

EDITOR'S COUNSEL GROWS DRAMATIC

Federal Government Seeks to Revive Panama Libel Suits.

COURT HEARS ARGUMENTS

Delancey Nicoll Reads Roosevelt's Message to Congress and Avers That Prosecution Belongs to New Dispensation.

WASHINGTON, Oct. 24.—The final attempt of the Federal Government to uphold the validity of the indictment in the New York Federal Courts of the Press Publishing Company, in a charge of libel growing out of the publication of an article in the New York World on the purchase of the Panama Canal...

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Early History Recalled.

James C. McReynolds, Special Assistant Attorney-General, spoke 16 minutes for the Government in opening. He was followed by Delancey Nicoll, of New York, for the Press Publishing Company.

Mr. Nicoll spoke of the case as a "legal curiosity." He said Attorney-General Bonaparte had the revelation that in 1893, Congress, without intending it, really had re-enacted the section laws of 1793.

In closing, Mr. Nicoll said: "As a matter of fact, the prosecution was premature, born before its time, belonging to a new dispensation that the Federal Government had taken to itself all power and authority and the states had no longer any geographical districts; when the Federal tribunals shall no longer try cases in accordance with precedents and the law, but according to the needs of the time as interpreted to them by some great steward of the public welfare."

Roosevelt's Words Rehearsed.

Just before coming to his peroration, Mr. Nicoll had presented to the court in dramatic fashion an argument to the effect that the history of the country condemns the construction of the act of Congress asserted by the Government. He dwelt first upon the unpopularity of the section act of 1793, designed to punish the publication of articles, with intent to stir up sedition. Then he came down to the needs of the time as interpreted to them by some great steward of the public welfare.

Early Decision Not Expected.

In his concluding arguments, Mr. McReynolds told the court that the Government was concerned in protecting the people residing in a Federal jurisdiction. In rebuttal to the Federal argument that the prosecution should have been brought where the alleged libel was printed, he contended that the offense of libel was not limited to the mere act of printing, but including acts of making it known to the public, and that it occurred in Federal territory. He entered into colloquy with Justice Holmes, White and Day as to what the law of New York State is as to libel.

ELKINS IS NOT DYING

Senator's Physician Says Report of His Illness Is Exaggerated.

ELKINS, W. Va., Oct. 24.—Because of conflicting reports as to the condition of Senator Stephen B. Elkins, who is ill at his home here, Dr. W. W. Golden, the Senator's physician, gave a statement to the Associated Press today. The statement says: "Reports that the condition of Senator Elkins is critical are wholly untrue, and, furthermore, at no time has the Senator's illness had his condition been such as to give alarm to his attending physicians or the members of his family."

Auto Upturns, Driver Killed.

SAN PEDRO, Cal., Oct. 24.—Henry W. Schuber, 39 years old, a chauffeur, was killed in an automobile accident early today on the Redondo Beach road, north of Wilmington. A pleasure party was returning to San Pedro from Redondo Beach in a thick fog and the chauffeur drove the car off the end of a culvert. The machine was overturned and Schuber was caught under it. His head was badly crushed.

Rev. Wasson refuses to deny published statements that he is in the liquor people's employ and receives from them yearly salary. He said advertisement.

REPUBLICAN CANDIDATE FOR GOVERNOR OF PENNSYLVANIA, WHOSE ALLEGED EXPOSURE BRINGS ON LIBEL CASE.



JOHN K. TENER.

SUIT BASIS HERE

Local Man Gleans Data Causing Pennsylvania Case.

PORTLANDER NOT NAMED

John K. Tener Gets Warrant for Calling Astoria-Seaside Tillamook Line a Swindle.

(Continued From First Page.)

prominent Astoria corner, with the caption "Trolley cars in Astoria showing safety of claim."

The North American's report by its unnamed Portland expert follows: Portland, Or., Oct. 19.—I send herewith full report on the Astoria, Seaside & Tillamook Electric Railway Company, which I trust you will find complete enough to give you an idea of a reasonably correct idea of the present situation.

Papers Not Paid For. The Astoria, Seaside & Tillamook (electric) Railway Company, of Clatsop County, Oregon, was incorporated on June 17, 1908, when the Oregon Coast Railway Company was incorporated.

