or Wednesday; southerly winds.

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PORTLAND, OREGON, TUESDAY EVENING, AUGUST 24, 1909.—EIGHTEEN PAGES.

PRICE TWO CENTS. ON TRAINS AND NEWS

PRESIDENT TAFT ASKS FOR INVESTIGATION OF ALLEGED GRAFT IN NORTHERN COAL LANDS

ACT VALID

In Opinion on Case Appealed From Circuit Court for Coos County, Justice King Legalizes Measure Enacted February 12, 1909.

(Salem Bureau of The Journal.) Salem, Or., Aug. 24.-The act of the legislature, approved February 12, 1909, authorizing the incorporation of municipalities for the improvement of navigable bays, ports and inlets from the sea, is found constitutional by the supreme court today in an opinion written by Associate Justice Will R. King.

The case involving the validity of the special port act is that of E. E. Straw vs. W. C. Harris, J. C. Gray. E. Mingus, W. P. Evans and Henry Sengstacken, constituting the board of commissioners of the newly created port of Coos Bay. The case was appealed from the circuit court for Coos county and was heard before Judge J. S. Coke. Judge Coke's decree is affirmed.

The decision is important in as much as a number of other ports are under-going a process of incorporation similar to that of the port of Coos Bay, and the legality of the incorporation of the first port has a direct bearing on the validity of the formation of all the others.

The principles involved in the case go back to state rights. It was contended the several small towns and municipalithe several small towns and managanties that were included in the larger corporation would be curtailed beyond the privileges conferred on them by the legislative body of the state. Judge King holds, however, that should this principle become established, Oregon would soon be a conglomeration of small states instead of being one state.

Question of Liabilities, The question is brought out that no limitation is placed upon the indebtedness of a port organized under the law. Justice King holds that the constitution cannot be interpreted so as to include seaports when it says counties, and cities must not create any debts or liabilities which shall exceed a certain sum.

cities must not create any debts or liabilities which shall exceed a certain sum.

"Whether the district is likely to abuse the privilege in this respect," says the justice, "is legislative and not judicial. It is not for the courts to say whether legislation is wise or unwise, reasonable or unreasonable, just, unjust or oppressive; that function is for the legislative department alone.

"For the courts to assume this prerogative would be dangerous, as they and not the people would be virtually the framers of the law. It is the duty of the judiciary to determine what the flaw is and not what it should be."

According to this opinion, then, the cities of Marshfield, East Marshfield, North Bend and Empira City may incur liabilities incorporated as the Port of Coos Bay beyond the limitation fixed by the legislature when those smaller municipality were first created.

In other respects the cities in the Port of Coos Bay are limited in power by the creation of the port and the questions arising are new ones in this state. The justice holds that no state can surrender its sovereignty to the municipality and the right always remains to the state to take back privileges formally granted.

The case was brought by Mr. Straw to enjoin the operation of the court today, however, legalizes the port act of February 12, unless the case is taken to the supreme court of the United States for final decision.

Other Decisions Bendered.

In the case of state vs. Whitney the

Other Decisions Bendered.

In the case of state vs. Whitney the supreme court has amended its former decree and ordered a new trial. In its first order a new trial was not granted. The petition for rehearing in the case (Continued on Page Five.)

PET MONKEY WILL ENTERTAIN A FEW

Lenox, Mass., Aug. 24.—A party for her pet monkey will

be given some time this week by Mme. Zeggio of Florence, Italy, a daughter of Mrs. . Charles T. Robinson of New York. Mme. Zeggio arrived at the Aspinwall hotel yesterday carry-

ing her monkey, a tiny South American specimen, in a gold case. The marmoset is scarcely six inches in height, and Mms. Zeggio places its value at \$5000. The gold case in which the monkey is carried is worth half that

The monkey was caught near the headwaters of the Amazon river. Mme. Zegglo employes a special attendant to look after the simian.

GHER COURT HILL INTERESTS WIN VICTORY A BATTLE FOR RIGHT OF WAY



E. H. Harriman, against whom Justice Bean's decision was

Western Jobbers Gain Victory Over Eastern Competitors by Decision.

