

REFEREE IS NOT LAST RESORT IN WAKEFIELD CASE

Either Side May Petition to Have Decision of Cleland Set Aside; Referee Named by Kavanaugh.

Whatever may be the decision of ex-Circuit Judge John B. Cleland, sitting as referee, in the case in which Robert Wakefield, contractor, is asking judgment for \$400,000 he alleges is due him from the city for work done and unpaid for in the building of the Mount Tabor reservoir, it will not be final. Either side in the controversy can petition the judge of the circuit court to whom the referee's findings and decision are reported, to have the report set aside. If this is denied, then either party has the privilege of appeal to the supreme court, as in any other case at law.

This much was made clear yesterday by H. M. Tomlinson, deputy city attorney, who is handling the case for the city. The city's contention is that under the original contract only \$176,685.00 is due Wakefield for the work, and that this amount has been forfeited in penalties for delays. The return of \$75,000.00 alleged also to be due the city in penalties, but paid to Wakefield, is asked besides. The delays in question, Mr. Wakefield's attorneys are attempting to prove, were caused by mistakes on the part of the city in furnishing material. Criticisms of the water board for having agreed to a hearing of the case before a referee instead of taking it into court in the regular way, are unfounded, members of the board declared yesterday, inasmuch as the decision to have a referee was made not by the board, nor by any city official, but by Presiding Judge Kavanaugh.

Grant Would Have Jury. "City Attorney desired to have the case before a jury and was opposed to having a referee appointed," said W. B. Mackay, of the board, last night. "Judge Kavanaugh ruled otherwise, however, and the only part the board had in it was in deciding upon the referee and the amount of his compensation."

When the case came before Judge Kavanaugh several weeks ago, attorneys for Wakefield moved that a referee be appointed in accordance with a provision of the statutes that the circuit court may appoint a referee in cases involving long accounting proceedings. Deputy City Attorney Tomlinson said that it was the desire of the city to have the case go before a jury, but Judge Kavanaugh overruled him.

The judge explained as his reason that the case would be a very hard one for a jury to try, on account of the complicated technical and engineering testimony involved, and the probable great length of the hearing, and decided that there should be a referee, Cleland Preferred by City.

The names of several prominent attorneys, including R. W. Montague, Judge Cleland, Martin L. Pipes and ex-Senator Charles W. Fulton were submitted by Wakefield's attorneys as possible referees and considered by the board. Then Mr. Tomlinson, in behalf of the city, informed the court that the city preferred a jury but that if a referee were appointed, Judge Cleland was desired. This was satisfactory to Wakefield and the appointment of Judge Cleland followed.

When Mr. Wakefield offered to pay \$1500 as part of the compensation of the referee, the water board agreed to give a similar amount, making the total \$3000. The hearing began on July 10, and several motions were heard by the referee before that, while taking of testimony will probably not be ended before the middle of September, Mr. Tomlinson said last night. After this the arguments of the attorneys will probably take several days, and then the referee will have to render a voluminous array of cases cited for him, which may take him several weeks. This done he will have to take the whole case under advisement and report his findings.

In view of the immense amount of work involved and the length of the case, \$3000 is considered a very reasonable compensation.

No "Put Up Job."

"We chose Judge Cleland as referee because we considered him fair and in every way competent to try the case," said Mr. Tomlinson. "There is no 'put up job' to the hearing are absolutely unfounded. Everything in connection with the hearing is conducted in broad daylight and in open court, and testimony is taken as in a regular trial."

"Whatever the referee's decision may be, the rights of the city are amply protected. The referee will report his findings as to the truth or falsity of the facts brought out, and make his decision according to the points of law, to the circuit court. Either side can ask to have the report set aside, and if the court refuses, the case can be appealed like any other case."

CLAUD ALLEN GUILTY, FIRST DEGREE MURDER

(United Press Leased Wire.) Wytheville, W. Va., July 27.—Claud Allen, one of the clan which shot up the Hillville courthouse, March 14, causing the death of five persons, was today found guilty of murder in the first degree.

14 PEOPLE ESCAPE DEATH WHEN STREETCAR FALLS

(United Press Leased Wire.) Nashville, July 27.—Fourteen persons narrowly escaped death here this afternoon when a streetcar, carrying a high embankment while going at full speed, plunged down a track, turned over three times and landed at the bottom, a mass of wreckage. Of the people on the car only Miss Ruth Turner was seriously injured.

LADY RICHARDSON'S FOLK OBJECT TO SALOME

London, July 27.—Lady Constance Richardson's relatives are bringing tremendous pressure, it is said, in English high society circles tonight, to prevent her from dancing Salome in New York under Oscar Hammerstein's management. Queen Mary is reported to have been asked to use her influence.

Journal want ads bring results.

Eight Balloons Sail Away From Kansas City in National Elimination Race

Giant Air Craft Make Propitious Start On Journey That Bids Fair to End in the Distant Canadian Wilds.

(United Press Leased Wire.) Kansas City, Mo., July 27.—With 15,000 people present, the balloon contestants in the National Elimination race, were sent away from the river front late this afternoon. Weather conditions were ideal. All the big bags found a good strong air current at 200 feet up. It carried them almost due north at a speed that promised broken records.

