

PORTLAND WINS RAILROAD FIGHT

Southern Pacific Must Give Up Steam Traffic on Fourth Street.

PROTECT PUBLIC SAFETY

City May Impose Reasonable Conditions, Every Franchise Being Affected by Decision—Appeal of Case by Road Not Expected.

Refusing to enjoin the City of Portland from enforcement of the ordinance passed in May, 1907, requiring the Southern Pacific Company to discontinue the operation of steam locomotives and freight cars on Fourth street, Judge Bean yesterday placed the United States Court squarely on record in support of the police power of the city to regulate in behalf of public comfort and safety.

The court held that Fourth street at this time is in the heart of the city, one of the thoroughfares traversed daily by large numbers of citizens, and that the noise, vibration, soot and cinders resulting from the operation of steam cars were seriously interfering with public and private business.

The decision is regarded by City Attorney Kavanaugh as of the utmost importance in its application of the principle that the city has the right to require compliance with reasonable demands upon other corporations using the public streets.

Enforcement Due at Once. Mr. Kavanaugh announced last night that the city would immediately proceed with the enforcement of the terms of the ordinance unless stopped by the courts, pending an appeal of the case, or an agreement can be secured with the Southern Pacific Company for the abandonment of steam traffic on Fourth street within a reasonable time.

It is considered probable that the latter course may be the outcome of the litigation, the railroad corporation having announced its intention of building a bridge over the city streets at Oswego, at which point all traffic from the McMinnville-Corvallis-West Side district will be diverted to East Portland, entering the city through the main yards of the company.

The Southern Pacific Company may conclude to exercise its right of appeal to the higher tribunals of the government in support of its contention that the permit by which it occupied the street in 1869 conveyed a perpetual franchise. In that case, the litigation may extend over a period of years. The road was originally built by the Oregon Central Railroad Company, being transferred by sale to the Southern Pacific.

In 1869 the City of Portland had no specific authority to grant a franchise on the public streets, but under the general law a railroad could locate its tracks upon such streets as the city authorities might designate. On January 6, 1869, the City Council passed an ordinance allowing the Oregon Central Railroad Company to occupy Fourth street, but the grant contained a clause reserving the right to make or alter the regulations by which the road was to operate, to limit the rate of speed at which trains could be run and to restrict or prohibit the running of locomotives at such time as might be necessary.

City Has Power to Protect. Judge Bean held the provision to be within the right of the city to impose reasonable conditions to protect the public safety and that every such franchise is subject to such power.

In May, 1907, the City of Portland undertook to prohibit the operation of steam locomotives and freight cars through the city from the southern limit to Gilliam street and passed an ordinance making the running of such engines and cars an offense. The railroad company asked the court for a temporary injunction, which was granted, and the enforcement of the ordinance prevented. The company set up the claim that the ordinance of 1869 conveyed a perpetual right to the Southern Pacific Company as the successor of the Oregon & California to the use of the street for steam trains.

In the progress of the various hearings which have been held upon the numerous motions filed all angles of the case have been discussed. Judge Bean refused at this time to pass upon any other question than the one of police power.

The office of the City Attorney announces that the operation of each train becomes a separate offense under the provisions of the ordinance and that unless an agreement as to abandonment of the prohibited trains can be reached a large number of cases will be filed up against the company.

Road Will Not Appeal Case. At the office of the attorneys representing the Southern Pacific Company it was announced that the decision rendered by Judge Bean was understood to avoid reference to forfeiture of the right of way on Fourth street, and other questions raised during the various hearings being pushed aside by the court. Attorney Spencer was of the opinion that if the court had simply sustained the police power of the City of Portland to regulate the traffic on the streets, it would be possible for the litigants to reach an agreement for the abandonment of steam and freight traffic with the completion of the Oswego cut-off and bridge.

Our company will probably not appeal the case unless a study of the decision reveals that it attacks the franchise on Fourth street," said Attorney Spencer. "We would have had the Oswego bridge completed and trains running over it before now, had we not been hindered by high water. The cut-off the first falsework erected. The Southern Pacific will not abandon Fourth street, but I am not able to say what use will be made of the road. The matter has not been considered."

MOTHER OF DEAD MAN SUES Lineman's Electrocuting Basis of Suit for \$15,000.

Electrocuted at Roseburg April 22, 1909, a suit was yesterday begun in the United States Court for the recovery of \$15,000 because of the death of James Easton. The plaintiff is Mrs. J. L. and S. A. Kendall, proprietors of the electric light plant at the county seat of Douglas County, are made defendants.

The complaint recites that Easton was employed as a lineman by the Pacific Telephone & Telegraph Company, whose wires were strung on the same poles that carried the lighting wires, and that

the latter were not properly insulated. It is alleged that Easton went on one of the poles in the performance of his duties and his body came in contact with the high-voltage wires of the lighting company, the shock causing his death.

