FIGHT FOR BANKERS

Attorneys Consume Entire Morning Arguing to Defeat Indictments Returned Against Officials of Title Guarantee.

"The contention of the state in this case, if sustained, would put a stigma on many bankers who have been advised and believed that they were not doing wrong," said Charles H. Carey in arguing the demurrer in the case of J. Thorburn Ross, T. T. Burkhart, John B. Aitchison and George H. Hill in the circuit court this morning.

"Do you mean to say," interposed Martin L. Pipes, the special prosecutor who argued the matter for the state, "that any lawyer would advise a banker that it was not wrong for him to receive deposits in an insolvent bank when he knew it was insolvent?"

"Counsel is here trying to confuse the legal definition of insolvency and penal liability under the law with the moral wrong of a banker who receives deposits under such conditions," replied Carey. "No, I do not say that a lawyer would advise the banker to commit a moral wrong, but counsel knows that moral wrongs are not always covered by penal statutes. The question here is whether the law providing a penalty for receiving deposits under certain conditions was in effect in this case."

Claim Law Not Effective.

The above is one of the interesting colloquies that took place between the opposing attorneys in the course of the argument, which lasted all morning. Wallace McCamant, representing Ross, made the opening argument, being followed by Judge Pipes for the state. Mr. Carey closed. District Attorney Manning was present, but took no part in the argument. Judge Gantenbein presided, Judges O'Day and Bronaugh sitting with him.

The contention of the defendant's attorneys in this case rests on somewhat different grounds from the other three cases, argued some time ago before Judge Cleland. They assert that the law of 1907, which imposed a fine of $1,000 and imprisonment for two years upon owners and officers of banks who receive deposits when they know the bank to be insolvent, was not in force as applied to banks in existence when the law was passed, and that it will not be in force as to such banks until November of this year.

It is contended that the legislature postponed the operation of the law so that banks might have ample time to make necessary business changes to comply with the provisions of the new act. The section which is thus interpreted reads as follows:

"Within 18 months after the taking effect of this act all such banks shall conform to and in all respects comply with all the provisions of this act and be subject to the examination and the penalties herein provided."

Mr. McCamant in his argument pointed out that all doubt in construction should be resolved in favor of the defendants. He said that there is not a bank in the state that is now complying with all the provisions of the act, and if the court holds the law in force wholesale prosecutions of bankers would be in order.

Think Distinction Too Fine.

Judge Pipes, replying for the prosecution, said it could not be supposed that there exists a criminal statute by which a man who has become a banker since May, 1907, when the act in question was passed, might be guilty, while one who was then a banker would not be guilty.

Under such construction two bankers engaged in business side by side and doing the same things would not be equally liable. One might go to the penitentiary and the other be free to continue in the same conduct.

The speaker contended that so far as the act prohibits and imposes penalties it is in effect, but that the conditions to be complied with are postponed for 18 months from the time the act was passed.

Mr. Carey's closing argument took much the same line as that made by McCamant. He asserted that Pipes has tried to draw too fine distinctions and is attempting to have the court perform a legislative act that the legislature did not provide for.

At the close of the argument Judge Gantenbein announced that the matter would be taken under advisement and a decision given at an early date. It is expected that the ruling on the demurrer in this case and in the other cases argued before Judge Cleland will be rendered next week.

INDORSE DIRECT PRIMARY BUT AVOID STATEMENT NO. 1

Indorsement of the direct primary law and a pledge of the party to its support; the supremacy of Republican principles above personal ambition or private motive; the reenactment of the employers' liability act; liberal appropriations for public institutions of learning, division of Multnomah county into legislative districts, exclusion of Asiatic laborers; direct election of United States senators, new and stringent banking laws, improvement and development of rivers and harbors. These are the cardinal points of the platform reported to the convention this afternoon.

The report of the committee was signed by every member. Ben Selling alone dissented from the entire platform, he being in favor of the absolute indorsement of Statement No. 1. For the sake of harmony, however, he concurred with the remainder of the committee in making no recommendation on the statement. The majority of the committee favored Statement No. 1, but for the sake of harmony did not deem it wise to bring the question of its indorsement before the convention in face of the certain opposition of the Hodson-Bailey-Beach machine delegates.

