

WERNER ILLEGAL. DECLARE RAILROADS

Move to Make Sherman Act
Retroactive Charged.

JOINT USE, BUILDERS' AIM

Execution of Order Would Create
Untried Condition, Defend-
ants Contend.

WASHINGTON, D. C., July 31.—

Execution of the supreme court order requiring the Southern Pacific company to divest itself of ownership and control of the Central Pacific railway, would give retroactive effect to the Sherman anti-trust law and "create a new and untried condition" in the management of the two roads, according to a brief filed today in support of a petition for rehearing of the case.

Joint control and operation of the Southern and Central Pacific properties, counsel for the defendants contended, had been in effect long before the law was enacted under which the legality of such control finally was attacked.

"If the properties were disintegrated after 50 years of unified and uninterrupted operation," the brief said, "the effect would be to create two new managements where there has been but one since the origin of the properties and also to create a new and untried condition which has no prototype."

Not only were the two roads "built, operated and controlled by the same persons," but the Southern Pacific was "constructed as a continuation of the lines of the Central Pacific and to prevent duplication," counsel argued, adding that the "builders proceeded upon the assumption that the lines would be operated together and through the 50 years of their existence the properties never have been other than a unified whole, made up of integral parts, and the outcome of a normal, natural growth."

"It would be the irony of fate," the brief continued, "if it should turn out that the unified control of Stanford and his associates were destroyed by their stock sales," (referring to the transfer of Central Pacific stock, mostly to foreign investors) "and then find that the restoration of this unified control by repurchase of the stock was illegal."

"Combination" is protested. The brief objected to the use of the word "combination" in the opinion of the court, in reference to a "consolidation" of two "systems" insisting that the case presented only "the building of integral parts of a property."

Numerous citations were given to support the alleged rights of the Central Pacific, as a California corporation, to lease its property to the Southern Pacific, free of restriction by federal statute, the contention being made that the lease was like many others made by California companies holding federal franchises to construct and operate railways, which have stood unchallenged from earliest times.

Declaring it was not the intention of the Sherman law "to subvert titles vested before its passage," the brief presented an exhaustive argument to support the contention that the lease of the Central Pacific to the Southern Pacific was valid, made in 1885 for a period of 99 years and that the arrangement could not be interfered with until the expiration of the lease.

Terminal Order Fought. It was also pointed out that the part of the opinion of the supreme court referring to the disposition of the terminals on San Francisco bay should be modified or omitted, counsel objecting particularly to the "unified control" upon which it was asserted the court based its order for joint or common use of the property by the two companies. Counsel contended in this particular that if the two systems are to be divorced the Central Pacific should not be recognized as having equitable rights in the mileage constructed by the Southern Pacific in legitimate development of its own lines.

The court was requested in the event it would not obtain material for a book. His chief concern has been to get the signatures of men great and near-great on his list, he says, he has the signatures of Roosevelt, Taft, Wilson, Harding, Edison, Curson, Lloyd George, Lord Curzon, Prince of Wales, Duke of York, Morgan, Carnegie, Wanamaker, Armour, Swift, and in all more than 50,000 wealthy and imposing signatures.

His last acquisition is the name of Mayor Baker, signed to the following proclamation:

"Portland, Or., July 31, 1932.—I hereby commission Joseph F. Mikulec to tell the world that Oregon will hold at Portland, Or., a world's exposition in 1935. We invite all the people to come to our city and enjoy with us the wonders of the great northwest."

The city seal is affixed to the proclamation.

Mr. Mikulec left Croatia (Slavonia) in 1901 and has traveled through 25 nations. In his book every city of importance occupies a few pages.

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STATE PRISON ROMANCE CULMINATES IN MARRIAGE OF EX-PORTLAND POLICEMAN AND WOMAN SLAYER.



Hazel Irwin and Clyde J. (Red) Rupert, who wed at Marshfield as result of penitentiary love affair.

HOSPITAL WILL BE BUILT

EUGENE BIBLE UNIVERSITY
DECIDES ON PROJECT.

Sanitarium to Be Included and
Institution Will Be Training
School for Mission Nurses.

EUGENE, Or., July 31.—(Special.)