(United Press Leased Wire.) Washington, Aug. 24 .- The circuit court today made a permanent injunction restraining the interstate commerce commission from enforcing the order to compel the railroads by the plaintiff that by the creation to give proportional through rates from the Atlantic seaboard to Mis-Denver and Kansas City.

Noted Agitator—Troops Subdue Strikers.

Pittsburg, Aug. 24. - The police charge Emma Goldman, the noted anarchist, with the responsibility for Sunday night's victous rioting at the Mc-Kess Rock plant of the Pressed Steel

Car company.

It is known that Miss Goldman had been in the city several days and the police say she made several speeches to the strikers, urging them to burn the plant, and inciting them to other acts of violence. The police are searching the city for the noted "red." If found she will be ordered to leave.

Two more strikers died last night, making the total number of dead as the result of Sunday's rioting, eight.

The authorities today have the situation well in hand, and are keeping the streets clear of strikers and their sympathizers.

IS FEELING GOOD

OF ITS FRIENDS Railroad Wizard Refuses to Make Any Statement to Reporters.

New York, Aug. 24.—The steamship Kaiser Wilhelm II, with Edward H. Hariman on board, arrived at quarantime at 2:05 this afternoon.

The railroad wizard told the reporters that he was "feeling pretty good," but refused to make any statement.

HIGH PRICES FOR ROGUE RIVER PEARS

(Special Dispatch to The Journal.)

(Special Dispatch to The Journal.)

Medford, Or., Aug. 24.—Rogue river valley pears sold in New York Monday for \$3.50 per box and in Boston for \$3.70. Indications are for \$4. Market and fruit growers in the valley are jubilant, for this year's crop is not only heavy, but record prices are in sight. Up to Monday evening 58 cars of Bartletts were shipped east. The yield is heavier than was expected.

(United Pres Lessed Wire.)

Pittsburg, Aug. 24.—All the properties of the Pittsburg and Montana Copper company in the vicinity of Butte will be sold at auction at a trustees' sale here today.

The properties include lands, mines and smelters. There are 680 acres of land in Jefferson county, Montana, and only be sold.

WHAT VICTORY FOR **OREGON TRUNK MEANS**

Hill given year's start over Harriman in race for central Oregon by injunction granted by Judge R. S. Bean in federal

Harriman interests immediately demand order keeping Hill off all Deschutes property not now held by him. Deschutes Railroad company

(Harriman) declared to have no rights in upper 60 miles in 12 miles of conflicting surveys. Consequently have no right to

question validity of Oregon Trunk's Nevada incorporation, question of survey having been made before incorporation, and alleged deception of the secre-tary of the interior.

Brings case to next step in

litigation — namely, permanent injunction against Deschutes injunction against Railroad company, and argu-ment of Harriman restraining order against Hill in lower 40 miles of Deschutes canyon, where rights are said to be contemporaneous.

souri river points. This famous interests from occupancy of dis-Missouri river case decision is a dis-puted right-of-way in Deschutes the puchases she intended making. tinct victory of the western jobbers canyon, Judge Robert S. Bean in over their eastern competitors. It will affect the jobbing centers west of the Missouri river centrolled particularly by St. Louis, Chicago, interests, and recognized every right contended for by Carey & Kerr, giving Hill at least a year's start in the race for Central Ore-

W. W. Cotton, chief counsel for Hariman in the northwest, listened to the eading of the decision, with the stunned manner of a man who has been struck a crushing blow. Then, with characteristic quick recovery he sprang to his feet and in the face of protests from Judge Carey, boldly demanded an in-Pittsburg Police Search for junction against the Oregon Trunk Railroad company, preventing the latter from occupying other than the 200 foot strip, their absolute title to which was recognized by the court.

Sweeping Victory. The temporary injunction as granted in favor of the Oregon Trunk by Judge Bean will have in its provisions decisive influence in every other phase of litiinfluence in every other phase of litigation yet pending or yet to be brought between the rival railroad companies. When Mr. Cotten makes appearance before the court this afternoon or tomorrow to plead for a second injunction in accordance with his demands of this morning there will be certain matters relating to the organization of the Oregon Trunk that he will not be allowed to mention. These are:

"That the Oregon Trunk railroad is a Nevada corporation and as such has no right to construct in Oregon, having been vested with no such right in Nevada.

been vested with no such right in Nevada.