In indorsing the primary law the platform says:

"We believe in the nomination of all candidates for public office by direct vote of the people. We, therefore, endorse the primary election law and pledge to it our most hearty support."

In urging harmony the platform goes on record as saying that no man should seek a Republican office unless he holds the success of Republican principles above the achievement of personal ambition or the gratification of personal enmity. The plank recommends that every candidate sign a pledge that he will at the June election support the successful nominees of the Republican party.

B. F. JONES RUNNING ON STATEMENT ONE

(United Press Leased Wire.)

Salem, Feb. 29. — Benjamin F. Jones, of Independence, has filed his petition for nomination for representative for Polk and Lincoln counties on the Republican ticket. He agrees to Statement No. 1.

All Modern Woodmen requested to attend funeral of Neighbor A. E. Skinner of North Dakota at Finley's parlors, 11 a. m. Sunday. Has no relatives here.

PRINCIPALS DOWN STUDENTS' PARADE

Believe That March Would Be Detrimental to Interest of School Standards.

By an overwhelming vote the school principals of the city this morning registered their opposition to having the school children participate in the parade which had been planned for Rose Festival week. It was the consensus of opinion that from the standpoint of the good of the schools the parade would be highly undesirable.

Although the meeting was called by Superintendent Frank D. Rigler and Mrs. L. W. Sitton merely to secure the opinions of the various principals the action taken this morning, coupled with the fact that the Woman's club went on record yesterday afternoon as against the parade, will probably influence the board to vote against this feature of the festival. Mr. Rigler and Mrs. Sitton will make their report at the next meeting of the board on March 9.

Large Majority.

In order that the principals might express themselves freely the session was executive. Out of 38 principals 35 announced that they were against the plan, two said they were in favor of it and one was noncommittal.

The objections made against the children's marching were:

First—That it disrupts the work of the schools at the time when teachers and pupils are busily prepared for final examinations, and when the school work is the heaviest. Any time that would be spent preparing for drills would necessarily have to be taken from studies.

Second—Many parents are opposed to having their children take part in the drills and the tiresome march. They thought that the majority of parents in their districts were against the idea, at any rate the parents of the children who would make the best showing in the parade.

Third—They considered the parade would be injurious to the health of the young girls.

Fourth—The conditions of the parade and length of the march were very objectionable last year and probably could not be eradicated next time. Most of them are inherent difficulties which even careful management would be unable to avoid. With 3,000 children in line, for instance, the parade would be at least one mile long and the line of march could not very well be less than that. The weather too is very uncertain and it is apt to be very warm.

Idea Wrong.

Those four objections covered the majority of points raised by the principals. Some thought that it would teach the girls immodesty to parade, others thought that the entire idea was wrong.

Professor J. Burnham of the Couch school said after the meeting that he believed if there was to be any spectacle at all the children should be allowed to participate in it. He said that anything of a demonstrative nature was natural in human beings, especially so with children who are emotional. If well handled, he said, no feature of the festival would be more attractive.

He suggested that instead of the parade the evolutions be held in some square such as the Multnomah field, where the children could be drilled and could go through their evolutions without having to march at any great length. This suggestion was concurred in by several other principals.

CARROLL ARRESTED FOR ANCIENT CRIME

Woodburn Postoffice Robbery Aired Before United States Commissioner.

John H. Carroll, better known as "Sailor Jack," who fishes in the summer and who, during the winter—well, he doesn't fish—was before United States Commissioner Sladen this morning, having been arrested at Woodburn on a charge of robbing mail pouches from the Southern Pacific passenger station. Carroll was released upon his own recognizance to appear before the commissioner again on March 9.

E. C. Clement, postal inspector, has been working on the case for several weeks and Carroll's arrest yesterday by Marshal Riddle at Woodburn was the result. Carroll was brought to Portland last night by Clyde Nicholson, deputy United States marshal.

Pouches Stolen.

Carroll has been making his home in Woodburn during the winter time for the last six years. In the summer he works for the different fish companies along the river.

Several mail pouches were stolen from the Woodburn station last December and since then the authorities have been endeavoring to locate the perpetrators.

Carroll, some years ago, turned state's evidence against "Bunco" Kelly, having been mixed up in the case.