At 5:40 o'clock Million Population balloon No. 1, of St. Louis, was sent up. It took a course due north. Earlier in the afternoon the pilot balloon Kansas City II, went up bearing Dr. M. B. Hartman and his bride. Immediately following the marriage ceremony of the couple the balloon crossed the river and sank rapidly. The basket struck the ground, rebounding and the balloon ascended rapidly, apparently having been relieved of ballast. It took a northwesterly course.

World's Records in Jeopardy. The pilots and aides who participated in the race are determined to break world's records in distance and endurance. The wind was blowing about 20 miles an hour from the southwest and the balloons were sent off to the northwest with the prospect of landing far up in Canada.

There were nine balloons in the race and they all got away with the exception of St. Louis IV, which within the last few minutes of the start, was discovered to have four large holes in her and the starter refused to allow her to leave.

The first balloon to get away was the pilot balloon Kansas City III, Horace Wild, pilot, noncontender, Kansas City Aero club.

This was followed at 5:45 by balloon Million Population Club No. 2, Paul McCullough pilot, Lieutenant John Hart aide, Million Population club, of St. Louis.

Balloon Uncle Sam, Captain H. E. Honeywell pilot, Roy F. Donaldson aide, Kansas Aero club.

Million Population Club No. 1, Cap-

tain John Perry pilot, Albert Von Hoffman aide, Million Population club of St. Louis.

Balloon Cole, Dr. L. E. Custer pilot, Andrew Farrell aide, Indianapolis Aero club.

Balloon Drifter, Albert Holts pilot, Charles Trautman aide, Cincinnati Aero club.

Balloon Kansas City II, John Watts pilot, G. E. Quinsberry aide, Kansas City Aero club.

Balloon Goodyear, Captain G. L. Rumbaugh pilot, R. E. Upson aide, Goodyear Rubber company.

The last balloon got away at 6:15 p. m. They all took a northwesterly direction.

Des Moines, July 27.—Two balloons in the national elimination race passed over Des Moines shortly before midnight tonight. The first was the Kansas City II, and was riding about 150 feet high. The pilot called down through a megaphone and asked what city this was. Harry Carleton furnished the information. The balloon was traveling rapidly towards the northwest. At 11:40 o'clock what is believed to have been the Million Population No. 1 passed over the western part of the city, the pilot calling down through a megaphone. He said he was Von something, probably Albert von Hoffman of the Million Population No. 1. He was seen and replied to by Harry Coffey, who said the balloon was about 200 feet in the air.

The Cole balloon, owned by the Indianapolis club, passed over Des Moines at midnight, the pilot calling out and asking the name of the city.

The fourth balloon in the national elimination race passed over Des Moines at 12:30, being sighted from William Henry's drug store in University place. The balloon was sailing higher than any of the others seen passing over Des Moines tonight, being too high for the pilots to make themselves heard. Attention was attracted to the balloon by flashlights thrown from the balcony.

On the west side of the river Sergeant Griffith Roberts, Patrolman Griffith and Gustafson working in plain clothes, made life for the time being miserable for automobile owners and drivers. Although they were on the lookout for speeders, those who had been in the habit of speeding were also on the lookout for the officers. On upper Washington street where usually those who drive automobiles go at an excessive rate of speed, the manner in which the machines traveled resembled a funeral procession, according to the police. But nevertheless several drivers reached the police station because, say the patrolmen, the rear lights of their respective machines were out.

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All of those arrested last night will have to appear in Municipal Judge Tawell Monday morning to answer the charges against them. The police are determined to stop speeding on the streets and with the clock to back them up, are daily making scores of arrests.

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It is impossible to verify these rumors, but they are nevertheless persistent. Also it is known that, secret negotiations or no negotiations, the bitterness which existed between France and the Vatican some five years ago is not now noticeable, but on the contrary the most friendly relations exist.

However, it is well understood here that so long as Pope Pius lives there can be very little accomplished by secret negotiations. Unless France officially and openly commissions an envoy with the avowed intention of treating with the pope on the subject of a reconciliation, those in a position to know declare nothing like a reconciliation can happen.

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The exterior architecture is of a sober elegance which will harmonize with the palace of science and the other university buildings of the Rue Pierre Curie. For the final execution of the building from July 22 a credit of \$20,000 has been assured.

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With a few exceptions those arrested were allowed to go on their own recognizance or upon their signing their membership cards in the Portland Automobile club.

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The senate attached to the bill amendments increasing the tariff board and repealing the Canadian reciprocity measure.

Before calling up the bill for action by the house, Mr. Underwood will ascertain the sentiment of the Democrats on both amendments.

Caucus May Be Called. If necessary a caucus for the purpose will be called, said Mr. Underwood and the majority of the Democrats will accept the amendments, he will pass the bill without sending it to conference.

The greatest hostility manifested by Democrats is to the amendment continuing the tariff board, which they are opposed to the board because they claim it is used by President Taft to delay the tariff revision and to excuse his vetoes of tariff bills.

The Republican wool bill passed by the senate has not been considered by the ways and means committee. It is identical with the Republican bill passed by the senate nearly two years ago and rejected by the house Democrats.

RECONCILIATION BETWEEN THE VATICAN AND FRANCE

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