

TECHNICAL FIRST AGAINST RIVAL

W. W. Cotton Claims Illegality of Action of North-Bank Railroad.

QUESTIONS ITS BUSINESS

Contest for Right of Way at Maegly Junction Brings Up Interesting Contention in Judge Frazer's Court.

The contention of the O. R. & N. Co. that the Portland & Seattle Railway Company, not having complied with the laws of Oregon, has no right to do business in this state, was stubbornly contested in Judge Frazer's court yesterday, and there was an abundance of fireworks, while the arguments between W. W. Cotton and Arthur C. Spencer, counsel for the O. R. & N. Co., and Charles H. Carey, of Portland, and James B. Kerr, attorneys for the Portland & Seattle Company, were in progress. The legal battle between the Harriman and Hill forces began over the question of preference concerning the crossing at Maegly Junction, which was supposed in the beginning not to be a very serious matter, but as the litigation has continued it has become plainly evident that the differences between the opposing forces are not confined entirely to a junction fight, and that the Harriman people would be much pleased if they could keep the north-bank line out of Portland or from building at all.

Mr. Cotton started yesterday morning by showing that when J. Couch Flanders was appointed attorney-in-fact for the Portland & Seattle Company in Oregon a meeting was held in Portland on October 10, 1905, at which Charles M. Levey, of Washington, made the secretary of the members of the board of directors, were present, and the other two, John S. Baker and L. C. Gilman, were not present and were not notified of the meeting. Mr. Cotton asserted that a meeting of a corporation in Portland which was organized in the State of Washington was not legal.

Secretary Martin a Witness.

M. O. Martin, the secretary of the Portland & Seattle Company, testified that he was not present at the meeting, but that he sent the corporate seal to Charles M. Levey, the president of the company, in Portland. Mr. Cotton said that the laws of Washington made the secretary of the corporation the custodian of its corporate seal, and the president could not use it. Mr. Martin admitted, and also Mr. Carey, that the minute book of the Portland & Seattle Company contained no resolution authorizing the president to use the corporate seal, and there was nothing in the by-laws of the company to that effect.

Mr. Cotton argued, therefore, that the commission of Mr. Flanders was void, and all acts performed under it, and that the Portland & Seattle Company had no standing in court.

"They had no power of attorney, no power to build a railroad, no power to do anything in this state," said Mr. Cotton. "The only power of attorney ever filed here was an attempted action taken by three directors in Portland, and corporate acts cannot be done outside of the state in which the corporation was organized." J. Couch Flanders told of the meeting of October 10, under Mr. Cotton's questioning, and then on cross-examination by Mr. Carey told him he had been named as attorney-in-fact for the road, and had forwarded the declaration of intention of the road and a certified copy of the articles of incorporation to the Secretary of State. In return he had received from the company authority to do business in the State of Oregon.

Mr. Cotton brought out the fact that the certified copies of the articles of incorporation filed with the Secretary of State at Salem were not certified to by Mr. Martin, secretary of the Portland & Seattle Company, and did not contain the corporate seal of the company. Mr. Carey stated that the articles filed at Salem were certified to by the Secretary of the State of Washington as a correct copy, and this was all that was necessary, but Mr. Cotton would not admit it.

James B. Kerr's Statement.

James B. Kerr's attorney, who is also the assistant secretary of the Portland & Seattle Railway Company, while on the witness-stand admitted that L. C. Gilman, S. B. Lintineau, Charles M. Levey and J. Couch Flanders, directors of the company, held a meeting at Vancouver, Wash., on Monday, and a resolution was adopted indorsing the action of Mr. Levey in using the corporate seal, and the meeting of October 10, but Mr. Cotton took the position that an illegal act could not be indorsed.

After a long legal argument Mr. Flanders was permitted to testify subject to objection by Mr. Cotton that Mr. Levey, president of the Portland & Seattle Company, acted for the company independent of the directors in the approval of land purchases and the location of the line and many other things.

Mr. Carey stated different times that Mr. Levey held nearly all of the stock except a few shares, and that the corporation acquiesced in what Mr. Levey did.

