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VOL. VII. NO. 232.

PORTLAND, OREGON, MONDAY EVENING, NOVEMBER 30, 1908.-FOURTEEN PAGES.

RAILROAD FIGHTS TO SAVE TRACKS ON FOURTH STR

Wolverton Issues Temporary Order Restraining City Officials Enforcing Ordi-

The trouble between the Southern Pacific company and the city of Portland over the use of Fourth street by the railroad and which is prohibited the railroad and which is prohibited by an ordinance passed in May, last year, has finally reached the federal court. This morning Judge Wolverton in the United States circuit court is sued a temporary order restraining the municipal judge or any other of the city officials from attempting to enforce the provisions of the ordinance. The bill of complaint of the Southern Pacific company against the city of Portland was filed in the United States circuit court this morning. It is a lengthy document and covers the history of the granting of the original franchise by the city council in January, 1859, and goes into detail of all the city and state laws with reference to the ordinance and of matters having any connection with the questions now involved.

City to Show Cause. In the temporary restraining order granted the city of Portland is given until December 28 at 10 o'clock to show cause why a writ of injunction should not be issued as asked for by the counsel for the ratiroad company. In the meanwhile and until further order of the court the judge of the municipal court, the chief of police, the mayor and other officers of the pity of Portland, are restrained from attempting to force the provisions of the ordinance which became effective November 15, or from attempting to prosecute those or from attempting to prosecute those who are alleged to have violated the

Permanent Order Asked.

The bill of complaint also asks that later a final hearing be had and a the city of Portland from attempting to inforce the provisions of the ordinance passed in May, 1907, and which became effective just a few days ago.

The action taken by the railroad company this morning and the subsequent granting of the temporary restraining order by Judge Wolverton means that the case of the city against J. P. O'Brien, general manager of the Harriman lines in Oregon, in the municipal court, will be continued until after the hearing in the federal court, December 28.

Outcome of O'Brien's Axrest.

Outcome of O'Brien's Arrest.

Mr. O'Brien was arrested November 16, upon complaint filed by J. P. Kavanaugh, city attorney, charging him with vibilation of ordinance No. 16.49i, which provides punishment either by a fine or imprisonment for use of the Fourth street tracks by steam locomotives within the city limits. The ordinance provides for a fine of not less than \$250 and not more than \$500 or by imprisonment for not more than six months, or both a fine and a jail sentence.

months, or both a fine and a jail sentence.

The bill of complaint alleges that the ordinance is both unreasonable and invalid, and is a violation of the state constitution of Oregon which provides that private property shall not be taken for public use. Further, the bill asserts that if the requirements of the ordinance were carried into effect the business of the company to Corvallis. Forest Grove and other points on the line which enters Portland by means of the Fourth street tracks would be interfered with materially, all of which consists of interstate and intrastate business.

PANAMA CANAL ZONE AND RECENTLY FLOODED DISTRICT



the Panama canal commission, be-

low. The report of the Panama com-

Until Legislators Are Rein-

PARKER PROPOSED AS

MAGOON TO EXPLAIN

CUBAN LOAN MATTER

UNDER HEAVY BOND

Havana, Nov. 30.—Provisional Governor Charles E. Magoon left this city today for Washington to explain the na-

ture of the proposed Cuban loan of \$25.509,090 before the treasury department
officials. Governor Magoon, before
leaving, went over the matter with
President-elect Gomez.

NYSSA BURGLARS ARE

this issue.

oot and Takahira but Make
Official the Agreement in
Sentiment Already Existing, Is the State Departthe Panama canal and the district recently partly flooded. Lieutenant cently partly flooded cently cently flooded cently partly flooded cently cently flooded cently cently flooded c Root and Takahira but Make

(United Press Leased Wire.) Washington, Nov. 30 .- The Japanese American agreement was signed at 5:30 o'clock this afternoon by Secretary of State Root and Ambassador Taka-

hira. The agreement is in the form of notes, which were exchanged as soon as the signatures were officially affixed. The notes merely embody in concrete

The notes merely embody in concrete form the sentiments that have been held for a long time by both nations according to a statement made at the state department.

