

PASSENGERS PLUNGE

Drop Seventy Five Feet Down a California Embankment.

CASUALTIES ARE SLIGHT

Spread Rails Cause Train to Break in Three—Middle Section Filled with People Goss Over High Bank.

SAN JOSE, Cal., Dec. 24.—Eighteen were injured, several seriously, and a whole trainload of three score passengers were severely shaken up this morning when two day coaches and the baggage car of the Southern Pacific passenger train bound from Oakland to Wright's left the track on a curve near Birmingham and plunged seventy-five feet down an embankment. That many were not killed is due to the fact that the train had slowed down before it struck the curve. It is supposed that spreading of the rails caused the accident. The engine and the first combination car and the mail and baggage car had passed safely around the curve when the second car broke its couplings and plunged down into the river channel, followed by the smoker and the chair car, both of which were filled with passengers. The passenger coaches slid off the right of way seventy-five feet below the track. Many were able to find their way out of the wreck, crawling through broken windows or along the slanting ceilings to the doors. The injured were removed in the baggage cars, which had remained on the rails, to Los Gatos.

NEW AMBASSADOR PREPARES.

Winds Up Public Affairs Before Coming to This Country.

DUBLIN, Dec. 24.—James Bryce, who is to succeed Sir Mortimer Durand as British ambassador at Washington, has returned to the chief secretary's office in the castle and is busy winding up public affairs there preparatory to handing over the post to his successor. It is understood that Mr. Bryce will leave for Washington about the middle of February.

There is an increasing tendency in Dublin to regard Augustine Birrell, the president of the Board of Education, as the most probable successor to Mr. Bryce as chief secretary to Ireland.

CHARGE ILL PLACED.

Case Against Standard Oil Company Should be Before Common Pleas.

FINDLAY, O., Dec. 24.—Judge Duncan of the Common Pleas Court, today decided that the information filed in the Probate Court against the Standard Oil Company on the charge of violating the Valentine anti-trust law was illegal and that the case should have been filed in the Common Pleas

Court. Judge Duncan upholds the contention of the Standard Oil attorneys that the Probate Court has no jurisdiction in the matter; that if there should be a violation of the law the prosecutor should have proceeded against the company through indictments.

The verdict returned in the Probate Court against the Standard, namely guilty of violating the anti-trust laws, is therefore annulled, but today's decision in no way affects the indictments returned in Common Pleas Court by that grand jury against John D. Rockefeller and the other officials of the Standard Oil Company, charging them with violating the anti-trust laws.

FIGHT ON ROOF.

LOS ANGELES, Dec. 24.—At an early hour yesterday morning a policeman and a burglar fought an exciting duel with revolvers on the roofs of the buildings adjoining a lodging house at 423 East Third Street. The place has been entered several times of late, presumably by the same person, and Policeman Humphries was detailed to watch for the burglar. Shortly before daylight he detected a man on the roof to which he immediately ascended. The policeman's demand for surrender was answered by a shot. Humphries returned the fire and the two, dodging between chimneys and skylights, as they ran, crossed several buildings before they emptied their revolvers. The fugitive finally plunged through a glass skylight and made his escape.

FIGHT ELECTRICIANS UNION.

SAN FRANCISCO, Dec. 23.—A lock-out which will involve nearly 300 workmen and tie up building operations is threatened. Representatives from seventy contracting electrical firms met today and so informed the electrical employees. The object of the organization is to fight the demand for a minimum wage scale of \$6 a day which the members of the Independent Brotherhood of Electrical workers will try to put into effect after January 1. The resolution calling for the demand of \$6 a day was adopted on December 19 by the Electrical Workers.

FOR STARVING CHINESE.

WASHINGTON, D. C., Dec. 24.—L. Klopsch, editor of the Christian Herald, was the first to subscribe funds for the relief of the starving Chinese, in response to the President's message. Mr. Bacon, the assistant secretary of state, and a member of the executive council of the American Red Cross, received \$5,000 from Mr. Klopsch to be expended in China by the Red Cross.