Turning to the record book of the Portland & Seattle Company which was in court at the request of the O. R. & N. Co., Mr. Cotton read where at a meeting of the board of directors of the Portland & Seattle Company, Mr. Levey had been authorized by resolution to purchase two steamboats from the Northern Pacific Company for the Portland & Seattle Company. This caused Mr. Cotton to remark in sarcastic tones that this contradicted the evidence of Mr. Flanders that Mr. Levey was authorized to act independently of the board of directors, and said it appeared Mr. Levey could not even buy a couple of steamboats from his employer, the Northern Pacific Company, the parent corporation, without authority by resolution.

Cotton Talks of Collars.

Mr. Cotton remarked that it seemed Mr. Levey were a collar like himself and others engaged by corporations. Mr. Cotton asked that the records of the Portland & Seattle Company be copied and placed in evidence, so that, in case the case had to be appealed to the Supreme Court, as it is expected, the evidence would be there. Mr. Levey could not do business without permission of the board of directors of his company.

Mr. Carey strenuously opposed the motion, and talked about the nerve of the O. R. & N. in wanting the records of the other company copied. Mr. Cotton answered that he did not want to see anything, and that Mr. Sholes, the official court reporter, could do the copying, and Judge Frazer could seal the copies and put them away in the file and keep them there until it was known if they were required in the Supreme Court. Mr. Carey still objected, and said he would withdraw all the litigation rather than turn the records of his company



over to the rival corporation, and hinted that the court might have to enforce contempt proceedings against somebody if it insisted. This question was still unsettled when court adjourned for the day.

Secretary Martin, again called to the witness-stand, admitted on cross-examination by Mr. Cotton that President Levey of the Portland & Seattle Company only subscribed for one share of stock, and held the remainder as trustee. "For the Northern Pacific Railway Company?" asked Mr. Cotton. "I don't know," said Mr. Martin. "A decision of the Supreme Court of Washington holds," continued Mr. Cotton, "that if a corporation subscribes for stock of another corporation, it is not duly organized. I have struck a new lead."

Mr. Carey remarked that it was immaterial who Mr. Levey was trustee for, and Mr. Martin said he didn't know. Mr. Cotton said there was other litigation in which he would use this new discovery.

Mr. Flanders stated: "There is a statute in the State of Washington which authorizes a corporation to subscribe for stock of another corporation."

Convicted of Stealing Books.

R. Richardson, a young man, who stole a set of books in a store on Washington street, which he was in the habit of frequenting, was sentenced to an indefinite term in the Penitentiary by Judge Frazer yesterday. Richardson pleaded guilty and asked to be paroled, but the court refused the request upon ascertaining that he had been arrested before and would not reform. The mother and sister of the young man were present, but did not make any statement, although offered an opportunity by Judge Frazer to do so.

Wife Charges Cruelty.

Mary Della Fuller has sued Harry A. Fuller for a divorce in the State Circuit Court on the grounds of cruel treatment. She avers that he called her vile names, and in many ways rendered her life burdensome. She further charges that while they lived at Lents he mortgaged her horses, harness and other property for \$200 and kept the money.

St. Charles Hotel Sued.

A. W. Davis says he was a guest at the St. Charles Hotel in December 2, 1905, and deposited \$125 with the clerk for safekeeping, receiving a metallic check as evidence. When he applied for the return of his money he alleges it could not be found. Yesterday in the State Circuit Court Davis sued the hotel company for the amount.

Five Years for Stealing Tobacco.

Fred Allison, who entered a cigar store at First and Washington streets and stole tobacco, was sentenced by Judge Frazer yesterday to five years in the penitentiary. A previous criminal record was shown here and in Yamhill County. Allison was detected by the watchman of the First National Bank, who called a policeman.

Sues Attorney C. F. Lord.

G. Weiss has sued Charles F. Lord, attorney in the State Circuit Court for \$102. He alleges that Mr. Lord collected \$125 for him from William Strahlman, of which Mr. Lord was to retain \$25 as a fee, and account for the balance, which he did not do.

Charles Dahl Administrator.

Charles Dahl was appointed administrator of the estate of Ole M. Relling, deceased, valued at \$3000. The heirs are three brothers and two sisters in Norway.

Banquet to A. L. Mohler.

A. L. Mohler, vice-president and general manager of the Union Pacific, who was formerly general manager of the O. R. & N. at Portland, was made the guest of honor at a banquet given by the commercial organizations of Omaha on Tuesday night. The banquet was given at the Omaha papers to be perhaps the most elaborate function of the kind ever given in Omaha. It was given both as a mark of esteem and a means of formally welcoming Mr. Mohler to the city as the resident head of what is perhaps the greatest corporation in Omaha.