HAS THE HABIT, HAS NUMBER SIXTEEN

No. 16 from Frisco has the habit. She was late again today.

Northern Pacific, No. 1, due at 7 o'clock, arrived on time.

Southern Pacific, No. 16, due at 7:55, arrived at 8:15.

Southern Pacific, No. 18, due at 11:30, arrived on time.

O. R. & N., No. 3, due at 8 o'clock, arrived on time.

O. R. & N., No. 5, due at 9:45 arrived on time.

Astoria & Columbia, No 21, due at 12:16, arrived on time.

BAKER CITY GAMBLER A SUICIDE ON TRAIN

Baker City, Or., Feb. 29.—Jess Thomas, a gambler, who left Baker City Monday for Chattanooga, Tennessee, committed suicide on a train near Nashville, Tennessee. He had consumption and had suffered a number of hemorrhages. He was going home to his parents. He had lived here a long time.

MAN FOR ATTORNEY NEXT WEEK, MAYBE

(Washington Bureau of The Journal.)

Washington, Feb. 29.—The Oregon delegation will meet next week in the endeavor to reach an agreement on a district attorney for Oregon. It is expected that Senator Bourne will attend the meeting.

Salem Boy for Annapolis.

(Washington Bureau of The Journal.)

Washington, Feb. 29.—Representative Hawley has appointed Thomas L. Gatch of Salem, son of Claude Gatch, to be a cadet at Annapolis, with Mark G. Lafky and William H. Perkins, both of Salem, alternates, as a result of the competitive examination held at Eugene by Dr. William Kuykendall and Superintendent L. R. Alderman.

COURT CALLS DOCTOR LIAR

Judge Conlan Denies From Bench That He Hampers Work of San Francisco Health Board — Jurist Uses Harsh Language.

(United Press Leased Wire.)

San Francisco, Feb. 29.—"Dr. Woolsey is an unmitigated liar," declared Judge Conlan from the bench this morning in the trial of John Bohlmon, wholesale tobacconist at Franklin and Clay streets. "And the other doctor, R. A. Creel, who has not as yet been found, is responsible for a statement that is an 18-carat lie. The action of this court has been backed by the legal representatives of the health office."

Several days ago Bohlmon was arrested on the complaint of deputy health officers for maintaining an unsanitary shop. Judge Conlan granted the defendant a continuance to enable him to place his shop in a better condition.

This morning Bohlmon represented that he had done so, and Judge Conlan dismissed the case. The evidence developed that Bohlmon has contributed $500 to the health campaign.

Dr. Mark Woolsey had charged Judge Conlan with dismissing all the complaints brought before him in health cases, thus hampering the work of the health board. Woolsey claimed to base his charge on the statement of Dr. Creel. No Dr. Creel was found on the list of the health department.

COURT SUSTAINS COUNTY ASSESSOR

Judge Cleland Rules That Corporation Shall Pay Taxes to County.

Presiding Judge Cleland in the circuit court this morning punctured the contention that a non-resident corporation cannot be made to pay taxes on its accounts. The Marshall-Wells Hardware company had sued the county of Multnomah to restrain the collection of taxes on $225,000 of accounts, on the ground that such accounts cannot be taxed except at the home office. The company is incorporated under the laws of New Jersey, and Duluth, Minnesota, is its main place of business.

Judge Cleland said that it would seem that if a corporation undertakes to transact business here it should be amenable to the laws of the state, particularly the tax laws. He said that under the laws of Oregon accounts are under the head of debts due and are taxable.

Sustains Demurrer.

The court thereupon sustained the demurrer of the county to the complaint, leaving the plaintiff out of court.

The point decided is of great importance, as it is practically the same as the contention made by the O. R. & N. railroad in protesting against the assessment of $16,000,000 in book accounts before the board of equalization. The contention of Assessor Sigler in this regard was that such accounts should be taxed. He was sustained by the county board of equalization, and Judge Cleland's decision is along the same line.

