

NEW PUBLIC UTILITIES STATUTE NOT CRIMINAL, DECLARES LATOURETTE

City Not Therefore Subject to
It in Enacting Legislation,
It Is Argued.

"That the public utilities statute is not a criminal one, the city therefore not being subject to it in enacting legislation to govern its public service corporations, was the contention made yesterday afternoon by Assistant City Attorney Latourette in arguments before United States District Judge Bean on the injunction suit of the Portland Railway, Light & Power company against the "six tickets for a quarter" ordinance.

The city passed this ordinance early in November and two weeks ago the street railway company secured a temporary injunction to restrain its enforcement on December 9, when it was to have gone into effect. Attorneys Frederick V. Holman and Harrison Allen represented the company in the arguments, which were for and against a decree permanently enjoining the city from enforcement of the ordinance.

That the public utilities act of the state is not a criminal one was the city's principal point in defending itself. The state vests in the city the right to amend its own charter. Mr. Latourette said, subject only to the state constitution and the criminal laws.

Says Imprisonment Not Penalty.
The state public utilities statute, he said, was civil in its nature, imprisonment not being a penalty for its violation and a suit against the violator necessary before a fine can be collected. Because of this fact, maintained Mr. Latourette, the city was not barred from passing the fare measure or any similar ordinance that it saw fit.

Latourette declared that the results of the new ordinance were problematical and that he did not believe the company's mathematical certainty, alleged in its complaint, that money would be lost by its application. That is yet to be seen, he said. Lower rates, Latourette declared, would induce more business, and the company would also affect a considerable saving because with more tickets being used, the company would not incur the loss experienced at present by dishonest conductors collecting cash fares and not registering them.

On the other hand, the company attorneys took the position that the public utilities or railroad commission statute was criminal in that violators were subject to fines or imprisonment.

Penalty Complied of.
The railroad commission must pass upon any new tariff of rates, they said, and in the event of the company raising or lowering rates without the commission's permission would render them subject to heavy penalty.

Then, to use the expression of Mr. Holman in the course of his argument, "the company would be between the devil and the deep blue sea." The ordinance just passed by the city also provides fines and imprisonment for violations by officers and employees. A compliance with the ordinance therefore would mean a violation of the railroad commission law, and vice versa. Such a condition, Holman said, would deny to the company equal protection of the law as guaranteed to citizens by the federal constitution.

Master Takes Under Advisement.
The contention was also made that the fourteenth amendment to the federal constitution prohibits enforcement of the ordinance on the ground that the city, in attempting to exercise the powers granted by the charter and attempted by the passage of the ordinance, is attempting to exercise authority exclusively within the jurisdiction of the railroad commission. The enforcement of the ordinance, it was said, would be confiscatory in that it would not permit the company a reasonable net return on the value of the defendant's property, all of which is invested in the street railway company in this city.

Judge Bean took the matter under advisement and a decision is expected within a few weeks.

Interesting Gifts for Men and Boys



Starting Thursday,
for your
convenience—
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evenings until
Christmas.

Fourth
at
Morrison
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CIRCUIT JUDGE UPHOLDS DEMURRER TO SUIT OF HUMASON AGAINST ORR

Effort to Gain Possession of
Sister's Valuable Estate to
Go to Supreme Court.

Upholding a demurrer to the suit of Margaret Humason against Augustus B. F. Orr, Circuit Judge Cleeton this morning ended that case insofar as the circuit court is concerned and put the question up to the supreme court to which the decision will probably be appealed. Mrs. Humason sued to have the divorce of Hannah M. Orr from Orr set aside that the subsequent marriage of Orr to her sister, Mary A. Burke, might be invalidated and she might secure her sister's \$85,000 estate.

Judge Cleeton held that the complaint did not set forth a cause of action in that it was not brought by a party to the divorce action or by some person who was vitally interested in the divorce case at the time it was decided. He said that if the facts set forth in the complaint were true, it would seem that the law ought to reach the merits of the case in some way but that if the case was allowed to stand, it would make possible suits to annul divorces in which hardship would be done to innocent parties.

The complaint, filed last August, alleged that Orr and his first wife, Hannah M. Orr, arranged that Mrs. Orr should secure a decree that Orr might marry Miss Burke, an unmarried woman about 50 years old with property worth \$85,000. The divorce was secured in Clackamas county on June 10, 1911, and it was alleged that Mrs. Orr swore that she had no interest in the case at the time or until she married Orr six months later. As Mrs. Humason is her sister and not an heir of either the first Mrs. Orr or of Orr himself, she also had no interest in the divorce suit at the time it should be permitted for anyone to bring an action to annul a divorce, we would have subsequent marriages and resulting children made illegal as the result of suits brought by people who desire to secure property as the result of such suits.