The Eugene Bible university soon will begin the erection of a hospital and sanitarium in Eugene, according to announcement this afternoon of E. C. Sanderson, president, after a meeting of the trustees of the school at which it was decided to go ahead with plans which have been in contemplation for some time past. Dr. Sanderson said that it is planned to make an initial expenditure of \$100,000 on the two institutions, which will be located in different parts of the city, and as the demands for more room grow the buildings will be enlarged. Negotiations for the purchase of the Mercy hospital, a Catholic institution here, had been under way for a number of weeks, but failing to make the deal the trustees of the Bible university decided to build.

Selection of a site will be made in a few days, said Dr. Sanderson, and arrangements will be made immediately afterward for the erection of the buildings.

Dr. Sanderson said that both buildings will be of fireproof material and that the hospital will have 100 beds at first. He said it is the intention to install modern equipment. It is understood that the institution will be a center for the training of nurses from all over the United States to be sent to foreign countries as missionaries.

Obituary.

Barbara B. Baltimore.

The funeral of Mrs. Barbara B. Baltimore, who died Sunday at her home, 456 East Eighth street North, will be held this afternoon at 2 o'clock from the McIntee & Eilers funeral parlors. Services will be conducted by Dr. S. K. Dufosse. Interment will be in Mt. Scott cemetery beside the grave of her husband. The pallbearers will be E. P. Nutting, A. C. Ruby, T. A. Hayes, J. M. Pollock, W. H. Ross and E. N. Hill.

Mrs. Baltimore had been a resident of Portland for more than 50 years. She was born in Lima, O., September 24, 1853, and came to Oregon in 1871. She attended Albany college. In 1874 she was married to William W. Baltimore, who died four years ago.

The deceased was a member of the Grand avenue United Presbyterian church. She is survived by her daughter, Olive Baltimore, who lives in Washington in Washington high school, and her brother, Dr. D. M. Brower, of Ashland, Or., besides a large number of relatives outside of Oregon.

Mary Porter Cunningham.

HARRISBURG, Or., July 31.—(Special.)—Mary Porter Cunningham, who was born in Indiana in 1836, died suddenly at her home here last Friday. Funeral services were conducted by Rev. Mr. Appleberry at Jefferson at the home yesterday afternoon. Interment was in the Masonic cemetery here. Mrs. Cunningham was married in Missouri in 1853 to Marion Cunningham. In April, 1853, they began the journey across the plains to this state, where they arrived in October of the same year.

S. H. Elliott.

LEBANON, Or., July 31.—(Special.)—S. H. Elliott, a resident of Lebanon for the last 16 years, died at the family home Sunday at the age of 60. He came to Lebanon in 1897 and engaged in the mercantile business. He was a prominent member of the Elks, Oddfellows and Knights of Pythias lodges. He is survived by his widow, Alice Elliott, a stepson, Lester M. Martin; a sister, Mrs. W. E. Merchant of Lebanon, and a brother, George F. Elliott of Seattle.

Refuse is cleaned up.

Urgent Requests of Residents of
St. Johns Are Heeded.

The city cleaning department has at last heeded the urgent requests of the residents in the University Park and St. Johns districts and cleaned up the garbage heaps and refuse which have been the source of complaint for several weeks. Early this summer a notice to the effect that a clean-up campaign was to be inaugurated had been misconstrued by the residents of the district and they have immediately cleaned vacant lots and yards, piling the refuse on the street corners, where it was supposed the city would gather it up and haul it away, but the city had made no such promise.

Finally, after several complaints had been made, an investigation revealed the fact that the best way to get the matter settled would be for the cleaning department to take a hand, and it did.

GIRL PURSUES ROBBER

Miss Ruth Walker Forces Thief
to Disgorge Loot.

Details of an exploit, in which a plucky girl pursued a burglar and forced the thief to disgorge the loot which he had previously stolen at

her camp, were brought to Portland yesterday by G. Tonseth, local florist.

The family of H. L. Walker, Southern Pacific official, had been camping with the Tonseth family at a summer camp, three miles up the Washougal river. Early Thursday morning a youth broke into the camp, breakfasted at the cook shack and after eating his fill, entered a tent in which Miss Ruth Walker and her mother were sleeping.

The thief took a watch, some money, then picked up a flashlight and covering the intruder, forced him to drop the flashlight.

