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The Weather—Fair tonight and Thursday; northeasterly winds.

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JOURNAL CIRCULATION YESTERDAY WAS 30,320

COURT OF APPEALS UPHOLDS THE FEDERAL RATE LAW

COMMISSION WINS OVER RAILROADS

WHAT THE DECISION MEANS

(Special Dispatch to The Journal.)

San Francisco, Cal., Sept. 30.—The lumber rate case was decided on demurrer in favor of the interstate commerce commission. The questions presented were that the law is unconstitutional on the ground that it is a delegation of judicial and legislative powers; it was also claimed that the court could try the case anew, irrespective of the commission's decision. It was contended also that the rates fixed were too low. The decision was unanimously in favor of the commission on all points. The case was argued two days and the questions were exhaustively discussed.

(United Press Leased Wire.)

San Francisco, Sept. 30.—Judges W. B. Gilbert, W. W. Morrow and Erskine M. Ross, sitting in the United States circuit court of appeals here today, virtually upheld the constitutionality of the federal rate law which gives the interstate commerce commission the power to fix railroad rates, when they sustained the demurrer of the commission to the injunction suit of the Southern Pacific railroad and threw the railroad out of court.

The railroad was suing to enjoin the enforcement of lower rates on lumber shipments from the Willamette river in Oregon to San Francisco.

The Southern Pacific attorneys were given until tomorrow morning to attack the rate on other grounds.

The decision is the first of the kind that has been handed down since the passage of the interstate rate law by congress and the victory won by Luther S. Walter, the special attorney for the interstate commerce commission, today means that the railroad company cannot attack the new rate on Oregon lumber shipments on any legal ground and it is desired to have the court review it.

The interstate commerce commission's demurrer and the testimony given by the railroad attorneys at the hearing of the demurrer has shut off any legal attack on the fixing of the rate unless the railroad desires to appeal the case to the supreme court of the United States. Meanwhile, the injunction has not been issued and the low lumber rate will be in effect.

The decision today was on the demurrer interposed by Special Counsel, commission, United States District Attorney Robert Devlin and Joseph N. Teal, attorney for the Western Oregon Lumber Manufacturers' association, to the suit for the injunction filed by the Southern Pacific company, through its attorney, W. W. Cotton of Portland, and through Peter F. Dunne, attorney for the Southern Pacific, asked the court to restrain the enforcement of the low lumber rate on the ground that the commission had no authority to make the rate.

The commission's attorney demurred on the ground that the complaint did not state sufficient cause for action and the whole case was thrown upon the decision in the demurrer proceedings. The decision of the court virtually decides that the federal law of the United States cannot be burdened with rate making.

The railroad attorneys admitted during the course of the argument on the demurrer that the commission had proceeded in the way laid down by law when the lower rate on lumber was made and the attorneys for the commission held that this admission shuts off any inquiry into the methods of the commission.

The decision of the court today favors the smaller lumbermen of Oregon passage of the interstate rate law on lumber from Willamette valley points to San Francisco bay points. The Southern Pacific must continue at least for the present, the rate of \$3.40.

W. W. Cotton, the Southern Pacific's general attorney in San Francisco at the hearing of the case, but will leave for Portland tomorrow. The members of Mr. Cotton's office had not heard of the ruling of the court until shown the above dispatch. Although it is not known whether the railroad will carry the matter into the United States supreme court, it is believed that this action will be decided upon after Mr. Cotton's return.

The result of the decision locally is that the interstate commerce commission is actually in effect at the present time and the attempt of the railroad to gain time has been defeated. Local lumbermen are rejoiced at the decision of the court and it is believed that it will have the effect of boosting the already favorable outlook for the fall and winter.

MEANT TO BLOW UP HIGH SCHOOL

Workmen at Las Vegas, N. M., Find Cache of Caps Pupils Stole.

Las Vegas, N. M., Sept. 30.—Following the discovery today of seven boxes of dynamite caps buried near this place, search is being made for the remainder of 10,000 caps stolen from a local mercantile house by school children several months ago, who confessed their intention of blowing up Castle High school. Some of the dynamite was recovered a short time after the theft and it was believed it had all been safely disposed of, until today, when workmen excavating for a new water road dug up the seven boxes of caps. Enough dynamite was unearthed in the roadbed to have blown up the entire gang of workmen, and they are afraid to continue the excavation, believing that more explosive is secreted near and liable to be discharged by a blow from a pick.