"Only Mrs. Hannah M. Orr, Orr himself, or an heir or heirs to either can bring such an action as I interpret the law," said Judge Cleeton. "Mrs. Mary Burke Orr had no interest in the case at the time or until she married Orr six months later. As Mrs. Humason is her sister and not an heir of either the first Mrs. Orr or of Orr himself, she also had no interest in the divorce suit at the time it should be permitted for anyone to bring an action to annul a divorce, we would have subsequent marriages and resulting children made illegal as the result of suits brought by people who desire to secure property as the result of such suits."

NAME OAKVILLE IS CHANGED TO VERDURE

The name Oakville has been dropped from the map by the Oregon Electric railway, and in its place the symbolic word "Verdure" has been inserted. Today Traffic Manager W. D. Skinner received a letter of protest from a resident who offers to submit a petition signed by 100 persons to back up the plea for retention of the former name. But there are Oakvilles in Washington, California, Ontario, Indiana, Pennsylvania and Tennessee. When new stations are established on the electric line, the aim has been to find brand new names for them so freight will not go astray. As dispatching is done by telephone, some confusion with the town "Oroville" has arisen, which was another reason for the change.

Transportation Club Dance.
With a luncheon at noon and a dance and card party in the evening, tomorrow will be a busy day for the Portland Transportation club. The luncheon will be addressed by Edgar B. Piper, at the Multnomah hotel. Preparations for the dance provide for a large attendance, which will be limited to members and visiting friends of the club.

OREGON'S DISPLAY AT CHICAGO LAND SHOW ATTRACTED THROGS

Commissioner From Oregon
Returns From Exhibit Much
Pleased With Results.

Although no prizes were offered for excellence of exhibits at the Chicago Land Show, Oregon easily had the most characteristic and best-arranged display in the whole Coliseum building, according to M. E. Smead, one of the commissioners appointed by Governor West. Exhibits which cost as much as Oregon's were outshone in quantity and as for attractiveness and accessibility of the display, every one was far behind the Beaver state, he said.

C. C. Chapman, Oregon immigration commissioner, is expected home tonight, having remained over a day at Chicago after the show was concluded. "All the Chicago papers featured Oregon every day," Mr. Smead said. "This, too, in spite of the fact that about 35 states were represented and the press did not pretend to give comprehensive stories of each exhibit. It was the Oregon spirit that did the trick, because we didn't have any hands off signs stuck up in our booth and people could come and go and touch and smell and even taste all they wanted to."

"Oregon day" at the show was certainly a big one. We had our Rosarian uniforms and Mr. Duryea had his Radcliff uniform and we hired a quartet and sang Oregon songs and serenaded every other booth. Mr. Chapman disdained to use the announcer system in making his speeches, and shouted his message from the rostrum, his voice filling the hall completely.

"M. J. Duryea of Eugene gave daily lectures, talking to the crowds as the Rose Festival moving picture films were unrolled. The films were supplied by George E. Baker and proved most interesting to the visitors. On Oregon day we gave away samples of wheat in little envelopes which enclosed cards to be mailed for further information. I think this made a big hit with the people. Though I looked every evening, I could not find a single bit of Oregon literature thrown away, though hundreds of booklets given out in other booths littered the floors and entrances."

The only disappointment was failure of the land show people to provide prizes for the best exhibits. Oregon would have taken the prizes against all comers. Everybody said so and we who were there knew."

The non-perishable articles on display in the Oregon booth will be included in the permanent exhibits of the Northern Pacific and Great Northern railways at St. Paul. It is stipulated that the tags, showing name and location of the grower, shall be left on, so every visitor may know at a glance just where the stuff came from.

JOINT SMOKER TO BE HELD THIS EVENING

State, county and city officials, business men and labor leaders will be the guests tonight of a joint smoker and reception tendered by the Multnomah Bar association and the Progressive Business Men's club at the Oregon hotel. A. H. Averill will serve as chairman of the evening.

Short talks are scheduled from S. C. Rasmussen, president of the Progressive Business Men's club, and Arthur Langmuir, president of the Multnomah Bar association, while former Senator C. W. Fulton and Ernest W. Hardy will speak on behalf of the bar. William F. Woodard and Hy Eilers will talk for the business contingent, and A. H. Harris will speak for labor. O. C. Lettier of the Oregonian and B. F. Irvine of The Journal will represent the press.

The smoker is given in an effort to make for a better understanding between bench, bar, business and labor.