The burglar backed out of the tent and disappeared down the road. Miss Walker hurriedly dressing, saddled a horse, and with the revolver in her hand, went in pursuit. A mile from camp she overtook the man and forced him to return the watch and money. Not caring to prosecute, the girl released her prisoner but returned to her camp with her property.

HECKER RETRIAL DENIED

COURT OVERRULES MOTION
BASED ON MISCONDUCT.

Separation of Women Jurors
From Men During Deliberations Held to Be Regular.

OREGON CITY, Or., July 31.—(Special.)—Motion for a new trial for Russell Hecker, convicted murderer of Frank Bowker, Portland musician, was denied by Circuit Judge Campbell this morning. Notice of appeal was given by Gilbert S. Hedges, one of the attorneys for the defense.

The new trial plea was based upon contentions of misconduct of the jury. It was alleged by the defense that the separation of the women and the men on the jury for a short period during the process of their deliberation was contrary to law and made the verdict illegal. The women, who numbered five, were allowed to leave the jury box and go across the hall.

Judge Campbell ruled that on account of the nature of the court building and in view of the affidavit of Thomas Hiller, bailiff, that the women were under his supervision, crossing the hall and that they spoke with no one during the time they passed out of and into the jury box, the incident could not be regarded as a separation of the jury within the meaning of the statutes.

Hecker is in the penitentiary at Salem under sentence to be hanged on September 22.

PRIZE DUROCS ARE SOLD

Williamette Breeder Ships Four
Blooded Swine to Montana.

OREGON CITY, Or., July 31.—(Special.)—George Debock, well-known Duroc Jersey breeder of Williamette, has shipped four prize stock to C. M. Reed, swine-breeder of Haulton, Mont. This is the third shipment recently sent from the Debock farm. Four were sent a few weeks ago to Argo, Coos county, the purchaser being J. B. Moomaw.

C. W. Culberson, hotel owner, of Portland, whose ideal farm home is located at Canby, is among the recent purchasers of the Durocs from the Debock farm. He has purchased five head.

RED RUPERT WEDS
PAROLED SLAYER

Hazel Irwin Becomes Bride
After Prison Romance.

PAIR MEET AT MOVIES

Messages Exchanged While Both
Are Serving Term; Couple
Work in Marshfield.

A state prison romance which had its inception when both were serving time at the state penitentiary at Salem two years ago resulted in the marriage at Marshfield last Friday of Clyde J. (Red) Rupert, ex-Portland policeman and bank robber, and Hazel Irwin, who was the convicted accomplice of William R. Tanner in a brutal murder in Portland in 1912.

Both Rupert and his bride are employed at the College Inn restaurant at Marshfield. Reports from Marshfield state they will continue to reside in that city. Mrs. Rupert is now on parole from the penitentiary and must report to the prison of signals every month. It is thought she first had to gain the consent of the prison authorities before she could be married.

How "Red" Rupert won the coming woman convict away from her ex-lover, Willard Tanner, while all three were behind prison bars is now a state prison tradition. It was during the frequent movie picture shows given to prisoners in the prison auditorium that Rupert and Hazel Erwin first met. By a code of signals used by prison convicts man and wife were able to communicate each other during those frequent meetings.

Later, according to prison tradition, Rupert was able to bribe a sympathetic trustee to carry messages between himself and Miss Erwin and during those lonely months before both gained their freedom the love affair grew apace.

When he was released a year ago Rupert boasted to prison authorities that he would wed Hazel Erwin as soon as he had done his "bit" in the state prison. His state prison sweetheart had remained faithful to him until he was again a free man and until they had both procured employment and settled down in an effort to forget the past.

Crimes Highly Sensational. Both Rupert and his bride figured in Portland crimes which, at the time they were perpetrated, were highly sensational. It was late in the winter of 1917 that Rupert stole \$15,000 in liberty bonds from the Northwestern National bank. He was employed as a special guard.

Rupert at one time had been a sergeant on the Portland police force, but had been discharged for gambling. He was known throughout the northwest as a football and baseball player, and for several years managed semi-professional baseball teams in the city. His theft of the liberty bonds from the bank was so crudely manipulated that he was quickly arrested and convicted.