On November 23, 1909, a deed from the Oregon Coast Railway Company to the Astoria, Seaside & Tillamook Railway Company was executed by which, in consideration of \$12,400, all the properties, franchises, leases, surveyed and adopted line of railway in Astoria and in Clatsop County, right of way, field notes, maps and engineering instruments, leasehold rights, contract rights and other ordinances were conveyed by the Oregon Coast Railway Company to the Astoria, Seaside & Tillamook Railway Company. This deed was recorded November 23, 1909.

There is no other deed recorded transferring any property of any kind to the Astoria, Seaside & Tillamook Railway Company. The consideration of \$12,400 has never been paid, and all property of the Oregon Coast Railway Company, subject to being turned over to the Astoria, Seaside & Tillamook Railway Company when the \$12,400 consideration is paid.

But the only property of any material value is represented by certain bonds for deeds for right of way between Astoria and Seaside, 16 miles or thereabouts. Some of these bonds are in the name of the United States, and other properties needed for the right of way between the points named will have to be condemned for railroad use and paid for.

But quite recently a plot of land, 50 acres in extent, marked X on the map, has been acquired by the Astoria, Seaside & Tillamook Railway Company from the Oregon Coast Railway Company at a small price, and with the land has been conveyed to the Astoria, Seaside & Tillamook Railway Company. The amount of the fraud is not chiefly what the officials are interested in, but the fact which their investigation has thus far disclosed that similar frauds may have been going on for a long time, amounting to many thousands of dollars.

LIQUOR SWAP PROBED

SUBSTITUTION OF WATER FOR SPIRITS HARD PUZZLE.

San Francisco Treasury Agents Believe Subterfuge Has Endured for Years; Many Questioned.

SAN FRANCISCO, Oct. 24.—(Special.)—Treasury Agents Behan, Channing and Tidwell occupied the whole of yesterday in the execution of other business in the investigation of the fraud recently discovered in the Haslitt bonded manufacturing warehouse, in which it was found that six barrels of spirits of 188 proof had been taken away surreptitiously and six barrels of water substituted. Each barrel contained 50 gallons, or 44-proof gallons, taxable at \$102.40 a barrel, making a total of \$620.40.

KETCHELL LEAVES MONEY

Mother of ex-Champion Says Estate Valued at \$18,000.

GRAND RAPIDS, Mich., Oct. 24.—In Probate Court today Mrs. Julia Ketchell, mother of Stan Ketchell, champion middle-weight pugilist, who was killed in Missouri, filed application for appointment of James A. Lombard, of this city, special administrator of her son's estate.

According to the petition the estate is valued at \$18,000, of which \$8000 is in real estate and \$10,000 in personal property. Ketchell is said to have earned about \$100,000 in the ring.

SPARSELY SETTLED TERRITORY

The long stretch of coast from Astoria, by Warrenton south to the X 50, is today very sparsely settled and is unproductive for railroad purposes. In the future it may possibly be changed to a country for the building of seaside cottages for Summer visitors. Mr. Bennett's substituted red line crosses a fertile, flat tract which will yield some traffic.

The line as first proposed was to be an electric line, but instead of being solely to avail itself of water power derived from mountain streams, it was to depend on power supplied by various sawmills burning for that purpose the off-products of the mills. Mr. Bennett proposed a steam road, cheap construction to carry chiefly lumber, using gasoline cars for passenger traffic. In response to careful questioning, Mr. Bennett gave his opinion in a general way that \$1,000,000 expended on the line from new construction through the Lewis and Clark timber area,

OREGON PROJECTS GET NO MONEY NOW

No Part of \$20,000,000 Reclamation Fund Goes to Owyhee or Malheur.

NO CONSTRUCTION STARTS

Secretary Ballinger Writes Bourne Action of Congress on This Legislation Shows Work on Hand Must Be Completed First.

OREGONIAN NEWS BUREAU, Washington, Oct. 24.—Because Congress specified that no part of the special reclamation fund of \$20,000,000 should be used upon any projects and that no new projects shall be taken up with any funds available, except upon specific order of the President, neither the Owyhee nor Malheur irrigation projects in Eastern Oregon will be benefited this year.

Secretary Ballinger today wrote Senator Bourne in reference to the recommendation of State Engineer Lewis in regard to the adoption of the Owyhee irrigation project, saying in part: "No construction was ever commenced on either the Malheur or Owyhee projects and under these circumstances it becomes impossible under the law to employ any of the special \$20,000,000 fund provided at our last session of Congress for their construction. The action of Congress upon this particular legislation as well as the debates shows conclusively that Congress very strongly desires the completion of present projects before new work is inaugurated. With this special appropriation and prospective receipts into the reclamation fund in the regular way, it will probably require from six to eight years to complete the project already in progress, and it is obviously the desire of the President, as it always has been his policy, to do this before inaugurating new work."