"That the survey of the line delineated on the Oregon Trunk's map is not in compliance with the provisions of the incorporating act of 1875 and the secretary of the interior had, for that reason no power or authority to approve the map, and
"That the statement on the face of the map that the survey was made after the organization of the Oregon Trunk railroad is false and untrue as the survey was, in fact, made prior to such organization and therefore the secretary of the interior was deceived and

(Continued on Page Fourteen.)

VALUABLE MINES SOLD AT AUCTION

Copper Company's Properties in Montana Disposed of at Trustee's Sale.

Gas Traction Company Selects Portland as Most Suitable Place for Location for Large Machine Building Establishment.

One hundred thousand dollars ex-

Names Not Made Public.

Opens New Pield of Labor.

pended in factory buildings and warehouses on eight acres at Kenton, 150 of the highest skilled workmen to be obtained, with homes near the factory site; the manufacture of a gasoline

Katheline Prise Goes Shopping and Fails to Return -Foul Play Feared.

J. J. Hill, who is reported to be

back of Porter Brothers.

San Francisco, Aug. 24.—The mysterious disappearance of Mrs. Katheline Prise, a trained nurse, who arrived from Manila Saturday, is causing much worry on the part of her friends and worry on the part of her friends and today the police were asked to find the young woman. Miss Prise is a stranger in the city and it is feared that she may have met with foul play. On arriving in San Francisco Miss Prise took a position nursing at the Hotel Victoria. Yesterday she left the hotel to do some shopping. She did

That she had no intention of remaining away is evident by the fact that she left her clothes and money at the hotel. The purse she took with her contained

Heading and Threshing Crews Fight Flames-Grain Destroyed.

(Special Dispatch to The Journal.)
Colfax, Wash., Aug. 24.—The most disastrous grain field fire in the Palouse country this year occurred Saturday morning, three miles north of Diamond, when 3000 bushels of wheat belonging to John Kirkman and 1500 bushels of stacked grain belonging to Jack Stuart was destroyed. The fire originated on the Kirkman place from embers left at the setting by the threshing engine, which left the field nearly 48 hours before and when discovered had gained such headway that it spread to Stuart's farm adjoining despite the efforts of over 100 men from nearby heading and threshing crews and it required several hours hard work to get it under control. The grain was insured.

OUTING MAGAZINE SOLD BY COURT

(United Press Leased Wire.)
Deposit, N. Y., Aug. 24.—The extensive magazine publishing plant of the Outing Publishing company will be sold at public auction today by order of the federal court. The Outing magazine, the Bohemian and several other periodicals were published by the company.

63 Advertise for

23 Advertise for situations

51 Advertise furnished rooms for rent

47 Advertise business

43 Advertise houses for

15 Advertise flats for

33 Advertise housekeeping rooms for rent.

The Journal "Want Ad" De-

partment maintains a free bu-

reau to assist the public in the

recovery of lost articles.

115 Advertise real estate for

POLITICAL FEUD In the Want Ad Section **CALLS OUT MILITIA** of The Journal Today

Two Companies Are Ordered to Meadville, Franklin County, Miss.

Will Revolutionize Parming.

Mechanically the engines are con-(Continued on Page Four.)

Uncle Joe Snorts Defy; There'll Be "Doings" Next Dec.



Joseph Cannon. (United Press Lessed Wire.)

Mackinac Island, Mich., Aug. 24 .-Why in hell should I notice Fowler?" asked Cannon today, referring to Fowler's open letter of yesterday in which he attacked "Cannonism." Cannon read every word of the letter

change the farming system of the Pacific coast and Portland as the home of this company—this is the announcement made by O. P. Conger, at his office, 20 Washington building, this morning. It has been some time since the news has been made public of the coming of an interest and such it has been some time since the news has been made public of the coming of an interest and such it has been some time since the news has been made public of the coming of an interest and such it has been some time since the news has been made public of the coming of an interest and such it will be an investigating the for his colleagues of the house of representing the Gas and has at last determined that Portland offers the greater number of facilities for the conduct of his business. Accordingly the Pacific Cass and has at last determined that Portland offers the greater number of facilities for the conduct of his business. Accordingly the Pacific Cass and has at last determined that Portland offers the greater number of facilities for the conduct of his business. Accordingly the Pacific Cass and has at last determined that Portland offers the greater number of facilities for the conduct of his business. Accordingly the Pacific Cass and has at last determined that the storage of the formation.

