

ORDER OF SERVICE COMMISSION GETS BACKING OF COURT

Hillsboro Must Pay Charges for Hydrants Despite Contract, State Supreme Court Rules.

Salem, Feb. 17.—In spite of the fact that the North Coast Power company is operating in the city of Hillsboro under a franchise which provides for free water service for municipal purposes, the city must pay the rental charges on the fire hydrants as fixed by the Oregon public service commission, according to an opinion written by Justice Benson and handed down by the Oregon supreme court this morning.

In 1918 the North Coast Power company, the successor to the company to which the original franchise was granted, started proceedings to have the public service commission annul the franchise under which it was operating in the city of Hillsboro. This rate was fixed by the public service commission at \$2.50 per hydrant per month. The city refused to pay the rental and the commission started a collection, which action the Washington county circuit court upheld. The city appealed to the supreme court to set aside the order of the public service commission and to enjoin the North Coast Power company from collecting the rentals for fire hydrants as prescribed by the commission.

In his opinion today Justice Benson stated that the public service commission in its order to collect the rentals from the city was acting in violation of the public utility laws of the state, and that the public utility laws of the state may at any time exercise its police power and change such rates.

Other opinions were handed down by the supreme court this morning as follows: Sarah Jane Daniels, executrix of estate of Edward J. E. Thompson, deceased, appellant, vs. Foster & Kleiser, a corporation, appellees, in Multnomah county; action to recover \$500 damages for appropriation and wrecking of building; opinion by Chief Justice McBride; Judge George W. Smith affirmed.

Horace E. Plummer vs. Marie W. Plummer, appellant, vs. Marie W. Plummer, appellee, in Multnomah county; action for divorce; opinion by Justice Harris; Judge George W. Smith affirmed.

H. W. Gardinal, acting as board of directors of North Unit Irrigation district, vs. Perry Hendrick et al, appellants; appeal from Jefferson county; relating to confirmation of authorization of issuance of bonds; opinion by Justice Bennett; Judge T. E. J. Duffy affirmed.

Solo vs. Schiffmann vs. E. L. Youmans, et al, appellants; appeal from Tillamook county; suit for damages and to enjoin defendants from cutting and taking away timber upon premises of plaintiff; opinion by Chief Justice McBride; Judge George W. Smith affirmed.

J. H. Haner vs. City of Eugene, appellant; appeal from Lane county; suit to set aside special assessment made upon property of respondent; opinion by Chief Justice McBride; Judge J. W. Hamilton reversed and case remanded.

C. A. Pullen, et al, appellants, vs. School District number three, Multnomah county, petition for re-hearing denied in opinion by Justice Burnett.

Arthur E. Fletcher, et al, appellants; appeal from Tillamook county; action to recover money for damages to respondent's property; opinion by Justice Burnett; Judge George R. Bagley reversed and case remanded.

Robert N. Parks vs. William R. Smith and Nellie D. Smith, appellants; appeal from Lane county; motion for rehearing denied in opinion by Justice Bean.

Thomas Deesler vs. Powder River Gold Redging company, appellant, vs. Powder River Gold Redging company, appellee, appeal from Baker county; petition for rehearing denied in opinion by Justice Bean.

EX-SOLDIERS KNEW NOTHING OF RAID (Continued From Page One) four feet, the girl said, she was excited, and did not get a good enough look to be able to identify him, save that he wore a big hat.

"No one told you what to say, Miss Tripp?" asked Abel.

"And you wouldn't have said it if they had, would you, Miss Tripp?" put in Vanderveer, with sarcasm.

Lester almost whispered his replies to the questions, and when Vanderveer cross examined he said that he had been in the hall on Monday night before the shooting instead of Sunday night as testified by the witness.

ADMITTS TAKING LITERATURE Lester also admitted that some of the I. W. W. literature in his room was given him to take to his rooms because a raid was feared by other members. He was at his home when the parade went by, the witness said.

It developed during this examination that John Foss, the propaganda speaker at the Sunday night meeting, was a Spanish-American war veteran.

That the defendant Elmer Smith stood in the street in front of his office, and gazed intently toward the hall when the parade on Armistice day

was on north Tower avenue, was the testimony of L. J. Edwards, realty dealer of Centralia.

Hearing shots during the parade, at Second street and Tower avenue, Harry Fitzgerald, Centralia resident, stated that he ran to that intersection and saw Casagrande and John Earl Watt lying on the sidewalk. Across the street he saw Grimm being helped into an automobile. The witness accompanied the victims to the hospital.

PHYSICIAN'S TESTIMONY BARRED Dr. John T. Coleman, physician of Chehalis, was not allowed to testify as to his conversation with the defendant yesterday afternoon. When the latter, with his wife, went to the physician's office for treatment.