RED LIGHT HAVEN IN CANYONS

Notorious Houses Can Be Established in Washington County, Just Outside of the City Limits—Decision in Milwaukie Case Covers This Case

Proprietors of the disreputable establishments whose inmates have been told to leave the city are today seeking some avenue of escape from the sweeping mandate of the mayor and police chief. There is one loophole through which their attorneys may guide them to an evasion of the ultimatum—and, of course, by keeping within the letter of the law. It is feared by the authorities that a district of rural red lights will be formed just outside the city limits to the westward. By going out on either the Barnes or Canyon roads, Washington county is quickly reached. While the police may forcibly abate anything declared and proved to be a nuisance within four miles of the city limits in the same county as that city, they have no right to take action against an offender in another county. This was shown by the outcome of the case of the Milwaukie club in Clatsop county, ruled by the Portland police.

Practically all of the inhabitants of Washington county would be far away from this proposed district that its presence would not disturb them, while the houses disseminated in Portland could be set up there and the owners defy the Portland police to touch them. The women of the north end have received their orders to get out, and last night two detectives were kept busy visiting the dens and informing the women that they must move—merely to another part of the city, but out of town, unless they would agree to stay here and behave themselves properly. The women will not be molested unless they attempt to fly their roosts elsewhere in the city, but at the first sign that they are not obeying the orders of the police, they will be arrested and locked up in the city jail. The women, of course, do not receive the order to quit and get out kindly. They protest violently and vociferously and some of them are already consulting attorneys to find out whether or not there is not some way by which they can avoid the sweeping injunction of Chief Grillmecher.

TAFT BOOST RESULTS IN KNOCK

Big Manufacturing Concern Makes Scathing Reply to Corporation That Aimed to Coerce Workingmen—Methods Exposed.

By John E. Lathrop. (Special Dispatch to The Journal.)

Chicago, Ill., Sept. 30.—The American Electric Telephone company of this city has made response to the request emanating from the New York Leather Belting company, that in its factory bare it display a sign indicating that the election of Taft will insure immediate resumption of business in the country. The telephone manufacturing company, which maintains a large force with 30 traveling men on the road in normal times, but which just now has three or four on the road, thus wrote a scathing reply to the belting company:

Chicago, July 23, 1908.—New York Leather Belting company, 44 Franklin street, city: Gentlemen—We have your favor of the 23rd inst. asking us to post in our factory the following sign: "Believing that the election of Taft and Sherman means a safe and progressive business administration, the employees of our factory will support this plan on full time and keep going."

We will not do this for several reasons, particularly these: We do not believe it good policy for a business concern to send out campaign literature and we do not wish to post in our factory a statement which would be coercing our employees.

Such a statement on a poster would not be the truth. We could not afford to carry out the promise any better after the election than it was possible in any period of the past year.

Business has been about as poor as possible for upwards of a year and a half. "Which party have you to blame for it?"

Your cry for a business administration has got to be a "chestnut," every man is a business man. Your ideal business men are no doubt those who can by questionable methods get a franchise of some special privilege from the government, start the printing presses on the largest amount of watered stock and bonds and sell them to the widows and orphans, and then try to make "business" out of the vested rights of tomorrow.

Your system of intimidation to the voter (your poster) has got the old system of stealing the insurance and other moneys to carry the election, "beat a mill."

Your cry of disaster every four years if a certain ticket be not elected is doing a great injury to the country. Can't you have a better idea of what a business man is than to make a tool of the voters and appoint our presidents and falling in this let us have a "monarchy." It is the only way you can be consistent. Sincerely yours, AMERICAN ELECTRIC TEL. CO. P. C. Burns, president.

AEROPLANE DEAL GOOD AS CLOSED

French Aviator Orders Manufacture of 50 of the Wright Machines.

Paris, Sept. 30.—With the consent of Wilbur Wright, the great American aviator, Lazare Weiller today ordered a French factory to manufacture 50 aeroplanes built on the same plan as Wright's machine.

Weiller is the head of the syndicate that is going to pay Wright brothers \$100,000 for the French rights to their machine, providing it meets with certain requirements, and it is believed that the order placed with the factory today is anticipatory of the signing of a contract between the Wright brothers and the French syndicate.

THOUSAND REWARD FOR STOLEN BROOCH

San Francisco, Sept. 30.—Spurred to renewed efforts by a reward of \$1,000, which has been offered, police and railroad detectives are searching today for a diamond brooch valued at \$3,000, which was stolen from Mrs. Howard Hamilton Hart Monday night while she was traveling to Oakland on the Oregon express. Why the brooch, which is made up of five large pear-shaped diamonds of great beauty, should have been stolen while other valuables belonging to Mrs. Hart were left undisturbed is puzzling the authorities.