COAL WAS CONFISCATED.

OMAHA, Dec. 24.—J. E. Woodward & Co., coal dealers, operating a mine at Diets, Wyo., this morning brought suit for \$20,000 against the Burlington Railway Company for coal alleged to have been confiscated recently and secured from the Federal court a temporary injunction against further confiscation by that company.

The Morning Astorian 60c. per Mo., Delivered by Carrier.

LAW OF RECIPROCAL DEMURRAGE

TEXT OF ATTORNEY MUIR'S OPINION ON THE CONSTITUTIONALITY OF THE PROPOSED LEGISLATION—CLOSELY REASONED.

The following is the opinion submitted by Mr. W. T. Muir, of Portland, attorney for the Oregon and Washington Lumber Manufacturers' Association, regarding the proposed Reciprocal Demurrage Legislation.

"Oregon and Washington Lumber Manufacturers' Association, Gentlemen: I have been able to consider the question of the power of the State of Oregon to enact legislation providing for a reciprocal demurrage charge applying to railways and shippers, sufficiently to state, that, in my judgment, this may be done without violating the interstate commerce clause of the Federal Constitution. The Supreme Court of the United States in Houston & Texas C. Railroad Company vs. Mayes declared certain sections of the Texas railway law fixing a reciprocal demurrage charge void because the law as framed was an invalid exercise of the police power of the state, three of the justices dissenting from the majority opinion. The Texas statute provided for a charge of \$25 per car a day for each day's delay in furnishing or unloading cars; the charge to begin to run from a time specified, and permitted of no excuse for failure to furnish cars ordered except in cases of 'strikes and other public calamities.' The limited reasons specified as valid excuses for the omission to furnish cars ordered caused the Supreme Court to declare the law on these points invalid.

"In the course of its decision the court admits the right of the states to make reasonable rules with regard to the method of carrying on interstate business not in conflict with regulations upon the same subject enacted by Congress, and provided, also, that such rules shall be consistent 'with the general requirement that interstate commerce shall be free and unobstructed,' and provided that such rule shall not amount to a regulation of such commerce. The court declined to define the limits of this power of regulation and in so doing used these words:

"The exact limit of lawful legislation upon this subject cannot, in the nature of things, be defined. It can only be illustrated from decided cases, by applying the principles there enunciated, determining from these whether in the particular case the rule be reasonable or otherwise."

"The Supreme Court of the United States, in Chicago, M. & S. P. Ry. Co. vs. Minnesota, 10 Sup. Ct. Rep., pp. 462, 703, while declaring invalid the law of Minnesota authorizing the railroad and warehouse commission to compel common carriers to change the rates in force and adopt such changes as the commission 'shall declare to be equal and reasonable,' without providing for any hearing before the commission, announced with some dissent, that the Legislature may constitutionally confer upon a commission the right to regulate, and in effect to make transportation rates. This being so, I can see no reason why the power may not be conferred to a commission to fix and suspend demurrage charges.

"Considering these decisions, I can see no reason why an effective reciprocal demurrage law cannot be enacted. And I suggest that any one of the following methods may be adopted:

"First—By establishing a fixed sum prescribed in the statute limited in amount and enforceable under such conditions as will not amount to a regulation of interstate commerce, or be an unreasonable exercise of the police power.

"Second—By prescribing the minimum and maximum amount of the demurrage charge, giving the commission power to suspend in certain instances either at the discretion of the commission or for certain defined reasons and for periods of time covering an emergency, and power from time to time to fix the rate at any intermediate figure between the maximum and minimum limits.

"Third—By conferring upon the commission the power in their discretion to fix the demurrage charge and suspend it in appropriate instances.

"The question of the method of enforcing the charge or collecting the amount due any person or common carrier I am not now clear on. Concerning this I will be glad to state my views later. WILLIAM T. MUIR."

SERVICES AT ST. MARY'S.

