RIVER TEARS OUT MILES OF ROADBED

Sacramento Paralyzes Service on Southern Pacific in California Division.

GREAT LOSS OF LIVESTOCK

Flood Sweeps Houses Away and Overflows Lower Floors in Tehama. Where People Fice for Safety.

SAN FRANCISCO, Feb. 4.-Flood damage in the vicinity of Tehama has been repaired to such an extent that the Shasta route of the Southern Pacific Company has been reopened and trains to Portland and the North are routed through by way of that place.

TEHAMA, Cal., Feb. 4.-Tuesday night was one of the greatest terror in this town. Three feet of water swept through

town. Three feet of water swept through the streets and flooded nearly every residence and business house from 10 to 20 inches. Women and children climbed upon tables and beds in mortal terror for fear the buildings would be swept away. The loss of livestock has been very severe and hundreds of cords of wood have been carried away. Five hundred head of cattle on the Leland Stanford ranch near Vina were drowned on the lowlands near Vina were drowned on the lowlands near the Sacramento River.

One small dwelling, owned by Charles Bufford, was washed against the trestle east of the railroad depot and was wrecked. The Southern Pacific tracks were washed out both north and south of the Tehama depot, about half a mile in all.

Roadbed Swept Away

The Sacramento River swept across bed out and landed rails and ties against the right of way fence for a quarier of a mile above the water tank between the depot and town. The rails and ties were twisted, bent and washed out as though by an earthquake. The division superin-tendent, Mr. Sheridan, of Sacramento, was caught at Red Bluff by the washouts there, and Resident Engineer Harrington arrived here with a work-train on the West Side on Wednesday afternoon. They are directing the repair work in person, and have 150 men at work filling in the roadbed for a quarter of a mile morth of the Tehama depot.

They succeeded at 1:39 P. M., by heroic

efforts, in opening communication on the West Side from Davisville to Red Bluff.

RULING IS AID TO LABOR (Continued From First Page.)

that the workman continued to as-

Cannot Escape His Linbility.

No employer may plend his disobe-fience of the law as a defense when lome victim of his criminal negligence asks damage. In a word this was the Naframore decision that startled the corporations of the country when Judge Taft announced it from the United States Circuit Court for the District of Dhio, some years ago. And that potent phrase was reiterated in the Oregon case by the decision of yesterday.

take by the decision of yesterday. The decision ordering a new irial, is directed against the Barber Asphalt Company, of Portland. The amount of damages involved is \$7500, which is seked by John Welsh, as administrator of the estate of Michael Welsh. Welsh was killed last Summer, while working at the company's night on working at the company's plant on the East Side. His death was the indirect cause of improper equipment. This fact is admitted by both sides. Welsh's brother and administrator of his estate, asked for damages on the grounds that the company was directly responsible for his death. In carrying the case through to final victory, Heny E. McGinn, as attorney for the estate, has won an important legal victory. The Asphalt Company was represented by W. D. Fenton, F. S. Blatt-ner and F. S. Senn.

Position of Judge Wolverton. When the case was called before United

States Circuit Judge Welverton last September he held against the estate, practically instructing the Jury impaneled in the case to bring in a verdict in favor of the Asphalt Company. His finding, in effect, was a disputation of the theory of the case of the last of the effect, was a disputation of the theory of hw advanced by Judge Taft. His con-clusion, reduced to a phrase, was that Welsh's knowledge of the danger of his suppleyment gave him the assumption of risk. The case was heard before the tribunal at San Francisco in November. Welsh was killed while working in a helsting elevator. Although the Oregon factory act of 1907 requires that machin-rey must be provided with devices for setery must be provided with devices for set-ting machinery to motion and stopping it, yet the machine at which Welsh worked had no such contrivance. The machine started well enough, but in order to stop it, the evidence has shown that he had to use a barrel stave. In doing this, he was caught on a setscrew and killed. This setscrew, it was shown, had no boxing or covering. The factory law reanism which might create danger to em-ployes must be kept from exposure.

Company Admits Its Negligence.

Now the Asphalt Company admitted that the stop arrangement on the machine that killed Welsh was not what is should Admission was likewise made that be. Admission was likewise made that the fatal screw was not boxed. The contention of the corporation was that Welsh knew the factory law had not been complied with and that by remaining at his post. In the face of such knowledge of peril, he assumed the risk. Consequently his estate could recover nothing, it was contended. Mr. McGlnn advanced the following contention:

Where an employe comes to his death as the result of injuries received by him while in the service of a manufacturing company by reason of the failure of the company, his employer, to comply with the provision of the factory act of the State of Oregon, requiring employers to provide and maintain belt shifters or other mechanical contrivances for the purpose of throwing on or off belts or pulleys while running, and further requir-ing employers to provide and maintain reasonable safeguards for all solucrows risk is not available to the employer.