SUSPECTED OF BLOWING UP S. P. IRONS' SCOW

H. E. Roberts, who is said to have several other names, and has been employed on the north bank road as a dynamite handler, was lodged in the county jail yesterday afternoon by Deputy Sheriff Beatty. He is booked on the charge of carrying concealed weapons, but is suspected of having blown up the boathouse of S. P. Irons on the Columbia river. He was arrested on the Washington side, but consented to accompany the officer to Oregon territory, where the warrant was served. He was caught in the loft of a farmhouse, where he fled on seeing the officer approach.

Irons' boathouse was blown up Sunday evening during the absence of the owner. Roberts is said to have been seen in the vicinity shortly before the explosion, and to have been seen rowing away afterward. Irons since that time has endeavored to talk to Roberts, but the latter rowed away and avoided him. Finally, according to Irons, Roberts drew a revolver to keep him away. Irons thereupon came to the city and swore to the complaint charging Roberts with carrying concealed weapons.

Roberts once served a year in jail for robbing a store at Bridal Veil. The term began in 1905, when he was arrested at The Dalles.

WARSHIPS TO TAKE ON SUPPLIES FOR TRIP

(United Press Leased Wire.)

Vallejo, Cal., Feb. 29—Great quantities of provisions, clothing and ship stores are being sent under rush orders from the Mare Island navy yard to the Washington and Tennessee, which are preparing for their start today on the southern trip.

Scenes of unexampled activity mark the execution of the rush orders. Scores of men are loading the provisions on barges, which are carrying the provisions and other things to the two warships.

One hundred and two thousand pounds of provisions, clothing and ship stores will go aboard the Washington and the Tennessee will receive 160,000 pounds. Fifty tons of stores have been shipped to the Colorado and Pennsylvania at Bremerton. It is expected that these stores will be sufficient to last until the two ships assemble in the northern cruise in May.

COMMISSION TO HEAR SHIPPER'S COMPLAINT

(United Press Leased Wire.)

Salem, Feb. 29—The railroad commission will hear Tuesday in the chamber of commerce building at Portland the lawsuit of the Multnomah Lumber & Box company against the Southern Pacific company, to compel the latter to connect with the United Railroads, so freight can be handled by the shortest route.

Disreputables Give Bond.

(Special Dispatch to The Journal.)

Roseburg, Or., Feb. 29.—Natella Cole, as she is known in Roseburg, who has gained so much notoriety by being found living in a Chinese den, was bound over on her preliminary hearing to appear at the May term of circuit court, along with two Chinese, Toy Park and Gee Wee. The Chinese furnished bail in the amount of $150. The bail for the girl was fixed at $200, which she furnished in cash.

OREGON IS ROBBED FOR EASTERN FINANCIERS

E. H. Harriman Transfers Eight Million Dollars From Beaver State to Bolster Up New York Brokers Involved in Wobbly Union Pacific Company.

By declaring an extra dividend of $75 per share on its preferred stock, approximately $8,250,000 of the O. R. & N. company's big surplus has been appropriated by E. H. Harriman and his New York associates to the Union Pacific Railroad company, which owns the bulk of the O. R. & N. company's stock. Union Pacific interests actually own $10,993,990 of the O. R. & N. company's $11,000,000 preferred stock issue. This newest and juiciest melon cut by Harriman coterie was raised in Oregon, a state which Mr. Harriman professes to believe not worthy of any considerable additional railroad trackage.

Harriman the Gobbler.

The Union Pacific people own practically all of the O. R. & N. company's common stock issue of $24,000,000, so that the profits from its operation go directly into the pockets of Mr. Harriman and his friends at any time they decide to make a division of existing surplus funds. This time it is said they elected to take the profits because they needed the money to take care of personal speculations growing out of the financial stringency.

The owners of the controlling stock of a railroad are, under the law, enabled to take the profits regardless of any extreme need that the road may have for expenditure of the money on its lines, for betterment or extension. All construction work on three of the most important railroad extensions in Oregon has been shut down since last October, contractors held up, construction camps boarded up and provisions spoiling because of the alleged "financial stringency" at Mr. Harriman's office down in New York.

Harriman the Ouster.

Two years ago other interests attempted to build a railroad into Wallowa county, which is entirely without transportation facilities, and the Harriman people drove them out, fenced up their right of way and started to build a Harriman extension from Elgin to Joseph. This extension is not more than half completed, and work has been at a standstill for months because of the "financial stringency."