He was sent to the penitentiary on March 6, 1918, to serve a term of five years. On March 16, 1919, he escaped while employed at the state time plant near Gold Hill. It was not until July of that year that he was captured in California and returned to prison, where he served a five-year term for the same bank robbery. He was in the federal prison until about four months ago, when he procured his release by virtue of a pardon granted by President Harding.

Upon his release from McNeil's island Rupert returned to Portland and asked Police Chief Jenkinson to aid him. The chief advised Rupert to go to some point outside of Portland and settle there in an effort to "do down" the past. Rupert took this advice and went to Marshfield.

where he took charge of the baseball team, later resigning to work in the restaurant where he is now employed.

It was in 1912 that Hazel Erwin was convicted as an accomplice of Willard R. (Doc) Tanner in the brutal slaying of Ray W. Wallace at a rooming-house on Alder street. Both she and Tanner were convicted of manslaughter and sentenced to from 1 to 15 years in prison.

It was on the night of June 20, 1912, that Miss Erwin lured Wallace to a rooming-house on Alder street, thinking he had a considerable quantity of money. A few minutes later her consort, Tanner, entered the room and killed Wallace with a railroad spike wrapped up in a newspaper. The body of the slain man was found several hours later at a rooming-house on Alder street. Tanner and Miss Erwin had fled immediately after the crime, but both were later captured.

Although their minimum sentence expired in one year, both were kept in prison for eight years before they won their freedom on parole. During all these years in prison they remained faithful, until Rupert appeared on the scene and won Miss Erwin away from Tanner.

Tanner in Woman's Cell. On September 29, 1916, Tanner was reported as having escaped from the prison, but ten days later he was found secreted in Miss Erwin's cell in the women's ward. He had been in hiding all that time.

Tanner at the time was employed in the prison shoe shop, which is adjacent to the women's ward. Whether he donned women's clothing and thus procured entrance to the ward or cut a secret passage way from the shop to the ward is not known. But during those ten days he was fed from food which Miss Erwin managed to save for him from her own prison fare.

Miss Erwin was paroled from the penitentiary on June 1, 1920, and Tanner was directly to Miss Erwin's home later, July 5. Miss Erwin went direct to Albany, where she remained until about three months ago, when she joined Rupert at Marshfield.

Tanner, who was a flashy baseball player and for several years was captain and catcher of the prison team, went directly to Miss Erwin's home in Albany. He has since married and settled down and is making good in every sense of the word, according to reports from the prison authorities. He reports to the parole officer once each month.

After he had been convicted of bank robbery, Rupert's first wife divorced him and moved to California. It was his love for his son, who was with Mrs. Rupert, which caused "Red" to escape from the prison time plant. He was captured when he went to visit his boy in southern California.

Three More Strike at Roseburg. ROSEBURG, Or., July 31.—(Special.)—A decision of union officials that men doing the same class of work as men out on strike must quit such work, even though they belong to a different union, today caused three more railroad workers here to join the striking forces.

Fashionable Woman Surprises Friends

"Speaking of a shock, I had one yesterday. But before I tell you let me ask you if you have seen Emily lately? No? Well, yesterday I got in the Rose City Park car behind an attractive woman. I noticed how neatly and fashionably she was dressed and how well she wore her clothes. When she got up I saw it was Emily. I nearly fainted. I hadn't seen her for months and she wasn't the same woman."

"Evidently not, if she was neat and fashionable. She has always been terribly careless about her dress."

"Well, we got off together and as she noticed how shocked I seemed to be she told me all about how her husband was getting sort of inattentive and not quite so anxious to be in her society. You know how some men are? Well, she said it worried her sick. Finally she realized that she was terribly careless about her clothes, so she began having her hair marcelled and got her a lot of new things and she says Walter is as devoted as ever. And just think! She told me where she gets those good-looking clothes—Cherry's—on credit! Yes, she says she is able to find such satisfactory things there and right now Cherry's are offering one special sale some high grade suits and dresses, and, in fact, general reductions in so many things which make them very good bargains." 219 Morrison street, second floor, elevator up.—Adv.

Pep-O-mint
Wint-O-green
Cl-O-ve Lic-O-ric
Cinn-O-mon

5¢

get yourself a package today and increase your smoke enjoyment

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LIFE SAVERS
THE CANDY MINT WITH THE HOLE

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