New Bills Open at the Vaudeville Houses

Orpheum. AFTER the surflet, almost plethora of good things on the Orpheum bill last week, it was almost like tempting providence or Martin Beck may expect a similar all-round excellence in the bill this week. Well, it isn't as good, by several notches.

BEACH MAKES TOUR

Supervisor Will Instruct Census Enumerators.

HURRIED TRIP TO BE MADE Importance of Thorough Count Will Be Impressed Upon People. School for Instruction Will Be Held Here on Return.

Seneca C. Beach, census enumerator, will begin a whirlwind tour of the Second Congressional District Thursday morning, personally to instruct census enumerators in their duties and to impress upon them the necessity of making a thorough count.

At 2 o'clock Thursday afternoon he will speak at Baker City, and will catch a night train for La Grande. Friday morning he will address the enumerators at that place and as soon as he can conclude the meeting will rush on to Pendleton to deliver a speech of instruction at 2 o'clock in the afternoon. The Dailies will be reached on Saturday, and at 3 P. M. the supervisor will endeavor to show the men in that vicinity how to do the work and the necessity of doing it right.

"I am relying on the people in those towns to help me out by arranging for halls in which to hold the meetings," said Mr. Beach. "We are so covered up here that it will probably be impossible for me to write personal letters to the people up there, and the enumerators will be lucky if they get their notices to attend the meetings."

"If they read this in The Oregonian I want them to understand that it is official, and if any of the enumerators are assigned to districts near the towns mentioned I want them to come to the meetings, whether they get any other notice or not. Somebody will arrange for a hall at each place, I am sure. I feel like asking the papers throughout the state to please copy."

"Time is growing mighty short for this work to be whipped into shape, the acceptance of appointments are coming in slowly, and I must be back here to make Astoria Sunday afternoon at 2 o'clock. We want to make this census a success for Oregon, and every city in my district, and I want again to urge the people to help. Every merchant in every town can do his part by talking to his customers and explaining the necessity of having the information ready for the enumerators when they call."

Mr. Beach will hold a school for instruction each evening after his return to Portland.

PERSONAL MENTION.

George W. Raiston, of Astoria, is at the Oregon. J. W. Irwin, of Walla Walla, registered at the Oregon yesterday. E. F. Benson, of Prosser, Wash., is registered at the Portland. Mrs. I. F. Dunbar, of Astoria, is among the arrivals at the Portland.

Edmund Kelly, of Hood River, is among the Oregonians at the Nortonia. W. C. Adams, a Newport, Wash., merchandise dealer, is at the Perkins. Fred Payne, of Marshfield, can be found at the Seward during his stay in the city. Mr. and Mrs. George H. Graves, of Salem, are at the Nortonia for a few days. W. D. Barnes, interested in the timber belt in the vicinity of Bend, is at the Perkins. C. R. Greisen, interested in Hood River apple lands, was at the Lenox yesterday.

W. J. Kerr, president of the Oregon Agricultural College at Corvallis, is at the Imperial. Ed Wright, of La Grande, is making headquarters at the Imperial during his stay in the city. Mr. and Mrs. H. M. Harps, of Maryhill, Wash., are located at the Seward as guests of Sam Hill. C. K. Spaulding, manager for the Spaulding Lumber Company at Salem, is at the Imperial today.

Mrs. J. A. Fulton, of Astoria, is among the arrivals at the Cornelius, and is accompanied by Miss Fulton. Mrs. George W. Warren, wife of the promoter of Warrenton, yesterday joined her husband at the Portland. E. W. Burch, wife and two daughters, of Spokane, were at the Lenox yesterday.

Grand. NOT by any stretch of the imagination can the bill at the Grand this week be made to measure alongside the usual excellent offerings of the popular vaudeville houses. The good act is the Legarda, and their acrobatic offering is indisputably fine. There are five members of this company and their feats differ most decidedly from those of other gymnasts and tumblers. The audience was kept in a continual state of excitement by the really marvelous achievements of these agile athletes, whose accuracy in their various leaps and double somersaults is little less than remarkable.

Next of interest is the specialty offerings of Mier and Mora, the former a very tall angular masculine person who dances a quiet little step that possesses the distinction of being different, and who also gives an exhibition of bag-punching that brings applause and their feats differ most decidedly from those of other gymnasts and tumblers. The audience was kept in a continual state of excitement by the really marvelous achievements of these agile athletes, whose accuracy in their various leaps and double somersaults is little less than remarkable.

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Stasio and Louise Lester Berntsen give a number of an hour of comedy, also including "Il Trovatore" in their series. The woman, who is good to look upon, of regal carriage, wears a beautiful gown and looks quite like the pictured ladies on the fashion plates. She sings in a very high, but not overly strong or compelling voice. A. Street offers a juggling act, the piece de resistance of which is manipulating a rubber ball. It is act in various forms has been seen here many times.

BETTER TERMS WANTED

MAYOR AND COMMITTEE TO MEET RAILROAD MEN.

Bridge Sites to Be Inspected by Officials Before Street Vacation Question is Settled.