Burglar Is Wounded.

One of the burglars who fired a bullet through the helmet of Policeman Evans Monday night, and at whom the policeman fired three shots, is wounded in the right leg, but he has not been captured. The wounded man, while Policeman Evans was looking for a light to help him search for the robber, crawled from a newly erected church at Nineteenth and Johnson streets, and was seen by a woman dragging himself through a yard on the opposite side of the street.

BUSINESS ITEMS.

If Baby Is Cutting Teeth. Be sure and use that old and well-tried remedy, Mrs. Winslow's Soothing Syrup, for children's teething. It soothes the child, cures the gums, allays all pain, cures wind colic and diarrhoea.

REASON FOR ARREST

Why Detective Murphy Was Angry at Connolly.

ASKED HIS VOTE FOR LANE

When Connolly Refused to Give His Promise the Detective Takes Him Into Custody. Swears the Accused Man.

A sensation was sprung in the Municipal Court yesterday morning, when William E. Connolly, clerk in the store of Robinson & Co., swore on the witness stand that Detective Murphy invited him into a saloon at midnight Monday, asked him to vote for Chamberlain for governor, and when he refused, Murphy placed him under arrest on a charge of using profane and abusive language, and declared he would run Connolly out of Portland.

Detective Murphy denied Connolly's statement, but became so confused while on the stand that it was evident he was attempting to tell the whole truth concerning the scandal, and he ordered to give Connolly time in which to bring witnesses, Judge Cameron continued the case until this morning.

In the meantime, Captain of Detectives and Inspector of Police Bruin took up the matter, and is making an investigation as to the scandalous affair.

Detective Murphy testified that he was waiting to catch the last car for home, and was standing at Third and Yamhill streets. It was exactly 12:30, he said. Connolly came along, they went into a saloon together and while inside, got to joking.

"Connolly called me a lot of names and used very insulting language while we were in the saloon," said Detective Murphy, "but I went outside, paying no attention to his abuse. I have known him a long time, and thought he was a pretty good fellow. When he came out onto the sidewalk and began calling me

names, I arrested him and sent him to headquarters in charge of two patrolmen."

"Why don't you tell all of the story?" queried Connolly, when Detective Murphy stopped talking, and Deputy City Attorney Fitzgerald rested the case.

Murphy flushed, but made no reply. "Why don't you tell all there is about the case?" demanded Connolly. "Why don't you tell where you met me before we went into the saloon and what caused the trouble?"

"I did not charge you with anything while we were in the saloon," answered Detective Murphy. "You couldn't run what took place outside." "You can tell it yourself," said Judge Cameron to Connolly.

"Detective Murphy met me outside the saloon and invited me to go in and take a drink," swore Connolly. "When we got inside, he said: 'Well, I suppose you are going to vote for Chamberlain for Governor, and for Lane and the other Democrats.' I replied emphatically that I was not. 'Then, damn you, I'll run you out of town,' replied Murphy. I then abused him, if you call it abuse, by replying, 'You couldn't run a letter out of town, with a stamp on it.' He got mad and arrested me."

Detective Murphy is a strong Democrat, and it is supposed he secured his position on the force because of this. He denied making any political suggestions to Connolly. It is a strict rule of the department that members shall not discuss politics. Further developments are looked for in the case.

GOES ACROSS THE RIVER

After investigating minutely all the different plans carried by dealers in Portland, Mr. H. J. McGinnis, one of Portland's prominent citizens, who resides on East Ankeny street, decided that the best values can be obtained at Ellers Piano House, and accordingly selected a beautiful Schumann piano yesterday, at the house of Ellers.

The Schumann factory was established in 1847, and for nearly half a century has made pianos that have become known the world over for their high standard of excellence.

The Schumann piano selected by Mr. McGinnis is a beautiful figured mahogany of a colonial design.

Chinese Resist Railroad Tax.

CANTON, Jan. 23.—Serious trouble threatens to break out as a result of the Viceroy's scheme for taxation in order to raise revenue for the construction of the Canton-Hankow railroad. The merchants' guilds are determined on a retaliatory strike and the Viceroy threatens the leaders with deportation. Three Chinese have been summoned from Shanghai.