Some three years ago independent interests began construction of a railroad from Portland to Tillamook. About 10 miles of the grade out of Hillsboro was completed when Mr. Harriman succeeded in wrecking the company and suspending operations, leaving a ruined contractor and a lot of unpaid workmen. Harriman interests then began construction of the road. A part of the line has been constructed at the Hillsboro and Tillamook ends. The contractors, Robert Wakefield and associates, had well provisioned camps, steam shovels and complete construction equipment on the ground and were hard at work building the track when they were suddenly ordered last fall to shut down because of the "financial stringency." Nothing has been done since on the work. The contractors are wondering whether the Harriman interests intend to use their $8,250,000 O. R. & N. dividends for the purpose of continuing construction on this line.

Started and Quit.

About two years ago the Southern Pacific began construction of a line from Drain to Coos Bay, to give the only rail outlet from the coast country to Portland. Right of way was secured, grade construction well under way for 20 miles and several tunnels opened, when a severe feeling of poverty attacked the Harriman mind and all work was shut down. Some of the contractors are still waiting for the appearance of a bulletin from New York directing them to proceed with construction.

It was announced that last year construction work would be commenced on a railroad to be built from Natron through central Oregon to Vale by the Harriman interests. This road was surveyed and rights of way were partly secured, but there was no money in sight, and the project was evidently dropped or indefinitely postponed.

Rates Go Up.

It is known that the Harriman railroads earn a great deal of money. Reports are to the effect that the tonnage moved by the O. R. & N. railroad last year exceeded by four times the tonnage carried in the preceding year. In any event the amount greatly increases each year, and the rates have a tendency to go up instead of down.

The O. R. & N. company operates 1,245 miles, mostly in Oregon, and some of it in eastern Oregon. Total gross earnings from operation in 1907 were $12,942,815. The expenses of operation—largely increased that year by extraordinary weather conditions—were $6,969,821. In a single year there was a profit of nearly $6,000,000 from the earnings of a railroad system partially covering only two small parts of two states. It has an income from sources other than operation. Last year its rentals were $114,446, sales of lands, $347,467, and it enjoyed the increment comprising $2,405,000 interests on its $30,000,000 surplus.

From the profits it spent practically nothing for betterments, maintenance or extensions. Maintenance of way and equipment were figured into the operating expenses. The expenditures included in operating expenses on account of construction and equipment in 1907 were: Maintenance of way, $1,981,331; maintenance of equipment, $935,481.

WOMAN'S CLUB BY CLOSE VOTE RULES AGAINST PUPILS' PARADE

The Woman's club voted yesterday to uphold the action of the school board in opposing the idea of having the school children take part in the Rose Fiesta parade. A warm debate followed the introduction of the resolution, some of the women speaking as enthusiastic workers for the Rose Fiesta and favoring the presence of the children for the beauty which was thus added to the parade and the drawing power which such a feature would have.

Others as warmly opposed having the children take part in the long march, and many mothers expressed themselves as opposed to the plan, as they feared the double burden which would be put upon the children at a time when they will be already pressed with school work near the close of the term.

Some of the speakers in favor of the resolution feared that an injury to the health of some of the children might be caused by their being upon their feet for so long a time, and that the time lost from their studies in preparing for the drills would be too heavy a tax upon them.

The discussion was animated, and when the vote was taken it stood 34 in favor of the resolution and 28 against it. A resolution was then offered that the vote, with the figures, be given to the press, in order to show that the vote was not unanimous. The resolution was lost.

After the business meeting the club listened to an able address by Rev. William Hiram Foulkes on "The Small College." Dr. Foulkes favored the small college for several reasons, among which are that it makes liberal education possible to many, because it perpetuates the democratic spirit and because it places emphasis upon character.

BLAZING WIG IN PAIL OF WATER

Spokane Woman Saves Her Own and Her Son's Life by Miraculous Nerve.

Spokane, Wash., Feb. 29.—While Mrs. H. B. Graser was frying steak for breakfast this morning the grease in the pan blazed up and set fire to her hair. The flames reached the ceiling and set fire to the paper.

Mrs. Graser soused her head into a pail of water and with the walls blazing about her got her sick boy out of the house. The building was consumed. Mrs. Graser was not seriously burned.