It was found desirable, it is surmised, to reduce them to writing because of the erroneous impressions created regarding the relations between the United States and Japan.

The text of the notes will be given to the public simultaneously at Tokio and Washington tomorrow.

TEAMSTER SLUGGED BY BOON COMPANIONS

sorest Grove and other points on the line which enters Portland by means of the Fourth street tracks would be interfered with materially, all of which consists of interstate and intrastate business.

Trains for 39 Years.

For 39 years the bill states, the company has operated trains along the Fourth street tracks without serious intralns and two regular freight trains daily which are connected with handling the interstate and intrastate business of the company.

The bill states that the company has expended a sum in excess of \$123,483 in laying the Fourth street track and in keeping up the improvements, and that in every way has it compiled with the provisions of the original franchise, granted 39 years ago.

WOODRIEF Ours Are

ception of the duty of Statement No. 1 men.

He held a prolonged conversation with Senator Fulton today.

It now seems apparent that it is Hitchcock's purpose to permit the use of his name for Fulton, risking the resentment of the Oregon people at official interference in their affairs by outside men. WOODRUFF OUT OF

SENATORIAL RACE

(United Press Leased Wire.)

Hot Springs. Nov. 30.—Timothy L. Woodruff, chairman of the New York Republican state committee, yesterday eliminated himself from the senatorial race in favor of Secretary of State Root. This action was taken after a confirmation was taken after a confirmation was taken after a confirmation was followed by statements from both Mr. Taft and Mr. Woodruff.

Comprehensive Suggestions in Report of Conservative Committee — Important Recommendations Made-Needed Improvements.

suggestive presentation of the re-sources of Oregon and of the steps that should be taken for their conserva-

that should be taken for their conservation is contained in the report of the
commission appointed a few months ago
by Governor Chamberlain, in pursuance
of the plans inaugurated on a national
scale by President Roosevelt.

The Oregon conservation commission
consists of J. N. Teal, chairman; F. G.
Young, secretary; R. S. Bean, Austin T.
Buxton, J. N. Hart, C. S. Jackson, Will
J. King, E. R. Lake, J. H. Lewis, Frank
J. Miller, Richard W. Montague, C. B.
Watson, J. R. Wilson, Wilbur K.
Newell, J. C. Stevens.

The report of the commission is contained in a printed pamphlet of 125
pages, profusely illustrated with views,
maps and diagrams. The scope of the
report is broad and includes a review
of the national movement for conservation of the country's resources, a
summary of the efforts that have been
made for the improvement of water
transportation in Oregon (including the
government work at the mouth of the
Columbia), important data relating to
the water and statistics on resources
of the state, a chapter on the state
water laws, the reclamation of arid
lands, and the timber, mineral and fishing industries.

Washington, D. C. Nov. 36.—Another
step in the government suit against
the Standard Oil company of Indiana
went on record today, when the counsel
for the government applied to the suprieme court for a prieme court of appeala
went on record today, when the counsel
for the government applied to the sufor the government applied to the suprieme court for a prieme court of appeala
went on record today, when the counsel
for the government applied to the suprieme court for a prieme court of appeala
the Standard Oil company of the famous record today, when the counsel
for the grown the plants a price occur to a writ of certiorari,
thus bringing the famous rebate case
for the government which the court of appeala
the Columbia of the country is a writ of certiorari advances as its
principal prayer the importance of an
interpretation by the supreme court of
the united States of certain clauses of
the ral

Important Recommendations.

One of the important recommenda tions contained in the report is that there should be a separate federal department or commission having charge of waterways and represented by a cabinet officer.

Needed improvements of Oregon rivers, harbors and water bowers are exhaustively discussed and this portion of the report concludes with the following summary:
"Summing briefly the pertinent feations contained in the report is mission is published elsewhere in

owing summary:
"Summing briefly the pertinent features of this discussion, we find:
"1—A lamentable lack of physical
data concerning the natural resources
of the state. of the state.

of the state.

"2—The quickest remedy for this lack will be found in liberal cooperation of of the state with the federal agencies engaged in collecting these data.