Text of Factory Act.

The Oregon factory act of 1907, which is an important issue in the case, was taken from the Washington factory act of 1905. Section 1 of the Oregon Co. section 1 of the Oregon act says: That any person, firm, corporation or a

tions, which it is practicable to guard and which can be effectively guarded with duergand to the ordinary ure of such machinery and appliances, and the dangers to employes of any such factory, mill or workshop are liable to come in contact while in the performance of their duties, and if any machine, or part thereof, is in a defective condition and its operation would be extra haracdoms because of such defect or if any machine is not safeguarded as provided in this act, the use thereof is prohibited and a notice to that effect shall be attached thereto by the employer immediately on receiving notice of such defect or lack of safeguard, and such notice shall not be removed until such defect has been remedied or the machine safeguarded as herein provided.

Instruction to Portland Jury.

Judge Wolverton, in instructing the jury, held that in the absence of express words in the factory act taking away the defense of assumption of risk, it still remained and the employer might make it. After an exposition along these lines relative to the assumption of risk, lake Wolverton in concluding his in-Julge Wolverton, in concluding his instruction to the jury, said:

"You may here put yourselves in the place of the deceased, while engaged in the service which called him to disengage the clutches by means of a stave or stick, and, exercising your judgment. or stick, and, exercising your judgment and intelligence as men or reasonable judgment and discretion, determine whether, with the opportunity of observing and determining for himself, the deceased did observe and know and appreciate the danger, or should have known and appreciated, by the exercise of his intelligence and proper precaution, the danger attending his service. If he did or ought to have known and appredid or ought to have known and appre-ciated such danger and bazard, and en-tered upon the service or continued for some time therein without notice or com-

SAY PINCHOT WANTS SEAT

plaint to his employer, then you will say that he assumed the risk of his mishap, and he cannot recover, though the de-

fendant might have been negligent in the

FOREST SERVICE HEAD SOUND-LY DRUBBED.

Congressmen Say Attempts Have Tried to Extort Blackmail From Miners and Farmers.

WASHINGTON, Feb. 4.-The Forest ervice got its usual annual drubbing today, the criticisms against it coming principally from Smith of California, Cook of Colorado and Mondell of Wyoming, all of whom charged extravagance in administration and the extortion of money from miners, farm-

ers, and even the owners of beehives. Mr. Cook attributed to Mr. Pinchot, the Chief Forester, the ulterior motive of scheming for Secretary Wilson's seat in the Cabinet. Both Mr. Pinchot and the Forest Service were vigorously defended by Mann of Illinois and Weeks of Massachusetts. All attempts to amend the agricultural bill in any im-portant manner falled.

BRIDGE CARPENTER KILLED

Charles C. Jensen Falls From Railroad Structure Near Oswego.

Charles C. Jensen, a bridge carpenter, died last night at the Good Samaritan Hospital as the result of injuries received vesterday morning by falling from a bridge near Oswego, Or., on the Yambill division of the Southern Pacific railroad. Jensen lost his balance while at work on the bridge, it is said, and tumbled a distance of about 40 feet. He close an appeal to the people of California broader to this city vestering to the close an appeal to the people of California broader to this city vestering to the close an appeal to the people of California broader to the close an appeal to the people of California broader to the close an appeal to the people of California broader to the close an appeal to the people of California broader to the close an appeal to the people of California broader to the close an appeal to the people of California broader to the close and appeal to the people of California broader to the close and appeal to the people of California broader to the close and appeal to the people of California broader to the close and the close a

Count von Bernstorff Given a Hearty Welcome to United States.

FRIENDSHIP IS KEYNOTE

Addresses Pledge Good Feeling in Trade Relations-Echo of Japanese Legislation in Resolutions.

NEW YORK, Feb. 4.-Johann Meinrich, Count von Bernstorff, the new German ambassador to the United States, was given an informal reception by the New York Chamber of Commerce today and tonight a dinner was tendered the Am-bassador by the New York Staats Zeitung at the Manhattan Club.

Ambassador von Bernstorff in his address to the chamber, expressed the hope that the friendslip of Germany and the United States would continue and deepen.

He said in part: Trade the Peacemaker.

Trade the Pencemaker.

The enormous development of wealth and industry, based on the great natural advantages which nature has given to the United States and due to the active, enterprising and courageous spirit of their people, has never been regarded with unfriendly or jenious eves from our banks of the North and Battic Seas.