Revels in Berlin Music.

"Berlin was a revelation in music," she continued. "I fairly revelled in it. It does so much for its students. The finest voices in the world can be heard there for so much less expense than in Paris that it puts such advantages within reach of all students, while in Paris one cannot afford to attend many such events. They do everything for students in Berlin, and after my long term of exceedingly hard work in Paris it was a delightful two months I spent there."

"Speaking of hard work—I averaged from two to four vocal lessons a week all the time I was gone, and I really believe I missed a single day in taking some kind of a lesson. I have the best maid in the world and she took entire charge of my apartments, so all I had to do was study—study—practice—practice. And I memorized every composition, including 30 arias."

Sings Before London Managers.

Portland has more than its quota of really good vocalists and there are few cities which appreciate their fine singers as thoroughly. Mrs. Sheldon has long been considered one of the best sopranos here and her voice was much admired before she went west. Her singing now, however, is of such a superior quality that all music lovers here will feel proud to know that she belongs to Portland and that for the coming year at least she will stay here and sing for us. Her temperament is essentially artistic and she has acquired a delicate finish and grace of rendition which cannot but make her a name as one of the leading sopranos of the Pacific Coast. While in London, en route home, she sang for three of

RIGHT OF OFFICER

Saloonkeeper Questions Authority to Enter His Place.

COURT INFORMS CULPRIT

At the Same Time It Finds Him Guilty for Permitting a Minor to Enter His Saloon.

Other Cases Up.

"Can an officer come into my saloon whenever he wants to when I do not want him?" asked Gust Farschman, proprietor of a liquor dispensary at 223 North Twenty-fourth street, of Municipal Judge Cameron yesterday morning, when he was before the court on a charge of permitting a minor to enter his establishment.

"Yes, sir; he certainly can," replied Judge Cameron.

"Yes, it would be a fine proposition if an officer could not enter your saloon in the same manner any ordinary citizen could," commented Deputy City Attorney Fitzgerald.

Farschman was before the court this time because he permitted Ben Gross, a minor, to enter the saloon, but as it was shown by the lad himself and by his mother that she sent him there to get a check cashed, Judge Cameron found him guilty and suspended sentence, warning him to keep all minors out of the establishment in future.

Farschman was arrested this time by Patrolman Gustafson, who saw the boy enter the saloon, and went in after him. While the officer was within he had some words with the proprietor, who ordered him out, saying that when he wanted a policeman in his place he would call one.

Farschman was fined \$5 last week for violating the city's closing ordinance, and at that time he refused to open the

doors of his saloon when commanded to do so by Sergeant of Police Baty.

Deputy City Attorney Fitzgerald has locked horns with A. C. Edmons, E. C. Edmons, Jr., and Willis D. Edmons, and is trying to ascertain from them which one maintains and operates a slaughterhouse at Thirty-ninth and Hawthorne.

The case was continued until Friday, at which time Willis D. Edmons will be in court, and a hot session is expected.

When the case was called yesterday morning A. C. Edmons, now under arrest, moved for a dismissal, saying that the wrong man had been brought in; that he had nothing to do with the slaughterhouse, did not own the property, and knew nothing about the matter. He acted as his own attorney. His motion was overruled.

Patrolman Raney and C. W. Mower were placed on the stand for the city, and swore that animals were slaughtered in a barn supposed to belong to A. C. Edmons. Both were forced to admit, however, when cross-examined by Edmons, that they had never seen him slaughter animals.

A. C. Edmons, Jr., when called to the stand for the prosecution, swore he did not know who owned the property; said he knew his father never slaughtered any animals, and said he himself never did any of it. He admitted Willis D. Edmons did, however. The case was then continued.

James D. O'Shea was found guilty of operating his automobile without a license tag, but sentence was suspended, pending good behavior.

S. P. Boggs, a young man of 22, was given a pretty severe overhauling by Judge Cameron. He was arrested by Detective Murphy, who declared the defendant had been running about town with a man who is wanted on suspicion of robbing boxes on telephones. Boggs said he had been in Blazier's Burnside-street saloon a good deal of late, but stuck to it that his mother knew where he was spending his time, and he would call for him to keep him out of jail when he was arrested. He spent only one night in a cell, but as soon as his mother learned of his predicament, she called on him, and his case was continued until today, in an effort to secure from him the name of the man wanted for the telephone robberies. He refused to tell yesterday.