A. Von La Haches Beautiful Mass Pro Pace This Morning.

At 10:30 this morning an elaborate and impressive mass will be held at St. Mary's church in this city. The choir of fifteen picked voices under the personal direction of Mrs. Minnie Brooks, will render La Haches' great mass in a fitting manner. Among the solos that will be given are the following:

Adeste Fideles, by Miss Anna Mikkelsen; Holy Night, by Miss Grace Reynolds; Et in Carnatus Est, by Miss Alice Woods; Et in Spiritum, by Geo. W. Lerner; and the Agnus Dei, by Frank Carnahan.

The members of the choir are: Sopranos, Misses Alice Woods, Grace Reynolds, Anna Mikkelsen, Anna McGee and Mrs. Austin Osborne; contraltos, Misses Kate Sinnott, Alice O'Connor, and Louis Carnahan; tenors, Messrs. Will Johnson, Otto Mikkelsen and Joseph Moore; basses, Geo. W. Lerner, Frank Carnahan, Ernest Strunz and James Vernon. Mrs. Minnie Brooks is director and organizer.

There will be services at 8 o'clock at St. Mary's Hospital. At 8 there will be children's mass with children's choir at St. Mary's church. At 10:30 o'clock Reverend Father Dielman will open the services announced above.

ROB POSTOFFICE.

Thieves Secure Three Hundred and Fifty Dollars at St. John's.

PORTLAND, Dec. 24.—Burglars entered the St. John's Postoffice in the McChesney building last night and looted the strong box and cash drawer. The thieves secured \$200 in money and about \$150 in stamps and made their escape without arousing the roomers on the floor above, the marshal or night watchman who were walking their beats in the vicinity.

The theft was not discovered until Postmaster Valentine opened the office this morning and news of the robbery did not gain general circulation until this morning. The police of Portland and the postoffice inspector here heard of the burglary before the owner of the building, who was sleeping in the room over the office, knew of the robbery.

The St. John's police, assisted by the sheriff's office will endeavor to trail the offenders, but nothing was left behind by the burglars to serve as a clue, and the police of the town can't even make a guess. No suspicious characters had been noted on the streets of late. That the work was that of experts, who had closely watched the office and knew the entire situation, is considered evident by the officers who have investigated. The "job" is termed a "mighty clean and clever one" by the town police. The office furniture was left by the thieves, but nothing else of value.

SENTENCED TO DEATH.

Four High Russian Naval Officers Condemned for Surrendering Ships.

ST. PETERSBURG, Dec. 24.—The court martial which has been trying Rear Admiral Nebogotoff and seventy-eight officers of his squadron for surrendering to the Japanese in the Battle of the Sea of Japan, handed down decisions tonight. Nebogotoff, Commander Lichino, Rear Admiral Greforietoff and Lieutenant Smirnoff were sentenced to death, but in view of the extenuating circumstances and the long and otherwise blameless careers of these officers, the court petitions the Emperor to commute the sentences to ten years' imprisonment. Four other officers are sentenced to short terms, while the remainder of the seventy-eight are acquitted.

STRIKE SHUTS GATEWAY.

NEW ORLEANS, Dec. 24.—New Orleans, the gateway for transcontinental freight to western points, was almost completely closed today by the Southern Pacific strike. Despite the tie-up, local Southern Pacific officials announced themselves uncertain whether the strike would prove serious. It was said that passenger trains are moving as usual, though it may be some days before the company knows what it can do about moving freight.

RUSSIANS FEAR RETRIBUTION.

ST. PETERSBURG, Dec. 24.—The funeral of Count Ignatoff, killed Dec. 22 at Tver, will take place tomorrow. The murder of the Count has caused consternation among a number of ex-officials of the Von Plehve and Siplagun regimes, who have retired from the field of active administration. They fear that their past records will expose them to the same danger of belated retribution.

The New York Credit Company wishes its many customers a Merry Christmas and a Happy New Year.

J. Q. A. BOWLBY, President. RANK PATTON, Cashier.
O. I. PETERSON, Vice-President. J. W. GARNER, Assistant Cashier.

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