WILSON IN FAVOR OF BUILDING AT FRISCO

Washington, Dec. 15.—President Wilson today told President Moore of the Panama-Pacific exposition that he favored a government building at the fair.

PRISONER REMEMBERS NAUGHT EXCEPT NAME

Woman Found Him Uncon-
scious but Evidence of
Drug Absent.

Ralph Newhall, about 25 years old, was arrested last night at the Porter hotel, Third and Pine streets, but is unable to remember anything except his name. The young man cannot tell the officer his address, name of mother and father, relatives or give them any information that will help clear his memory.

He has been living at the hotel with a young woman giving the name of Florence Barden, whom he says is his wife. She found him lying on the floor of the room last evening, apparently under the influence of a drug, but investigation by Detective Royle and Goltz failed to find anything poisonous that he had taken.

This morning in the municipal court Newhall told Judge Stevenson his mind has been a blank for two months and possibly longer. He was asked if he knew the Barden girl. The man said he did, and that she is his wife. Asked how he knew this, he replied that she had told him so. He declared he married her three years ago, but is unable to give any particulars. "The man is well dressed."

The girl has been working in restaurants, but he has not worked for six weeks. The girl says he has often threatened to kill both her and himself, in case she left him. She is unable to explain his lapse of memory. The judge ordered Newhall held for further observation.

'INDEPENDENTS' WANT HAND IN RATE MAKING

Committee of Taxi Owners
Petition City Commission
For Entire Readjustment.

Wishing to have a hand in a proposed revision of regulations governing the operation of cabs and taxicabs for hire in the city, the "independents" taxicab owners, a drive has been organized into a committee headed by William H. Franklin, who established the first "independent" taxi service in the city.

Several days ago, Attorney W. H. Strong for the Northern Pacific Terminal company, spoke to City Attorney La Roche asking that a new ordinance governing taxi traffic be drafted, one feature of which was to give two taxi companies exclusive right on a piece of ground, alleged to be private property, in the vicinity of the Union depot. The matter was turned over to Assistant City Attorney Latourette. He, however, did not regard it as fair to regulate in favor of any special companies. Mr. Latourette stated this morning that the proposed ordinance has not been drafted.

To counteract the step taken by Attorney Strong, the "independents" have filed with Commissioner Daly a petition suggesting a material cut in the rates now charged for taxi service. They state that most satisfactory to all concerned would be a flat rate per mile, of 20 blocks, and the entire elimination of the meter, back charges and extras for a reasonable amount of baggage.

The petition is signed by sixteen "independents" and sets forth a scale of rates that the "independents" believe will be satisfactory all around. These are as follows: Fifty cents per mile of 20 blocks for one or two passengers; 75 cents per mile of 20 blocks for three or four passengers; no extra charge for a reasonable amount of baggage; no "back charge" within the city limits, and that there be no distinction between cabs with or without meters.

It is further asked, in the words of the petition, "that the city have now voted in Manager Ed Lyons of the Terminal company be taken from him and be given to the city police," and that all persons having vehicles for hire be given like privileges in soliciting business, and that the city equalize rates. It is also asked that someone known for fairness be assigned to investigate impartially into all conditions affecting the ordinance.

MANY COMPLAINTS ARE MADE AGAINST WOMAN

Women continued to visit the detective bureau today to complain against Mrs. Elizabeth Patrick, the aged woman arrested Saturday for soliciting hair comings and failing to return them made into switches. The reports show the woman canvassed Portland first, then went to Astoria, where she secured a wig maker. Several women identified switches given the woman to be made over. She has been taken to Eugene to stand prosecution as the first complaint was filed against her there.

AMENDMENT TO TAX LAW IS SUGGESTED

State Tax Commissioner Galloway, in a letter to Assessor Reed, gives his opinion that the words "or decrease" should be read into the law regarding the authority of the assessor to change the statement of a taxpayer regarding his property. At present the law reads only that the assessor may increase the assessment, but Mr. Galloway said that he believed words and phrases were not vital in a law in which the meaning was clear.

MISTAKE IN SIGNAL CAUSE OF COLLISION

A signal given by a brakeman on an S. P. & S. work train near Knappa station between Portland and Astoria, that was mistaken by a brakeman on another work train, resulted in a head-on collision between the two trains this morning, and the slight injury of one of the crew who was riding in the caboose. Both engines were smashed up badly. The collision delayed the west bound train for about two and a half hours. The engine crews both escaped injury.

Von Klein Trial Tomorrow.
Circuit Judge Kavanaugh will preside at the third trial of E. B. C. Von Klein which begins tomorrow morning. This trial is on a charge of living in polygamy with Ethel Newcomb in Portland two years ago while he had a wife, Louise Hildner in Minneapolis, and an apollis. Von Klein has been tried twice for larceny of Miss Newcomb's jewelry and both juries have disagreed.