Mayor Simon and Councilmen Rushlight, Meneffe and Wallace, comprising the special committee to conduct negotiations between the city and the railroad corporations as to the Broadway and Steel bridges, will go to the East Side at 2 o'clock this afternoon to make an investigation of the situation with reference to certain street vacations asked for by the O. R. & N. Co.

At a brief meeting, held yesterday morning at the City Hall, the committee discussed the offer of the O. R. & N. and of the Northern Pacific Terminal Company, made public Saturday, but reached no definite conclusion.

"The members of the committee may have supplementary concessions to ask from the railroads," said Mayor Simon, "before making any reply to the communications of the General Manager O'Brien and of Manager Lyons, representing the O. R. & N. and Terminal Company, but we want to go over the ground and make another inspection. The members of the committee feel that these companies have made their offers in good faith, and that there is much merit in each offer. But nothing is to be done in a hurry, and we will take plenty of time to make certain of the city's interests before making any reply."

In exchange for the right of way asked for by the city for the Broadway bridge, the O. R. & N. Co., by General Manager O'Brien, has asked for the right of way of about 14 blocks, needed by the railroad for business purposes. The Terminal Company, for the same privilege, wishes many vacations also.

Next Monday at 2 P. M. the first issue of \$250,000, 30-year bonds at 4 per cent interest, will be offered for sale. The validity of these bonds is being attacked by enemies of the Broadway bridge project, who have carried the case into the courts. It will be settled by that date, but Mayor Simon and friends of the project believe that the legality of the bonds is so certain that no one will pay attention to the cases, if they want the bonds at all.

BAY CITY MAN ARRESTED Selling Drugs Without License Is Charge Placed.

Patrick Mullen, of San Francisco, a patriarchal-looking old man, who is flowing white side whiskers, was arrested yesterday upon the charge of peddling drugs without a license. Mr. Mullen is the agent of the W. J. Van Damme Kidney Tea Cure. The complaint was filed with the District Attorney's office by State Senator C. G. Huntley, of Oregon City, who is secretary of the State Board of Pharmacists. Mullen has a small store on North Third street between Flinders and Gilliam streets.

He denied all knowledge of the concoction sold under this title, said that he knew nothing about its ingredients and referred the authorities to Pat McDonald, 304 Commercial Club building, and to Charles Mayer, proprietor of "Pape's" restaurant, at the foot of

The Important Problem.

confronting anyone in need of a laxative is not a question of a single action only, but of permanently beneficial effects, which will follow proper efforts to live in a healthful way, with the assistance of Syrup of Figs and Elixir of Senna, whenever it is required, as it cleanses the system gently yet promptly, without irritation and will therefore always have the preference of all who wish the best of family laxatives.

The combination has the approval of physicians because it is known to be truly beneficial, and because it has given satisfaction to the millions of well-informed families who have used it for many years past.

To get its beneficial effects, always buy the genuine manufactured by the California Fig Syrup Co. only.

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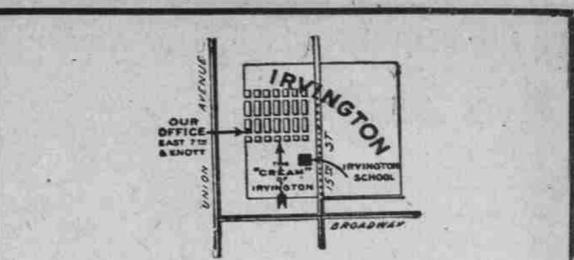
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If you want really healthful beer, order a case of Olympia. Olympia Beer Agency 330 Johnson St. Both Phones Main 671 or A 2467.

Coffee vs. The Boy

This is a story of a youngster who suffered so badly from the effects of coffee-drinking, that Dr. J. N. Hurty, Secretary of the State Board of Health of Indiana, had to take a hand.

The Indianapolis NEWS published a long account of the case—the news (?) went forth and papers throughout the country have given it much publicity.

From these reports we quote—"An eleven-year-old boy (Roy Schoolman) of Indianapolis had to be forcibly taken from school and given treatment. The constant use of coffee, it developed, had entirely changed the boy's happy, bright disposition to one of nervousness, with morose spells, when he attempted to fight everyone within reach. He was watched and his extreme addiction to coffee was discovered. One effect of the coffee is said to have been to deaden the brain faculties, changing the victim from an eager learner to a stupid school dunce, and a little later verging upon insanity. Since the coffee has been stopped physicians report that he is now resuming his normal mental tone."

Why marvel? Is this news to thoughtful people? For fifteen years we have preached the harmful effects of coffee upon head, heart and nerves. Almost every day letters are received just as conclusive and impressive as this case. More than a thousand letters were received in one month from people all over the country with various ills BEFORE they changed from coffee to POSTUM, and who either entirely recovered or were much benefited.

That coffee IS HARMFUL to many even in moderate quantity is an old, old truth, and that it is dangerous when used to excess has also been time and again proven.

All of which proves to even a casual thinker that for

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