It would be idle to deny that we try to keep pace with you to trade more and more with you and to join with you in keeping open the doors in the Orient. We are proud and happy when we see the black white and red fing pass the Liberty Statue of the New York Harbot, flying from ships equal to the finest on the occurs. But such friendly struggle in the fields of commerce is a guardian of peace between mattons than the exchange of products. That is why, as I have found, in all countries I visited, the Chambers of Commerce are the first to extend a friendly greeting to the representatives of foreign countries and the first to raise their voices in the interest of peace when less responsible people try to sow discord between nations.

Hermann Ridder, president of the Staats-Zeltung Company, welcomed the Staats-Zeltung Company, welcomed the new Ambassador, his address laying emphasis on the friendliness of the two

A Nation of Friends.

We are assembled here tonight to hid you welcome to a land where the German Ambassador has always been regarded as a friend of the Nation. From our estrications are not to the Nation. From our estrications are unbroken amily has existed between the United States and Germany. The sturdy German immigrants who shouldered a musicet in Washington's army and who had so large a share in carning our National independence were messengers of liberty. They prepared the way for you, an ambassador of peace. They cemented by their blood the bonds of friendship that, for more than a century, have so dosely united the two peoples.

Today we count millions upon willions of Americans of German descent or German birth—men who are so thoroughly imbused with American principles that no one can regard them as anything else than thoroughly patriotic citizers. They occupy constituous places in every walk of life. In the professions and in business they are among our leading figures. Because of their influence upon American life and of the esteem in which they are held by Americans of other ancestral strains. I can say that you come to a land where the German Ambassador is heartily welecane. All Americans you must regard as your friends. You come as a representative of a great people whom all Americans honor, and respect, and of a sovereign fhose eminence as a statesman we all recognize, and whise kindly feeling toward as has often been demonstrated.

And so, Your Excellency, I can say that A Nation of Friends.

nations. It was in part as follows:

airated.

And so, Your Excellency, I can say that not alone here tonight, but everywhere in the United States, you will find that you are in the company of friends.

Before the banquet was brought to a was brought to this city yesterday morning and conveyed to the hospital in the Red Cross ambulance. His legs and body had been terribly crushed by the fall and the victim lost great quantities of blood both countries to remove all serious evil before the vesting lost great quantities of blood both countries to remove all serious evil the victim lost great quantities of blood both countries to remove all serious eviald was available.

Jensen was a single man, 34 years old, and lived in Newberg, Or. He has a brother in this city, N. T. Jensen, of 569½ Everett street, who is employed at the Portland Gun Store.

that may be involved in Japanese immigration," was made in a resolution which was offered by Gustav Schwab, chairman of the committee of commerce, and adopted without debate.

The resolution also declared that the Chamber of Commerce protests.

Portland Gun Store.

Chamber of Commerce protested against the action of any state "tending to dishonor the United States by impairing the

AMERICAN WOMAN WHO IS INVOLVED IN DIVORCE SUIT

MRS. JOHN ALEXANDER STIRLING.

Atherton, already famous through the divorce and breach-of-promise courts. Her husband, in addition to denying her charges, tries to implicate her with Lord Northland. The trial is now proceeding. From the evidence taken there appears to have been a remarkable menage a quatre in which Mrs. Atherton, Mr. and Mrs. Stirling and Lord Northland are almost hopelessly entangled.

NEW YORK, Feb. 4 .- (Special.) - An American weman is the center of a startling divorce action now being tried in the English divorce courts. She was Clara Taylor, of Washington, and a "show girl" of the American stage. She married John Alexander Stirling, of Scotland. She charges that her husband became enamored of the fuscinating Mrs.



166-170 Third Street.

treaty obligations assumed by the Na

Woman Springs Sensational Paper at Eleventh Hour.

PENDLETON, Or., Feb. 4 .- (Special.)-\$49,000 estate of her uncle, J. W. Young, deceased, and each time acquitted after a long struggle, Mrs. Mabel Warner, of this city, has again filed in the Probate Court of this county a will which she says is the true document signed by her uncle on the day of his death, November 21,

began a civil suit on an alleged verbal contract for the recovery of the estate. She has been balked at each proceeding and the estate, located near Weston, is still in the hands of the administrator. The new will, filed this afternoon, has had a romantic career in connection with its appearance in the case. Mrs. Warner was given six months in which to file application for new trial in her civil sait application for new trial in her civil suit tional new will appears, and seems to be

the will, which is signed by S. V. Knox, of Weston, and others, who identify it. Who could have sent the package from Walla Walla is a mystery, but it is believed that the will is genuine and can

ARE PALSE.