"2—The water powers of the state are enormous—almost beyond comprehension, and are being rapidly monopolized through lack of proper laws.

"4—In the development of water supply, our best interests demand that the several uses of water—irrigation, water power, navigation, etc.—be coordinated and the relative merits of each emphasized in the construction of pub-

"A pledge is a pledge," he said, "and only reinstruction from the voters could change the relationship towards the pending electic sustained by members of the legislature."

He stated that he thought Fulton would be a better senator than Chamberlain. He regarded a member of the legislature as standing largely in the position as a manager of a business who might receive a change of instructions from his brard of directors. In line with these findings the commission makes these recommendations:

1. We strongly urge the coming legislature to increase the appropriations
for cooperation with the federal agencies engaged in collecting physical data
on the natural resources of this state.

2. We recommend the enactment of a
suitable water law to the end that our position as a manager of a business who might receive a change of instructions from his board of directors.

"As regards Chamberiain, however, the only thing I have against him is his politics," said Wilcox.

He refused to comment on his conception of the duty of Statement No. 1 men.

2. We recommend the enactment of a suitable water law, to the end that our vast water powers shall be protected from monopoly, and their development encouraged.

3. In the event of an inability to provide a more efficient system for the acquirement of water rights, we urge the suspensica of the present law until suitable measures for the protection and use of our water resources can be agreed upon.

The report deals at length with the problems arising from the laws now governing irrigation and the acquisition of water rights. In the opinion of the commission the office of state geologist should be created, in order to settle the vexing questions constantly arising over mineral lands. The conflicting fishery laws of Washington and Oregon are discussed and joint legislation is advised:

First—For the extension of the closed season, for operation licenses and penaleason, for operation licenses and penal-

Second—Absolute prohibition of all salmon fishing from January 1 to May 15.

Third—Sunday closing during the open season, 1. e., 24, and better 36, hours, including the whole of every Sunday, during which period no fishing shall be allowed.

Relative of J. P. Morgan Is Slated to Fill Newberry's Position.

Washington, Nov. 30.—Herbert L. Sateriee of New York has been tendered the post of assistant secretary of the navy, which will be made vacant tomorrow, when Truman H. Newberry becomes secretary of the navy. Sateriee is reputed wealthy. He is a relative is made massacre will not be permitted.

GOVERNMENT SENDS OIL CASE UP TO SUPREME COURT



John D. Archbold at right and Attorney for the Standard Oil Company Frank Kellogg at the left.

The government contends that under the rate filing provision of the Elkins act, which plays an important part in the Standard Oil case, one circuit court of appeals may place one construction upon it, and another court in another circuit a conflicting construction, and that it is possible that nine different constructions may come from the nine circuits. The complications that could arise have been used for their full effect in the patition of the government, and the officials of the department of justice are confident that the court will grant the request for a construction of

unless questions at issue involve the interpretation of the constitutionality of the law. TELLS HIS STORY

to Rise and Many Per-

sons Are Homeless.

(United Press Lensed Wire.)

Guthrie, Olka., Nov. 30 .- Seven per-

Blames Annis for Leading Rivers of Section Continue Wife Astray During Absence in Philippines.

CHIAIN HAINS

(United Press Leased Wire.) New York, Nov. 30 .- Captain Peter C. Until Legislators Are Reinstructed a Pledge Is a Pledge Is a Pledge, Says Wilcox.

Pledge, Says Wilcox.

Pledge, Says Wilcox.

Pledge, Says Wilcox.

Special Dispatch to The Journal.)

Washington, Nov. 30.—T. B. Wilcox of Portland today declared his visit here than 10 pp. 10 Hains Jr., who killed William E. Annis, sons are dead, many are missing and was he by the alleged injustice that he lost his senses and for a time was not accountable for his conduct.

PORT AU PRINCE

Government Troops in Panic | and Inhabitants Flee the City.

Port au Prince, Haiti, Nov. 30.—The advance guard of General Simon's army of febels is expected to arrive here today, and the greatest excitement prevails throughout the city. Three divisions of the government troops, under General Andree, encamped six miles from the city became panic stricken today, having lost faith in the strength of the government to cope with the revolutionists. Many of the soldiers have fied and are returning to the city. Hundreds of persons have left here after hiding jewels and valuables, in anticipation of the city being looted. (United Press Lessed Wire.)