Before retiring Mrs. Hart placed the brooch in a chamois bag and deposited it in a small grip under her berth. During the night she became suspicious and asked the porter to find the grip for her. He did so and without investigating to see if the brooch was safe, she went to sleep again. The loss was not discovered until morning. A reward which amounts to several hundred dollars in the same grip with the brooch.



C. P. STRIKE DECLARED AT END

Winnipeg, Man., Sept. 30.—Though the sounding of whistles today led many to believe that the Canadian Pacific mechanics' strike had been declared off, and though the officers of the union are expecting word from Montreal every moment, at noon no official action had been taken.

It is known that a complete compromise has been reached by the arbitration board. Of the five questions pending, two have been accepted by each side, leaving to be accepted by arbitration the question of union labor. The open shop for the present, is understood to be the basis of the settlement.

SHIP ARMS TO BANDIT CHINESE

Vancouver, B. C., Sept. 30.—Arms and ammunition are being regularly smuggled from Vancouver to aid Chinese bandits and pirates on the western side of the Pacific, according to a discovery recently made on board the steamer Empress of Japan at Hongkong.

On the last visit of the steamer that port a number of trunks with false bottoms were found, in which were several hundred rounds of ammunition and many packages labeled "soap." In some of these there was nothing but ammunition, while in other cases real soap lined the sides and bottoms of the boxes and the ammunition was packed neatly in the center.

SPOKANE BETS ON COMING ELECTION

Spokane, Wash., Sept. 30.—Betting has already opened in Spokane on the presidential election, an even wager of \$100, posted at a local betting resort, that Taft would carry the state by 75,000 majority being taken. Later a wager that Taft would get 50,000 majority in Washington was covered. A considerable sum is now posted, that Taft will have 55,000 majority in the state, but no takers have appeared.

In the same resort a bet of \$5,000 to \$10,000 is being bet that Taft will be elected, but the wager has not been taken.

Jap Minister to Chile

Yokohama, Sept. 30.—Masa Hoki, at present charge d'affaires at the Japanese embassy at Berlin, was appointed minister plenipotentiary to Chile today.

Teddy's Teddy Bear

Dancing to tunes of Republican organs, Damning the trusts, the Jim Hills and J. Morgans; Trying to please merchant, butcher and baker; Trying to sidestep my late friend, Foraker. Dodging dead issues without much compensation; (Using care not to bring up that "injunction.") Matters of "combiners" are not my beat—I'm Teddy's Ted bear fed on Teddy bear meat.

Great Bill's Confession. When he had concluded at Cedar Rapids, Iowa, recently, Mr. Taft was requested to face the crowd on all four sides of the raised platform from which he spoke. As he did this, he remarked with a smile: "I feel like a performing bear."

"Well," was the retort from the crowd. "We are going to give you the ribbon all right." (News report.)

TUBERCULOSIS INOCULATION TEST MADE

Chicago, Sept. 30.—Declaring that the experiments being conducted by Dr. Detre at the Children's hospital at Washington are unnecessary, Dr. Adolph Gerhman, bacteriological expert, today branded the inoculation of the little children with tuberculous bacilli as inhumane and unjust. He denounced as cruel the experimenting with little children who are unable to understand or know what is being done.

Burglar Murders Japanese Cook

Tacoma, Wash., Sept. 30.—Shot through the back of the head while dozing before his fire, a Japanese cook named Kimura was murdered in cold blood at an early hour this morning in the kitchen of the Grand restaurant, 1514 Pacific avenue, by a burglar who broke into the place and took \$7 from the cash drawer. Kimura came from Seattle a week ago and was hired as night cook by a place on the executive board in place of Robert L. Sabin, resigned. Judge Smith is a well-known attorney of Portland and formerly occupied the position of circuit judge.

SUICIDE PACT CARRIED OUT

Seattle, Sept. 30.—Lying in a pool of blood on the floor, the bodies of a man and a woman were this morning found in a room of the Frisco hotel, at First avenue and Cedar street, each with a bullet in the brain. The man had evidently placed the muzzle of the revolver in the temple of the woman and sent a bullet crashing through her skull and then turned the gun on himself.

The children range in age from 2½ to 10 years and were already affected with incipient tuberculosis before they were inoculated. The experiment is being conducted by Dr. Laskus Detre, professor of bacteriology at the University of Budapest, and one of the foremost scientists in the world. The object of the daring experiment, (Continued on Page Five.)