Admits Attachment to Mrs. Stirling, but Denies Love-Not De-

EDINBURGH, Feb. 4.-Tired of having his court turned into a theater filled with curious men and women, who have come to regard the Stirling cross-divorce case as a lurid melo-drama produced for their benefit, Judge Guthrie today closed the doors on all except those directly identified with

Lord Northland was on the stand all

tion Lord Northland admitted that he was attached to Mrs. Stirling, but he said he did not love her. He had not determined whether or not he would

marry her if she became free.

After the hearing of minor witnesses, who corroborated the statements of Lord Northland, the taking of evidence came to an end. torneys will address the court next

FIGHT FOR TARIFF HELPS

Washington Will Avail.



Things That Count

During this sloppy weather—bodily comforts absolutely essential if one would keep in condition. Here's to Your Health.

\$2.50 Medlicott Und'w'r \$1.45 \$2.00 Fine Pajamas \$1.35 35c Cashmere Hose 20¢



tional Government toward a foreign state to which we are now bound in terms of amity and good will."

MABEL WARNER BELIEVED TO HAVE REAL DOCUMENT.

Twice Tried on Forgery Charge,

After being tried twice during the past two years on charges of forgery of papers tending to prove that she is entitled to the

are most mysterious. After her second trial for alleged forgery, Mrs, Warner began a civil suit on an alleged verbal The time is fast approaching, and just on the eve of this time limit the sensa-

tional new will appears, and seems to be a later will than the original one on file, and thus superseding it,
On December 16, 1908, Mrs. Warner received a mysterious package from Walia Walia, and upon opening it found an old memorandum book of the year 1875. In this book was the original contract her uncle made with her mother (who was her uncle's second wife) to leave this prop-

SAYS CHARGES OF TWO WOMEN

cided to Marry.

morning. His evidence consisted large-ly of flat denials to the statements made by Mr. Stirling and Mrs. Ather-

Lumber Dealer Believes Lobby at

THE POPULAR-PRICE STORE

Last Two Days of Sale

We are determined to make TODAY AND TOMORROW two of the most remarkable days for bargains ever known in the City of Portland. We invite one and all to visit this store today and tomorrow. You are sure to find something each day that will appeal to your judgment. Remember that you have now an opportunity to secure bargains impossible to get at any other time. There are thousands of articles-ALL MARKED DOWN-in Ladies' and Children's Underwear, Hosiery, Gloves, Corsets and Muslin Underwear. Also Men's Shirts and Underwear. At the notion counter you can get the small things for less than usual,

HOUSEKEEPERS CANNOT AFFORD TO MISS

This opportunity to replenish Linens, Curtains, Sheets and Pillow Cases, Blankets, Comforters, Towels and Napkins at less than wholesale.

Spring Suits

Are in and placed on sale. A full line to select from in serges, broadcloths and novelty suitings, self-strapped, button-trimmed, and with the new dip front. Best \$14.95

Sample Line

Of Kimonos, Wrappers, two-piece Wash Suits, Children's Wash Dresses and Infants' Dresses. One-third off from regular prices. Come early for first choice.

Silk Petticoats

Special value in high-grade Taffeta Skirts; well tailored and finished; regular \$7.50 and \$8.00 value..... \$3.98

Waists

Special for Friday and Saturday's sale-a line of dainty Jap Silk Waists, \$2.49 lace trimmed

Net Waists, in ecra and white; \$1.69 Irish point insertion; satin banded.

Lace Waists, with pink and blue silk insertion; beautiful evening waists; \$6.95

Extra Special

Bargains in the Men's Furnishing Goods Aisle. Get what you need today or tomorrow.

SEE OUR MORRISON STREET SUIT WINDOW

McAllen-McDonne

ated and taken to other parts of the jail, where they will be unable to communicate with one another.

Washington—Knee bones and tendous removed from a dying man were successfully grafted upon the log of George A. Kelly at the Georgetown University Hospital several days ago by Dr. G. T. Vaughan.

New York—Americans are buying nine-tenths of the best example of the work of the old masters in Europe, according to Eugene Fischoff, a well-known art dealer of Paris, who arrived here Wednesday.

Colorado Springs, Colo.—By the purchase of 160 acres immediately east of the Union Printers Home as a site of the proposed National Sanitarium of the National Lattercarriers' Association, the first step taward the actual founding of the home has been taken.

New York—It was announced at the head-quarters of the New York State Branch of the American National Red Cross that further funds were not required for the earthquake sufferers in Italy at this time. More than \$190,000 has been contributed to the American Red Cross.

