newsboys, each anxious to be first to receive his pass. When the distribution began, the excitement became more intense and the efforts of several policemen who had been detailed to prevent trouble were unavailing.

It is alleged that one of the boys in the endeavor to hasten the exit of those who had received their passes, shouted "Fire!" Immediately those at the top faced about and almost with superhuman strength began to force their way to the bottom of the stairs.

Shrieks and physical encounters followed for a few seconds, when from some cause those near the top fell headlong on the struggling mass at the bottom. Immediately policemen from the Central station, who responded to a riot call, began the work of rescue.

Four of the boys were dead when extricated from their position at the bottom of the stairs. Others, believed to have been fatally crushed, were taken out as fast as they could be disentangled from their frenzied companions, who fought and clung to each other in desperation.

Staircase Drips With Blood.

The immense crowd of people from the business district, attracted by wild rumors, jostled about the bottom of the stairs and hampered the work of the police and ambulance corps.

The dead were hurriedly placed in ambulances and sent to the morgue for identification. The seriously injured were sent to the city hospital and the city dispensary, while many who received only slight injuries were made comfortable in carriages and sent to their homes.

After the injured had been taken from the scene of death and the crowd had left the sidewalk, the sight presented by the stairway and walk in front of the door and in the upper hallway was grewsome in the extreme. Blood trickled down the steps. Fragments of clothing and flesh were strewn here and there.

The accident evidently had little effect on about 40 boys, who, after the excitement was over, went to the theater.

PANIC PAST AT TONOPAH

State Officer Reports Conditions as Improving.

RENO, Nev., April 17.—The Reno Gazette today received the following telegram from Dr. S. L. Lee, secretary of the State Board of Health, who was sent by Governor Sparks to Tonopah to investigate the health situation there.

"Considerable sickness, but reports greatly exaggerated. There have been 48 deaths from the disease since December 31. In March there were 20, and in April 19. Three died on March 17 and three April 11, the greatest number in one day. Sanitary conditions are bad, but improving. S. L. LEE."

When it is taken into consideration that the population of Tonopah is about 5000 and that conditions during the past few weeks have been unusually bad, it can be seen that 48 deaths in over three months give no foundation for the startling rumors that have been circulated. The situation in this part of the state is about the same as before the panic was started, a feeling of fear having been replaced by confidence.

Death Rate Is Increasing.

CHICAGO, April 17.—In closing his 10 years of service as Commissioner of Health for the City of Chicago, Dr. Arthur R. Reynolds presents in his annual report significant data showing the decrease of the death rate in the city. During the 10 years from 1885 to 1894, inclusive, the yearly average rate of death was 20.02 in every 1000 of population. During the succeeding 10 years the rate decreased to 15.1 in every 1000 of population. This means that there were 96,024 fewer deaths during the last decade than there would have been if the death rate had not fallen below that of the preceding 10 years.

Made Minister to The Hague.

ST. PETERSBURG, April 17.—M. Tcharikoff, a member of the court of the Foreign Ministry, has been appointed Russian Minister to The Hague.