Judge Cameron fined Elmer Johnson \$10 for striking Lee Shing and knocking him down without provocation.

Joe and Fred Menth and G. Denbery were discharged by Judge Cameron. They

were in for using profane and abusive language toward a chophouse waiter.

C. H. Black, colored, was held to the grand jury on a statutory charge, bonds being fixed in the sum of \$500.

J. P. Storrs and E. P. Brody, Pullman porters, were discharged. They were accused by A. D. Jackson, colored, of robbing his mother of \$20 in currency while en route from British Columbia. He was not present to prosecute the case, and a judgment of \$10 costs was entered against him. He will be forced to pay.

COMMITTEE IS ORGANIZED

Subdivision of the Chamber of Commerce on Navigation.

The newly-appointed navigation committee of the Portland Chamber of Commerce met yesterday afternoon and organized. W. D. Wheelwright, ex-president of the Chamber of Commerce, was appointed chairman of the navigation committee. Various matters were discussed at the meeting and the work of the committee for the ensuing year was partially outlined. Owing to the fact that the plans were not completed nothing except the organization was given out at the close of the meeting. The committee is composed of W. D. Wheelwright, chairman; J. E. Laidlaw, W. M. Ladd, T. B. Wilcox, C. F. Adams, Henry Hahn, T. D. Hoggan, S. M. Myers, A. H. Devers, W. H. Corbett and W. B. Ayr.

This afternoon at 2 o'clock the new grain standard committee of the Chamber of Commerce will meet to organize and discuss the year's work. This committee is composed of Peter Kerr, W. J. Buras, T. B. Wilcox, R. Kennedy and E. Curry. It is probable that Alexander McNeal, of this port, and Henry Lewsie, of the Puget Sound district, will be reappointed grain inspectors by the committee.

"POTTER" IN SERVICE. Queen of River Boats Is Now on the Astoria Run.

Enjoy a trip to clivia on the Potter. You will always remember it. Leaves Astoria street dock every night at 8 o'clock, except Sunday. (Saturday night, 10 P. M.) Round trip, 12. Particulars at Third and Washington streets, Portland.

Why don't you try Carter's Little Liver Pills? They are a positive cure for sick headaches and all the ills produced by disordered liver.

Mrs. Sargent Praises Duffy's

The dear old lady was given up to die by the family doctor, but she is now strong and well, without an ache or pain, thanks to the great life-giving tonic-stimulant, Duffy's Pure Malt Whiskey.

"I have not had a doctor since my sickness and I think Duffy's is the best medicine I can take for my old age, and for anyone else, young or old."

"Before using your Pure Malt Whiskey I was a sick, feeble, nervous, and ailing family doctor did not think I could live any time; but since using your Malt Whiskey I have not been sick and once, and am up and around and quite smart. I have not had a doctor since my sickness, and I think Duffy's is the best medicine that I can take in my old age, and for anyone else, young or old."

MRS. LUCINDA SARGENT, Lynn, Mass.

Duffy's Pure Malt Whiskey has enabled hundreds of old men and women to pass the century mark and to enjoy the blessings of a healthy and vigorous old age. Duffy's is indorsed and recommended by ministers of the gospel and prescribed by doctors as the most nourishing, purest, health-giving tonic-stimulant and invigorator known to medicine. It purifies the blood, quickens the circulation, repairs and builds up the weak and decayed nerves and tissues, and keeps every organ of the body in a strong, healthy condition, so as to resist the attacks of disease.

It is absolutely free from fusel oil and is the only whiskey recognized by the Government as a medicine.

Duffy's is the only positive cure and preventive of consumption, pneumonia, dyspepsia, indigestion, grip, malaria, diseases of the throat and lungs, and all the ailments of old age.

BEWARE of dangerous imitations and substitutes. They are positively harmful and are sold for profit only by unscrupulous dealers. Look for the trade-mark, the "Old Chemist," on the label, and be certain the seal over the cork is unbroken. All druggists and grocers, or direct, \$1.00 a bottle. Pictorial medical booklet free. Duffy's Malt Whiskey Co., Rochester, New York.