New York—A punic among 800 girls in the Convent of the Sisters of Mercy on Classon avenue, Brooklyn, was averted Thursday, when they were quickly assembled for prayer on the lower floor. A big factory building near by, occupied by several small manufacturers, was totally destroyed.

DANIEL McALLEN, President & Manager

CORNER THIRD & MORRISON STREETS

COUNTY PRISONERS PLANNED WHOLESALE ESCAPE.

Jailer Hunter Discovers Weapons CONDENSED NEWS BY WIRE and Red Pepper in Cells of Roohester, N. Y.—The National Brick Manufacturers Association elected Lemen Parker, of St. Louis, president of the association on Taursday.

Washington—The Forest Service proposes to cut trails through the Lasson National forest in California and have Angera goats graze on the brush along them in order to clear fire lines. Most Dangerous Convicts.

Discoveries made in the County Jail last night indicate that the attempted escape of prisoners which was thwarted last Monday night was planned as a wholesale jailbreak, instead of being a plot of some of the less dangerous prisoners, as was at first thought. Alarmed by reports that had reached him, Jailer Hunter last night made a thorough inspection of corridor No. 2, in which 21 of the more desperate criminals are con-fined. Articles found there show that hese prisoners, as well as those before etected, were involved in the attempted

delivery.

A search of the prisoners and their cells brought to light several pieces of fron which were designed as weapons and knives. The iron had been torn from the furniture and fixtures of the cell and some strips had been whetted to give them a knife edge. Three of these were found about the length of a table knife. Another, eight inches long and two inches wide was evidently designed as a

hindgeon. Besides these, there were four other strips of Iron.

All these were secreted in the bunks. Several packages of you shee and mor-phine were also found. How some of the iron, a whetstone and the drugs found. iron, a whetstone and the drugs found their way into the prison is unexplained. According tot a story which reached Jailer Phillips last night, the men involved had planned to cut the draw bars on the inner door of the corridor with a string, muriatic acid and ground glass. After the bars had been severed, it was intended to make a rush for liberty. intended to make a rush for inserty, overpowering the guard. Jack LaRose, the murderer, and meany other dangerous men are in this corridor, and it is believed that the plan was discovered in

Enjoy Your Meals

By Simply Eating A Little Pleasant Tablet After Each of Them.

A TABLET DIGESTS A MEAL. When digestion is perfect the fluids ecessary to this process come naturalnecessary to this process come naturally to the aid of the stomach. They are of right proportion and do their work speedily and well. When indigestion and dyspepsia are prevalent, these same juices come slowly if at all, are weak and insufficient or are filled with strong acids and alkalies.

When such a condition exists each meal is a hardship upon the discessive

meal is a hardship upon the digestive organs. The meal should strengthen the juices, but on the contrary it weakens them, so that man by the very set of eating causes conditions to arise

time to prevent a determined effort at escape. A later search disclosed a package of red pepper in one of the cells. This, it is supposed, was to have been used to throw in the jailer's eyes. The suspected ringleaders in the scheme were separated.

YOUTH PROVES HIMSELF HERO BEFORE SCHOOL.

Iwo Girls Perhaps Fatally Hurt by Infuriated Beast That Dashes Into Classroom.

SAN FRANCISCO, Feb. 4.-A dog sup-osed to have been afflicted with rables dashed through the swinging doors of the John Swett Grammar School shortly after the pupils had assembled, and seriously if not fatally, injured two little girls, Ida Fischter and Bessie Bailey. The former was terribly lacerated from the right thigh to the knee, and the had the lower part of both legs chewed

and torn.
Fred Schmonowsky, a 12-year-old pupil, threw himself upon the maddened dog and tried to pull the beast away from the girls. In his struggle with the animal he was severely bitten on the right hand; but he pluckly hung on until the animal turned and dashed from the school. On the street the dog was pursued by a crowd of men and boye, and was finally abot by a policeman. The two girls, who occupied the same

seat, had no time to escape before they were attacked. The injured girls were removed to their homes, and their condition, especially that of Ida Fischter, is regarded as critical.

In another part of the city, Policeman A. G. Hostetter was attacked by a savage buildog, which pierced and tore his wrist

with its teeth before he could loosen its

EXCEEDED WEDNESDAY'S

ANOTHER BIG DAY AT EILERS PIANO HOUSE. FOURTEEN BUYERS AND WHAT THEY SECURED.

All Used Pianos and Organs at Greatly Cut Prices. We , Accept Small Payment Down-Even as Little as \$15 or \$10-Balance to Be Paid in Small Monthly Amounts to Suit Convenience of Purchaser.

With a such a bid diseased with a such as a bid diseased with a bi