Under these circumstances, in my judgment, it would be unwise to expend any considerable portion of the reclamation fund, which is badly needed for construction, in the survey of any new projects further than to continue measurements of the water supply. If the State Engineer should extend the water rights of the United States to the waters of the Owyhee and Malheur rivers to a time when it will be feasible to construct and complete these projects, or either of them, it might have the effect of discouraging private enterprise in the same field and would thus be opposed to the fixed policy of the department, and to the best interests of Eastern Oregon.

However, if in the judgment of the State Engineer, the Governor and yourself it is to the advantage of the United States that the interests of the United States in the Owyhee projects be continued by the extension of the water right in the hope that it may some day be undertaken by the reclamation service, this department will have no objection to such an extension, but it can make no promise in the matter, and it is necessarily several years in the future."

In his letter Secretary Ballinger also says:

Inquiry Made in 1904. Some preliminary investigations of the Owyhee project were made by the Reclamation Service in 1904, in connection with similar investigations of the Malheur project and strenuous efforts were made to overcome obstacles to construction of these projects at that time, when plenty of funds were available for their construction. The projects were formally abandoned upon practically the unanimous decision of the land-owners of the valley that the lands would not repay the cost of their reclamation.

Recent increases in land values in this region have led many persons to consider the project now feasible, and it has always been regarded by the Reclamation Service as an attractive one for Government construction from a physical standpoint. It is estimated that completion of the work ready under way by the Reclamation Service will cost about \$70,000,000, and in some places land to be irrigated has already been settled by persons who have been waiting for the expected water supply for some years.

In order to relieve this condition Congress at its last session authorized a reclamation fund of \$20,000,000 in order to expedite the completion of projects already commenced. The act authorizing this appropriation specified that none of it should be used upon any new projects and that no new projects should be taken up with any funds available except upon specific order of the President.

NERVES NEED Scott's Emulsion

the same as babies. Babies can't take care of themselves, nor can nerves.

Babies cry for attention—so do nerves. Probably both are half-starved for proper nourishment.

Give them SCOTT'S EMULSION.

Dr. Lyon's PERFECT Tooth Powder

Used by people of refinement in every part of the world where the use of the tooth-brush is known, for Almost Half a Century.

the President. It is this restriction that makes it impossible to take up the Owyhee project at this time."

OIL HELD CONTRABAND

RUSSIA DECLINES TO ARBITRATE OKLAHOMA DISPUTE.

Standard Oil Company Now Can Only Recover Cost of Empty Cases—Question Rises in War.

ST. PETERSBURG, Oct. 24.—The Russian government has declined the English proposal to arbitrate the steamer Oldhamia dispute and the American request for compensation for the cargo on the ground that the decision of the Russian courts that the cargo was contraband is final.

The British steamer Oldhamia was captured by the Russians May 19, 1905, in the Russo-Japanese war, while bound from Yokohama with a cargo of kerosene consigned by American citizens. She was recaptured by the Japanese in the battle of the Sea of Japan and taken to Sasebo, where her cargo was sold. The consigners and the British owners of the vessel in July, 1905, placed their case in the hands of an attorney of St. Petersburg, who was empowered to ask the prize court to act as adjudicator.

At the preliminary investigation by the Russian government, in answer to the representations on behalf of the American and British owners of the cargo, which was valued at \$123,000 and was the property of the Standard Oil Company. The prize court decided that the steamer carried no explosives and found in favor of the American consigners and appointed arbitrators to determine the damages.

This was not satisfactory to the Manchester & Salford Shipping Company, the owners, and the Standard Oil Company, who demanded a total compensation of \$500,000 and appealed to the supreme prize court of Russia. The court rejected the appeal and gave the Standard Oil Company only the right to take legal steps to recover the cost of empty cases.

TRIBUTE PAID TO HILL

Political Friends and Enemies at Funeral of Democratic Leader.

ALBANY, N. Y., Oct. 24.—The funeral of David B. Hill took place today in St. Peter's Episcopal Church. There was no eulogy. The choir sang, "Lead, Kindly Light," and "Now the Laborer's Task is O'er," concluding with the recessional.