CITY WILL CONDEMN LAND FOR WIDENING OF STREET TO 60 FEET

Plan for Improving Mill Street
May Be Realized, Follow-
ing Long Wait.

After 22 years of work on the part of property owners on Mill street, between Chapman and Sixteenth streets, to get the present 80 foot thoroughfare widened to 60 feet and hard surfaced, it looks as though their hopes are to be realized, for at tomorrow's meeting of the city council City Attorney La Roche will be authorized to start condemnation proceedings against one property owner, who has blocked proceedings each time they have been instituted.

The case involving the widening of the street has been before the courts a number of times in the past 10 years, and it was about three years ago that a jury in Judge Gatens' court allowed \$3500 for the property owned by the one lone property owner who has held up the improvement.

About 10 property owners along the street, four or five years ago, when they thought the improvement was to be started, deeded to the city the 30 feet of their property to widen the street, and finally after he jury decision, raised \$3500 by popular subscription to pay for the other property. This money is now in the city treasury.

Owing to a charter provision requiring street extension work to be made within nine months after commencement of proceedings the jury's decision is void. It is now necessary for the city to start new condemnation proceedings to get the street cut through. In the meantime sidewalks are being put in on the north side of Mill street, in an attempt to relieve the situation.

Those who have seen the thoroughfare state that it is one of the worst "mud holes" in the city.

Milinery Exhibit.

The milinery department of the Girls' Trades school will give an exhibit of the work done by the students at the school, Fourteenth and Morrison streets, next Friday afternoon between 1 and 4 o'clock, to which the public is invited.

Journal Want Ads bring results.

CAMPBELL WITHDRAWS FROM RACE WITH SMITH

Requests Latter Be Appointed
Receiver of U. S. Land
Office.

(Washington Bureau of The Journal.)
Washington, Dec. 15.—Learning that George I. Smith is a candidate for receiver of the Portland land office, N. Campbell, in a letter to Senator Chamberlain, announces the withdrawal of his name and requests the appointment of Smith, asking to be considered for appointment as register in June when a vacancy occurs.

George I. Smith is the president of the George I. Smith Printing company of 204 1/2 Stark street, and the withdrawal of Nathaniel Campbell, a land attorney of the Worcester building, leaves Smith the only applicant for the office, as far as Smith knows. He has received no information regarding his application, however.

BIG DAMAGE SUIT ON TRIAL IN FEDERAL COURT

Trial of the suit of L. L. Paulson against the Northern Pacific railway for personal injuries sustained in a wreck was started this morning in Judge Bean's division of the federal court. Paulson was a passenger, en route from Pittsburgh, Pa., to Portland, and at Oriska, N. D., the plaintiff alleges, he was badly injured when the train was derailed.

The accident happened October 10, 1912. Damages in the sum of \$25,000 are asked. Attorney C. A. Hart of Carey & Korr, in his opening statement to the jury, said the railroad company was not denying liability in the matter, but that the contest was over the extent of the injuries the man had received and what amount of damages should be paid.

ADmits VIOLATION OF WHITE SLAVE LAWS

Max Schwartz, former owner of half interest in the Pittsburg grill in this city, and owner of one-third interest in the Hot Brau in Seattle, was in Judge Bean's division of the federal court this morning and pleaded guilty to a charge of violation of the Mann white slavery act. He will be sentenced Monday morning.

Schwartz is charged in the indictment with having accompanied a woman known as Margie Williams from Portland to Raymond, Wash., and from Portland to Missoula, Mont., for immoral purposes. Schwartz' partner in the Pittsburg grill, Max Holtzer, is now serving a sentence of a year in the county jail on a similar charge.

Journal Want Ads bring results.

Reserve Your Table for the Big Christmas Dinner in the Fountain Grill and the Crystal Dining Room

Dinner will be served on Christmas day from 5:30 to 8:30 P. M. at \$1.50 per plate—special musical program.

Service a la Carte in the Rathskellar Grill.

EVERY NIGHT THIS WEEK, DURING DINNER AND AFTER THE THEATRE, AS WELL AS DURING THE LUNCH HOUR

THE CABARET DE LUXE
Specialties Supreme—Voices Par Excellence—Costumes Unique.

Miss Ruth Bigelow, Prima Donna, and her own chorus of soloists.

SIGNOR PIETRO MARINO, The European Violin Virtuoso, and his

Orchestra in a new program of exquisite charm.

COME TONIGHT.

MERCHANTS' LUNCH IN THE RATHSKELLAR 50¢.

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