It will be a subsidiary company to the provide the flex of the formation of the company is now in course of the formation.

It will be a subsidiary company to the provided the provided that he is provided to the formation of the formation.

Cannon then added that he is willing for his colleagues of the house of representing to appoint Fowler.

When asked if he would speak specifically regarding Fowler's arraignment, Cannon said:

When asked if he would speak specifically regarding for his colleagues of the formation.

It will be a subsidiary company to the formation of the formation of the formation of the formation.

It will be a subsidiary company to the formation of the f and then said: "Get a pencil, and take this: Traction company is now in course formation.

It will be a subsidiary company to the Gas Traction company, but will nevertheless be entirely independent in its business transactions, and will be composed of and officered by Portland and Oregon men. The majority of its stock will be held by Portland men and its principal place of business and its manufacturing plant will be located in Portland. ler. "I'll make 'fur fly' when congress convenes in December. Some of these malcontents need to be disciplined."

Mrs. Barclay Tells Why She Kidnaped Child From Kindergarten.

Wames Not Made Public.

While the organization has not gone so far that it is desired to name those composing the company, still an option on the property at Kenton has been secured, the plans for the factory buildings are now being drafted, and the final negotiations will be concluded within a very few days.

It is estimated that the main factory building will cover 30,000 square feet of floor space. In addition to this main building will be paint shops, storehouses and other needed buildings, which will occupy as much or more space. Plans are being drawn for these buildings and it is expected to commence their construction within a month from the present time.

It is the expectation of Mr. Conger that the power can be turned on in the factory building by the first of December. The company plans to produce 150 of the big engines during the first year of business. This output will be increased as the business gets into running shape in the new territory and the market demands.

Opens New Field of Labor. Kansas City, Aug. 24.—Mrs. Barclay, who through Attorney John Gentry has petitioned for a habeas corpus to recover 5-year-old Marian Bleakley, the "incubator baby" who it is alleged she kidnaped Saturday, today discussed the alleged kidnaping of the child.

"You wonder why I love the baby," she said. "If you had seen her clenching her tiny fists and gasping for breath in the incubator at the St. Louis exposition, you would wonder why Marian is alive today. I say without boasting that it was my care and love saved the child her life.

"It is remarkable that she" is not afraid of me today though. I do not know all that Mrs. Bleakley has said to poison her mind."

"When you picked her up the other night didn't Marian ask you if you were going to kill her?" Mrs. Barclay was asked.

"Yes," she replied. "I wouldn't kill you, I said to Marian. The child insisted that 'they' had told her that she would be killed and finally I comforted her and she warmed up to me."

While Mrs. Barclay was talking the child sat beside her and the woman's hands strayed almost unconsciously to Marian's head which she patted lovingly.

"I did not intend to kidnap the baby." market demands.

Opens New Pield of Labor.

The Pacific Gas Traction company will open an entirely new manufacturing field in Oregon, and in fact on the Pacific coast. It will construct a new type of traction engine for use in farm work. This engine, which is a big 60 horsepower machine, is not an unknown quantity, having been used for some time on the big fields of the Dakota wheat helt and throughout the middle west wherever it is desired to have an engine of great traction power at the smallest possible weight and the least possible operating expense.

A specimen of the engine is now being set up at the Oregon Iron and Steel works and within a day or so will be driven from there to the Ladd farm where those interested in the company or in the machine will be enabled to see what it can do.

The engine stands on driving wheels eight feet in diameter with rims a foot or more in width. It is equipped with a 60 horse power four cylinder gasoline engine of the automobile type. These engines are connected close to the tires which gives great driving power, so that the maximum of power from the engine can be utilized in the work it has to do.

Will Revolutionize Farming.

Marian's head which she patted lovingly.
"I did not intend to kidnap the babywhen I went to Topeka," continued Mrs.
Barciay. "But I saw the child outside
the kindergarten poorly dressed, and it
made my angry. I talked to her and
learned that her mind was poisoned
and then I decided to act."

The habeas corpus proceedings will be
heard tomorrow. heard tomorrow.

Today the b Today the baby was happy and laughed, and played that she was in fail.