TO FORM PERMANENT HEALTH COMMITTEE

Portland will probably have a permanent committee on the general health as a result of the meetings of the committee of clergymen, physicians and others interested in suppressing the questionable medical institutions of the city. It was suggested at the meeting of the committee yesterday afternoon that some permanent organization be perfected with this end in view.

City Health Officer Dr. Esther C. Pohl, suggested that the committee could broaden its work and take up such matters of general importance as tuberculosis, pure water supply and the sanitation of rivers. A committee will be appointed to take up this question.

District Attorney Manning was present at yesterday's meeting and a long argument took place as to the actual time that manslaughter could be committed in the performing of criminal operations. No progress of material importance was made along this line.

The committee adjourned to meet at the call of the chairman.

SAFE BLOWER SENT UP FOR FORTY YEARS

(United Press Leased Wire.)

Stockton, Cal., Feb. 29.—Fred Ellis, the desperate safe cracker who blew open the safe in the Elite concert hall with nitroglycerin on the night of February 5, was sentenced to 40 years in Folsom by Judge Nutter this morning. A prior conviction was urged against him. Ellis pleaded guilty. The sentence practically means life imprisonment.

OFFICERS COME FOR EMBEZZLER GREEN

New York officers have arrived in the city to take charge of Howard C. Green, who is wanted on the charge of embezzlement and has been in jail here since February 24. He is alleged to have made away with $89,000 and must go back to face trial.

PLEDGES WORK FOR THE PEOPLE

G. W. Dixon of Canby for Legislature on No. 1 and Something Besides.

(Special Dispatch to The Journal.)

Canby, Or., Feb. 29—George W. Dixon, editor of the Canby Tribune, made formal announcement of his candidacy for representative on the Republican ticket today. Mr. Dixon was the first candidate in Clackamas county to come boldly out in favor of Statement No. 1 and promises that if he is nominated and elected he will support the people's choice for United States senator. Mr. Dixon says:

"There is no true republican form of government that is not a government of the people, by the people and for the people. This principle accords the people the right to choose their United States senators, and the representative who is unwilling to obey the will of the people who elect him is not a representative, but a misrepresentative.

Depositors' Security Law.

"If nominated and elected I shall introduce a bill in the legislature creating a depositors' guarantee law, protecting depositors against loss of their money in insolvent banks. According to the last report of State Bank Examiner Steel $8,000,000 has been withdrawn from the banks of Oregon within the last six months because the people are afraid the banks might fail. The law I propose to enact would create a state banking board composed of the governor, the state treasurer and the state bank examiner. This board would levy a tax of one per cent on the total daily average balances of deposits in the banks as shown by the bank examiner's report for the previous twelve months, or six months, as the case might be. This money would be turned over to the state treasury to be used as a liquidation fund for the depositors of any bank that might fail, and when a bank does fail let the state pay the depositors dollar for dollar. The bank examiner can then take over the affairs of the defunct bank. The banks demand security before letting a dollar out of the bank. Why should not the depositors demand security before putting their money into the banks? This law is in operation in Oklahoma and as a result the people of Kansas and adjoining states are taking their money to the Oklahoma banks for deposit. It would benefit the banks by restoring to circulation millions of dollars that are now hoarded away and should be in the channels of trade.

"I shall advocate equality in taxation, or require that the manufacturer shall pay his just share of taxes, the same as the farmer and land owner. I shall advocate better roads and public highways and a more liberal policy toward our public schools and educational institutions. Public money is the peoples' money, and the strictest economy should be required in its expenditure. I promise the people that if they will stand back of me my every official act shall be for the advancement of their interests as opposed to the interests of the corporations and the moneyed power."

REQUESTS THAT ROAD BE REBUILT

Railroad Commissioner Asks That Heavier Rails Be Laid on West Side.

While the cause of the Forest Grove wreck of February 11, when three persons were killed and 29 injured, still remains a mystery, the railroad commission, which filed its report at Salem yesterday, recommends the relaying of the track with heavier steel as soon as possible.

Broken Rail.