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hymn, "Peace, Perfect Peace," as the casket was borne from the church. Men who had stood shoulder to shoulder with the dead statesman through a political campaign and men who had opposed him bitterly were present. All were there to do him reverence. The three branches of the state government were represented—the Executive, by Governor White, while the Democratic State committee, the Albany County Bar Association and the Albany County Democratic general committee attended the funeral in a body. The mourners who followed the body to the railway station included Dr. A. H. Hill, of Dexter, Mo., a brother; Lawrence D. Hill, of Malden, Mo., a nephew; Peter Mansfield, Mr. Hill's secretary, who had been associated with the Senator for eighteen years. The interment will take place in Montfort Falls, Mr. Hill's birthplace, tomorrow.

Jones Can Practice. OREGONIAN NEWS BUREAU, Washington, Oct. 24.—Horace Tillard Jones, dismissed special agent of the General Land Office, who became notorious during the Ballinger-Pinchot investigation last Spring, was today admitted to practice as attorney before the Interior Department.

Dr. Pierce's Favorite Prescription

Is the best of all medicines for the cure of diseases, disorders and weaknesses peculiar to women. It is a safe medicine in any condition of the system. THE ONE REMEDY which contains no alcohol and no injurious habit-forming drugs and which creates no craving for such stimulants. THE ONE REMEDY so good that its makers are not afraid to print its every ingredient on each outside bottle-wrapper and attest to the truthfulness of the same under oath.

It is sold by medicine dealers everywhere, and any dealer who hasn't it can get it. Don't take a substitute of unknown composition for this medicine of known composition. No counterfeit is as good as the genuine and the druggist who says something else is "just as good as Dr. Pierce's" is either mistaken or is trying to deceive you for his own selfish benefit. Such a man is not to be trusted. He is trifling with your most precious possession—your health—may be your life itself. See that you get what you ask for.

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The Pacific Coal & Gas Company wish to announce to the public that they have sold the 500 tons of coal which they advertised they would sell at \$5.50 per ton, and the Company has decided to offer an additional 500 tons at \$6.00 per ton on the same basis as that sold at \$5.50 per ton, which was only two tons to each customer at this price, and a job order will be accepted unless accompanied by the cash or check. We are making deliveries of our coal to those who have ordered, and we are printing for your information some of the letters that have been written to us by those who are now using the coal. We have many more on file in our office and would be pleased to show them to you that you may know the kind of coal this is.

This order will positively cease as soon as the 500 tons have been sold and the price will then be advanced to \$7.50 per ton, which price will remain in force for the balance of the winter. It is a splendid opportunity to save several dollars per ton on your coal, you will have to act at once as this 500 tons will be sold very rapidly.

The following is a copy of some of the letters: J. J. Folen. O. K. Fitzsimmons. COMMERCIAL AND REALTY CO. OREGON OPPORTUNITIES. 403 Merchants Trust Building. Portland, Oregon. Phone Main 4076. Portland, Or., Oct. 7, 1910. Pacific Coal & Gas Co., 218-19 Commercial Club Bldg., Portland, Or. Gentlemen: I am very particular about the coal I use, always buying the highest grade. A friend told me about your offer of two tons at a job order, and I am very glad I availed myself of that offer and secured some of your coal. It is as good as any high-grade coal I have ever used. It is clean, soft, leaves little ash, fires quickly and holds heat well. I consider you have done me a great favor in the service you have rendered. I will most certainly want more of it. You are at liberty to use this letter as a sincere testimonial. Yours very truly, J. J. FOLEN. Portland, Or., Oct. 5, 1910. Pacific Coal & Gas Co., Portland, Or. Gentlemen: In reply to yours of the 5th will say that after trying your coal that it is a pleasure to me to recommend the same. It burns well and does not clinker and leaves little ash. It is the best coal that I have used in Oregon and I can cheerfully recommend it. Sincerely yours, JAS. P. HAGADONE. Portland, Or., 2-15-1910. This is to certify that the undersigned has purchased two tons of coal from the Pacific Coal & Gas Co. of Portland and have tested it in our kitchen range, and find it to be just as recommended, first-class coal for a job order. J. S. GREENFIELD. 621 Patton Road, Office phone, Main 1944. Portland, Oregon.

Pacific Coal & Gas Company Room 218, Commercial Club Building. Phone, Marshall 2581. Portland, Oregon.

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