SENECA SMITH AND MONTAG NAMED

Mayor Lane announced this morning that John Montag will be one of the members of the new fire committee to fill the vacancy created yesterday when L. T. Peery sent in his resignation, but did not assign any reason for his action.

The mayor said that he would announce the other two members which he has chosen before the next meeting of the fire committee. Mr. Montag was formerly on the committee and his record while a member was such that the mayor thinks he will prove a valuable aid in carrying out the work of the fire committee in future.

Judge Seneca Smith was appointed this morning to a place on the executive board in place of Robert L. Sabin, resigned. Judge Smith is a well-known attorney of Portland and formerly occupied the position of circuit judge.

BOILING TEA USED IN FIGHT

Sixty Jap Poachers Attack Five Jailers—Prisoners Subdued.

Valdez, Alaska, Sept. 30.—Deputy Marshal Fred Butterworth was seriously scalded and cut and several others were injured last evening in a fight between 60 Japanese seal poachers and their five jailers. The Japanese were dining when the fight started. One of the prisoners attacked Marshal Dreibelbis. Most of the poachers joined in the melee, throwing boiling tea on the guards and using canes and dishes as weapons. Help had to be summoned from town before the prisoners could be subdued.

Marshal Dreibelbis escaped without severe injuries, but Butterworth, who was in the thickest of the fight, was badly cut on the head and face and scalded from the waist up. None of the Japs was seriously injured.

Man and Woman Supposed to Be Mr. and Mrs. J. Foster of Ellensburg, Wash., Found Shot Dead in Seattle Hotel—Prerangement Evidence

Seattle, Sept. 30.—Lying in a pool of blood on the floor, the bodies of a man and a woman were this morning found in a room of the Frisco hotel, at First avenue and Cedar street, each with a bullet in the brain. The man had evidently placed the muzzle of the revolver in the temple of the woman and sent a bullet crashing through her skull and then turned the gun on himself.

The victims of this double tragedy are supposed to be Mr. and Mrs. J. Foster of Ellensburg, Wash. The names that led up to it are not known. The man was about 35 years of age and the woman 15. The man's clothing was the same as that of the man who was shot in the room on Monday last.

They came to the hotel at 5 o'clock yesterday afternoon and occupied a room. They left a call with the porter for this morning. The clerk rang the bell several times and received no answer. Finally he went to the room.

The nature of the tragedy would indicate that the couple were in a room together and that the woman was shot first. The man then turned the gun on himself. The bodies were found in a room on the second floor of the hotel. The man's name was J. Foster and the woman's name was Mrs. J. Foster.

The man's clothing was the same as that of the man who was shot in the room on Monday last. The woman's clothing was also the same as that of the woman who was shot in the room on Monday last.

BANKER'S WOE OF HIS OWN MAKING

Wilson Tells Them to Quit Plunging, Set Up Branch Banks, Play a Sure Thing and Help the Country to Grow.

(United Press Leased Wire.)

Denver, Sept. 30.—Opposition to the postal savings bank deposits was strongly emphasized at the opening of the regular session of the annual convention of the American Bankers' association today. President Joshua D. Powers, in his opening address, made an extended argument against the guaranty plan, declaring it to be dangerous.

Governor Henry A. Buchtel and Mayor Speer delivered addresses of welcome to the delegates, after which the regular program was taken up.

Dr. Woodrow Wilson, president of Princeton university, spoke to the convention on the subject, "The Banker and the Nation," and served notice upon the managers of financial concerns that they must not make the mistake of shutting themselves up within the confines of their business and lose the proper view of the general interests of the great public. In part, he said: "The ignorance of the banker."

"Where and whose is the money of the country? Is the question which the average voter wants his political representative to answer for him. Bankers can answer the question, but I have met very few of them who could answer it in a way the ordinary man could understand. In fact, a body of experts in a particular very responsible business, hold and hold very clearly, certain economic facts and industrial circumstances in mind, and possess a large and unusually interesting mass of specialized knowledge of which they are masters in an extraordinary degree. But I trust you will not think me impertinent if I say that they excuse themselves from knowing a great many things which would manifestly be to their interest to know, and that they are oftentimes singularly ignorant, or at any rate singularly indifferent about what I may call the social functions and the political functions of banking, particularly in a country governed by opinion.

Branch Banks. "I am not here to advocate the establishment of branch banks or argue in favor of anything which you understand better than I. But I have this to say, and say with great confidence, (Continued on Page Five.)