Washington, Nov. 30.—Reports from Haiti received by the state department today indicate that General Simon is advancing upon Port au Prince with a strong force. A battle is expected within 24 hours.

The government troops are mutinous and men have been tied together during transportation by water to prevent their deserting the army.

President Alexis is firm in his resolve to fight, despite the pleadings of his cabinet. his cabinet.

The cruiser Tacoma is at Port au Prince, and the Des Moines is expected to arrive there today.

A meeting of the diplomatic corps at the Haitien capital was held, according

Workmen With Lighted Candle Search for Leak in Purifying Apparatus in North End Plant and Find It-Injuries Not Serious.

While searching for a tiny leak in a pipe in the wash box of the purifying apparatus at the Portland Gas company's plant on First and Flanders streets, this morning shortly before 8 o'clock, E. A. Harget and B. H. Meehan, two employes of the gas company, were painfully injured by an explosion of accumulated gas.

One of the men was carrying a candle in defiance of orders, the officials of the company say, and the small flame ignited the gas in the chamber, causing an explosion which shook buildings for several blocks around and sent pleces of wood and sheet iron 290 feet into the air. The two employes, who were standing on a platform directly under the super heater and about 25 feet above the ground, were shaken off the platform, Harget falling the full distance to the ground, breaking his wrist and sustaining other minor injuries, while Meehan fell inside a corrugated iron wall and struck on several

ries, while Meehan fell inside a corrugated iron wall and struck on several pleces of machinery before reaching the earth. Both were badly burned about the face and hands.

The explosion took place in one of the ells of a pipe leading to the super heater and was at first thought to have been caused by overheating, but General Manager Pahst announced later that the accident was caused by the igniting of gas. The company says that neither of the injured men had been authorized to venture on the platform.

The company officials say that the damage is small, but that they will be inconvenienced for a few days as a result of the explosion.

Attorney Invokes Penalties for Contempt to Force Refugees to Answer.

sons are dead, many are missing and thousands are homeless as the result of floods in Oklahoma, Texas, southwestern Missouri and southern Kansas.

Rivers throughout this whole section are rising rapidly and the worst floods in years are expected. A constant rain of 30 hours caused the high water.

Scores of rescuing parties are at work in various sections taking people from the upper stories of houses.

Reports indicate that heavy damage has already been done to property and much more is threatened.

Kansas City, Mo. Nov. 30.—Hundreds of men are working today to control the floods in the southwestern part of the state. Hundreds of miles along the river banks, lowlands are reported to be inundated. Spring river at Badger is out of banks and threatens to flood the mines in the neighborhood. Dykes are heing built around the threatened.

(United Press Leased Wire.)

Chicago. Nov. 30.—Attorney Rigby, counsel for Russia in her effort to securs the extradition of Christian Rudovitz on a charge of murder, will ask Federal Judge Bethea this afternoon of a classian revolution are refused to divulge the names of the citation is granted similar action will be taken against Lonzius Gorous and Adolph Herman, revolutionary leaders and witnesses in the present case. Commissioner Foote, before whom the case is being heard, has refused to order the men to divulge the much sought names.

Gofous, a charge of murder, will ask Federal Judge Bethea this afternoon for a cltation for contempt of court against Martin Jurow, a witness, who refused to divulge the names of the citation is granted similar action will be taken against Lonzius Gorous and Adolph Herman, revolutionary leaders and witnesses in the present case. Commissioner Foote, before whom the case is being heard, has refused to order the men to divulge the much sought names.

Gofous, a former of court of the development of the pressure and witnesses in the present case. Commissioner Foote, before whom the case is being heard, has refused to divulge the much sought provided t (United Press Lessed Wire.)

inundated. Spring river at Badger out of banks and threatens to flood mines in the neighborhood. Dykes being built around the threatened fits. Heavy loss is reported near terms. Heavy loss is reported near return to Russia.