The report of the commission in part is as follows:

"In our opinion the direct cause of the accident was the breaking of the northerly rail about 22 feet and 5 inches from the easterly end of the bridge, which caused the derailment of the three passenger coaches. The derailment appears to have followed the breaking of the rail and nothing indicates that the derailment preceded or caused the breaking of the rail. The rail beyond was broken into a number of pieces, apparently by the wreck.

"The rail which failed was a low 56-pound steel rail manufactured either by the Chicago Iron & Steel Works or by the Carnegie Iron & Steel Works in 1882. It served on the main line from 1882 or 1883 until the spring of 1895 and was laid on the West Side division track near Forest Grove in June, 1895. It showed no perceptible wear, but the meeting joint was deflected from a true line a scant eighth of an inch. No flaw in the material was apparent. A piece of the broken ball shows, adjacent to one of the belt holes, what may be old rust extending for about one half inch. It is very difficult to determine the age of this rusty break.

Pieces Missing.

"While the rail was in position in the track this would be covered by the plates and would not be visible unless the angle bars or plate were removed. The exact cause for the breakage cannot be determined beyond doubt. While we have examined with care all of the broken pieces of any of the rails which have been discovered, some pieces are yet missing.

"Three witnesses testified to having seen pieces of rail which showed rusty breaks, but they do not appear to have been attempting to describe the same piece of rail. Some of them disclaimed having made close examination. Some of the testimony seems to apply to the second rail, which in our opinion was not the primary cause of the derailment and which was broken by the impact of the derailed cars.

Inside Guard Failed.

"The roadbed for 60 feet north of the trestle was in better condition than the average for the west side road. The trestle was in good condition, except for the lack of an inside guard rail, which might have mitigated the violence of the accident.

"Examination of the reports of failed rails shows a better record for these old 56-pound rails than for the heavier new steel which the Southern Pacific company has recently put in. This appears to be the experience of all roads.

"Unless chemical analysis discloses some hidden defect it is probable that the exact cause of this particular rail failure cannot be demonstrated.

Heavier Rails.

"The general superintendent and the division engineer of the Southern Pacific company testified that in the year 1906 traffic conditions appeared to justify heavier rails on this division. Accordingly 50 miles of 75-pound rails were ordered for delivery in the year 1907, which, it was contemplated, would be laid on this division between Beaverton and McCoy. The frogs, fastenings, tieplates and larger ties are now on the ground but the 75-pound steel has not been delivered.

"The laying of this heavier steel will practically necessitate a reconstruction of the roadbed and involves ballasting the tract and strengthening of bridges where necessary to support heavier equipment and traffic. The primary object of this investigation is the determination of the cause of this accident. The proceedings are ex parte in nature.

"Further discussion at this time of the condition of the roadbed of the Southern Pacific company as disclosed by our own inspection and evidence before us would not be germane to the investigation of this accident, but we wish to recommend earnestly that the relaying of this track with heavier steel be proceeded with speedily according to the plans outlined by the general superintendent.

"Within the last four years the main line of the Southern Pacific company has practically been reconstructed and naturally this work of reconstruction should now be extended to the branch lines.

OWNER LIABLE EVEN WHEN ACTING FOR CITY

Tenant Can Recover Damages, Says Court, if Razing Building Causes Loss.

Presiding Judge Cleland in the circuit court this morning decided that while the city has a right to delegate to a building inspector the power to determine when buildings are unsafe and may give notice to have the structure removed as unsafe, such action by the inspector does not protect the owner from a suit for damages if the tearing down of the building causes loss to the tenant.

This ruling was given in sustaining a demurrer to a portion of the answer in the case of Hung Sun & Co. against Cornelia Burkhart. The company, which conducted a Chinese merchandise store at 147 Second street, claims $82,419.73 damages for loss caused by the removal of the building which it had leased from Mrs. Burkhart. In the answer the fact that the city inspector gave her notice was pleaded, and it was asserted that she was not liable, because she was compelled to remove the building. Judge Cleland holds that the action of the inspector is not conclusive, and that the question of fact as to whether the building was or was not unsafe remains to be settled in court.

Judge Cleland said that the point is a difficult one, but he believes the city has a right to delegate to an inspector the power to determine when a building is unsafe. At the same time the action of the inspector does not protect the owner from an action for damages, leaving the actual fact to be settled by proof.