EXCURSIONISTS DROWN LIKERATS

Two Hundred and Fifty Passengers Perish in Montevideo Harbor.

County, Miss.

(United Press Leased Wire.)

Natchest, Miss., Aug. 24.—Two companies of state militia are encamped today at Meadville, Franklin county, with orders to prevent at any cost a threatened clash between rival political factions whose differences apparently were not settled at the recent elections.

The soldiers were hurried to Meadville by Acting Governor Manship when a telephone message was received at the gubernatorial residence late yesterday, telling of an attempt to assassinate Chancery Clerk Newman. The message, which was sent by Sheriff Jones, stated that several shots had been fired at Newman through the windows of his home, and that he had been severely wounded.

Newman's father recently held the chancery office. He was shot and killed in Meadville during a factional battle six weeks ago. The younger Newman's father recently held the chancery office. He was shot and killed in Meadville during a factional battle six weeks ago. The younger Newman's father recently held the chancery office. He was shot and killed in Meadville during a factional battle six weeks ago. The younger Newman's father recently held the chancery office. He was shot and killed in Meadville during a factional battle six weeks ago. The younger Newman's father recently held the chancery office. He was shot and killed in Meadville during a factional battle six weeks ago. The younger Newman's father recently held the chancery office he was shot and killed in Meadville during a factional battle six weeks ago. The younger Newman's father recently held the chancery office he was shot and killed in Meadville during a factional battle six weeks ago. The younger Newman's father recently held the chancery office he was shot and killed in Meadville during a factional battle six weeks ago. The younger Newman's father recently held the chancer of the vessel sank within a few minutes after the collision, and even before the lifeboats could be lowered.

Among the few saved from the German vessel was its captain.

Among the few saved from

Special Agent Puts Facts Before Government and Morgan-Guggenheim interests Will Be Put Under Fire-Scandal Brewing.

By John E. Lathrop. Washington, Aug. 24 .- Morgan-Hammond-Guggenheim interests are to be investigated in connection with the Ballinger scandal.

enormously valuable coal of which half these claims were in Churgach national forest reserve, known as the Cuningham group, were about to proceed to hearing. Glavis requested the cooperation of the forest service to secure the postponement of action until the government's case was complete. Postponement was then secured by the forest service, of which Pinchot was the head.

The district forester at Portland was advised of the situation and instructed to take the matter up with Glavis as a safeguard of the National forest inter-ests. An experienced coal expert was sent by the forest service to Alaska early in August to investigate the coal claims. Having secured postponement of im-mediate hearings, planned by the de-partment of the interior against the ur-gent recommedation of Glavis the forest service now awaits reports of its coal expert and local forest officer before recommending final action.

Shortly after the receipt of Glavis' telegram Shaw, at Associate Forester Price's direction, went to the general land office to examine these records

(Continued on Page Ten.)

SHIP SUBSIDY

Oregon's Congressional Representative Says He Will Vote for Measure.

San Francisco, Aug. 24.—At a banquet tendered the members of the congressional party en route to Honolulu last night in the colonial ballroom at the St. Francis hotel, a number of congressmen assured the people of the Pacific coast that a ship subsidy bill to build up the American merchant marine would be passed by the house at the next session of the fist congress. Congressman A. J. Brachfeld of Pennsylvania, said:

"We are a positive joke among the nations of the world in maritime matters. My suggestion is to add sight or nine millions to the expenses of running the government for the purpose of encouraging congress by subsidizing merchant lines between our ports and those of South America and the orient."

W. R. Ellis, representative for District No. 2 of Oregon, stated that he had voted for the ship subsidy at the last congress when it was defeated by only three votes and that he intended to vote the same way when the bill comes before the next session.

A number of other congressmen said they favored the passage of the bill.

CABMEN PRACTICE HIGH FINANCE WITH SERIOUS RESULTS

(United Form Leaved Wire.)
Paris, Aug. 14.—Several Paris
cabmen were sentenced to varlous terms of imprisonment today on conviction of having made their taxicabe register fulse dis-tances. Three of the convicted men had discovered a method of using a thread to make the register run twice as fast as it should and a fourth was congut turning the rear wheel of his "taxi" like a whirtwind. He had jacked up the onb for the pury case committed while the fates had temporarily jeft the cale.