VOICE OF THE EASTERN PRESS -PLEDGES ARE CONSTITUTIONAL

From the Washington, D. C. Herald.

A number of United States senators now hold their seats by virtue of popular elections in their respective states, and the number is shortly to be increased. We have not the remotest idea that the question of the right of any of these senators to represent his state will be raised on the ground that he was unconstitutionally chosen, so long as he presents credentials showing that he was formally "chosen by the legislature

thereof."

The assumption that legislatures have in the past exercised that free choice in the selection of senators contemplated by the constitution is wholly erroneous. Many a senator has come to Washington whose choice was no more a free choice by the legislature than it was by the people. It was made, as every student of political history knows, by a cabal, or a machine, or it was bought outright, or obtained through payment of the campaign expenses of legislators in return for pledges of senatorial support, or through promises of place and peir, or by various combinations of these methods. Political bosses were careful not to make the matter of the senatorship an issue before the people; pledges were exacted and made in secret; the legislature was bound hand and foot to some particular candidate before it assembled. To get rid of the inevitable corruption of this method and to give to the people the rightful share in the choice of a senator, which they are supposed to have, when they elect the members of a legislature, the plan was devised of submitting the names of senatorial aspirants to a direct vote of the people and of pledging legislative candidates to support the popular choice. This has been usually done in party primaries, but Oregon has gone a step further by providing a method of selecting a senator by a vote of all the people, so that the successful candidate must have a popular majority over his opponent and not merely a majority over his opponent or opponents in his own party.

And now it is solemnly urged that this system, because it contemplates the contemplate of the legislative of the legislative will to the popular will because it

nents in his own party.

And now it is solemnly urged that this system, because it contemplates the subjection of the legislative will to the popular will, because it pledges legislators to act as their constituents vote, is unconstitutional, in that the legislature does not exercise a free choice. It is perfectly constitutional for a legislature to obey the distates of a political boss or machine, to redeem pledges made to a candidate and rewarded by cash or office, but when such pledges are made to the people, the source of all political power, they are in contravention of the constitution. Such an argument is its own best refutation.

The real trouble with the primary system, from the reactionary point of view, is that it promises to bring to an end the representation of special interests in the United States senate and restore a true representation of the states, and the whole people thereof, consistent both with the letter and the spirit of the constitution. And unless the assumption is correct that the state electorates are less trustworthy than political bosses and machines, the primary system should be welcomed as a wholesome movement for the redemption of senatorial elections from the degrading influences that have swayed them in too many instances. We believe that the hopes of its friends have already been realized in this respect.

ALL WOULD BE BENEFITED

•

too much cannot be said to bring this home to the people. Without local made goods we would all be at the mercy of the eastern manufucturer, which would mean higher prices and little or no competition for him. Why not, then, give your support to the factories which have established themselves in your state? They are certainly entitled to your patronage where everything is equal in price, quality and delivery, and the individual as well as the manufacturer will receive his proportionate heafits." which have established themselves in your state? They are certainly entitled to your patronage where everything is equal in price, quality and delivery, and the individual as well as the manufacturer will receive his propertionate benefit."

Ontario, Or. Nov. 30.—The Nyssa burglars were examined before Justice King this morning. Merchant Hinsch identified the property found in their possession by his privates mark. John a son at \$500 each.

ROOT'S SUCCESSOR Tacoma. Wash., Nov. 30.-Governor Tacoma. Wash., Nov. 30.—Governor Mead arrived here at noon today and is holding a conference this afternoon with a committee of the Pierce county legislative delegation on the proposition of appointing Judge E. N. Parker of Tacoma to succeed Justice Root of the supreme court. It is believed here that Parker will get the appointment, though nothing definite will be known until after the conference.

"Factories, and plenty of them, are absolutely essential in the upbuilding of a community," said John Gardiner of Gardiner & Viggers, machinists. "We have plenty of raw material here in Oregon that is available for manufacturing purposes, but what we most stand in need of is capital and the unanimous support of our people in patronizing Oregon-made goods. How many people stop and think what this means to the people of Oregon? Very few I'll venture to say. But this question of support of our local factories is the most vital one that this community has to contend with, and