FINE EXHIBIT IS TO BE INSTALLED

The Portland chamber of commerce has just closed a five-year lease on its present quarters at a very moderate rental, and work will be immediately commenced by the organization with a view to building up a magnificent exhibit of Oregon products, to be shown in the chamber during the Alaska-Yukon exposition next year, when it is expected thousands of tourists will visit Portland.

LAW BREAKERS CONTRIBUTE HEAVILY

Fines and forfeitures in the municipal court have grown substantially the past year. For February the amount was $2,979.50, as compared with $1,758.50 of last February.

HARRIMAN THWARTED

Attorney Leman Files Suit to Prevent Magnate From Voting Illinois Central Stock—Counterpart of Action Lost by Fish.

(United Press Leased Wire.)

Chicago, Feb. 29.—Trouble from a new quarter has loomed up to cause E. H. Harriman fresh annoyance at a time when he thought all would be smooth sailing for him in selecting his own candidates for directors of the Illinois Central railroad by the voting of shares next Monday. But now comes Henry W. Leman, of the attorneys in the Fish-Harriman controversy, which was recently settled in favor of Harriman, with a suit for injunction to restrain the voting of shares on Monday. It is practically a counterpart of the suit filed by Stuyvesant Fish.

Leman is a stockholder of the Illinois Central.

AMALGAMATED TO REOPEN MINES

Copper Output to Be Resumed and 7,000 Employes Returned to Work.

(United Press Leased Wire.)

Butte, Mont., Feb. 29.—John D. Ryan, managing director of the Amalgamated Copper company, upon arriving this morning announced that all the mines controlled by the corporation, including the Washoe smelter, the largest in the world, would start operation at once. The announcement has caused great joy, for it means the reemployment of 7,000 men laid off in Butte and Anaconda last September. The output of copper will also be resumed.

YAQUIS ATTACK JAP RANCHERS

Three Orientals and Large Number of Indians Killed in Battle.

(United Press Leased Wire.)

City of Mexico, Feb. 29.—Three Japanese and a large number of Yaqui Indians are reported dead as the result of a desperate fight between employes on the Las Militas ranch, owned by E. A. Martines. The Japanese, numbering 20, were attacked by 100 Yaquis, who were beaten off.

COUNTY CLERK CAPTURES PRISONER

John McNuttson, Charged With Larceny, Attempts French Leave at Jail.

County Clerk Fields distinguished himself last night by capturing an escaping prisoner who was scaling the fence around the county jail. Mr. Fields was on his way to his office about 8:50 o'clock, having been called to issue a marriage license, and as he approached the Fifth street entrance he saw the form of a man dangling from the top of the high board fence near the carpenter shop. The county clerk knew something was wrong, and as the man dropped to the ground he ran inside, commanding him to halt. The man made no effort to run or resist and when Fields demanded what he was doing, the fellow replied, "I wanted to see a friend of mine."

"You come with me," said the amateur officer. His prisoner evidently decided that Fields could handle him, for he walked quietly with his captor to the office of the tax collector, where he was turned over to Deputy Sheriff Martin and restored to the jail.

The escape proved to be John McNuttson, a Scandinavian, who is held on the charge of larceny. He had been confined in the old corridor and is supposed to have picked the lock of the door. More than a dozen other prisoners were in the same corridor and at first it was feared that others had escaped. Sheriff Stevens had the jail surrounded, but these precautions proved unnecessary, as McNuttson evidently had taken no one into his confidence. Today he is occupying a steel cell and any idea of liberty he may have had has vanished.

REGISTRATION CLOSE TO FIFTEEN THOUSAND

Registration is now almost to the 15,000 mark. The exact figures, including yesterday, are 14,990, of whom 11,660 are Republicans, 2,618 are Democrats and 772 independents or members of the minor parties.

Yesterday was one of the heavy days, the number of voters who had their names entered being only four less than 400. Beginning Monday the officer of the county clerk will be open until 9 o'clock each night for the accommodation of voters.

Union labor support, to combat the temperance movement, in return for the exclusive use of goods bearing the union label, is the proffer made Chicago saloonkeepers by the Chicago Trades Union Label league. The league is affiliated with both the Chicago and the American Federation of Labor, and its efforts to promote the use of the union label have received the sanction of both bodies.