"He came to have his hand sewed up," said the witness. The state was seeking to prove that Hand cut his hand on the broken window in the Arnold.

Vanderveer objected on the ground that the conversation was of a professional confidential nature and could not be revealed without defendant's consent. Judge Wilson sustained the objection.

Edward S. Mays of Tenino, an ex-soldier who came to the stand in uniform yesterday afternoon, was recalled this morning by the prosecution to give that specific information.

He had heard nothing of plans for a raid on the I. W. W. hall, and in fact knew nothing of the location of the hall in Centralia, he said.

Guy E. Scace, pharmacist of Centralia, son of Dr. D. A. Scace, a former witness for the prosecution, also testified this morning that he did not know of the location of the hall or that he was anywhere near it when the shooting commenced.

MARCHER SEEKS SHELTER Scace said that he was marching next to the last platoon of the Centralia contingent and that he had been "marking time" for a few seconds when the first shots were heard. As the shooting became general, he broke ranks and ran into the vacant lot just north of the little store which, in turn, is north of the I. W. W. hall.

While going there he saw a man fall at the place where the lot and building intersect the sidewalk. The man was McElfresh. The witness testified as to the position of the body, the feet being partially on the sidewalk.

Defense Attorney Vanderveer endeavored to prove from this that McElfresh was standing on the sidewalk when shot, and not hiding behind the corner of the building, as had been previously testified. Scace said that he saw nothing of any shooting from the Arnold hotel, across the street.

DEFENDANTS HAVE LAUGH When George Lester was summoned to the stand by the prosecution, a number of the defendants laughed. Apparently they knew him, for he testified that he was a member of the I. W. W. and that he had frequently visited the hall in Centralia prior to the shooting.

Lester said that he is now residing in Everett, Wash. While in Centralia he lived at the Kentucky house, situated in the same block as the I. W. W. hall on North Tower avenue. He testified as to certain of the defendants talking in the hall, but imparted no details of their conversation.

STATE SCORES IN I. W. W. HEARING AT MONTESANO Montesano, Wash., Feb. 17.—Two men in United States army uniforms were the principal witnesses for the prosecution in the Centralia murder trial yesterday, one scoring heavily in regard to shooting from the I. W. W. hall and in evidence as to the killing of Arthur McElfresh.

The testimony as to these happenings was recited by Edward S. Mays of Tenino, who wore a sergeant's chevrons on his uniform and three overseas service stripes.

HELPS WARREN GRIMM Events connected with the shooting of Grimm were described by Dr. H. Y. Bell, Centralia, who was in the first platoon of the Centralia marchers. Grimm was eight feet ahead of the ranks. The witness, hearing the marcher's name, turned around, he said, to see him running in all directions. Turning back he saw Grimm running southwesterly across Second street, his hands across his abdomen, apparently suffering great pain. He assisted Grimm, and while so doing, saw wounded and dead on the sidewalk across the street.

Dr. A. C. Roberts, dentist of Centralia, was the second uniformed man to take the stand since the trial began, and his badges of service in the army came in for some severe comment from the defense attorney.

Dr. Roberts gave an interesting new detail of evidence, in that he is the first witness so far to testify in regard to the actual shooting in Second street. While running back and fourth on Second street, looking for a way of escape from the bullets, he observed a man standing at the southwest corner of the brick store building at the northeast corner of the intersection of streets. This man was shooting up Second street toward Tower avenue, the dentist asserted.

SHOOTING FROM AYALON The inference from testimony so far is that this man was Wesley Everest, who was lynched the same night. Everest is said to have escaped from the back of the Roderick, where he is supposed to have been secreted, and several references have been made to the man with an automatic pistol, who slipped around some sheds back of the store building and appeared up the alley.

Seeing this man shooting, the witness narrated, he turned and ran back to Tower avenue. He also told of observ-

ing shots from the Ayalon during his flight.

"I saw a gun barrel and a flash from the Ayalon," he said.

ROBERTS MAKES SHOW At this stage of the proceeding, the defendant, Loren Roberts, got up from his seat with the other prisoners, and with his occasional remark, "I smile went over to where Vanderveer was talking with the witness. Roberts talked for some little time, and Vanderveer was apparently trying to get him to go back and sit down.

"Stage play," remarked Prosecutor Abel, and for once Vanderveer was so angry that he couldn't reply. Judge Wilson came to his rescue and reprimanded Abel.

"I wear it on occasions," the witness Roberts said, in reply to Vanderveer's reference to his uniform.

REPRIMANDED BY JUDGE "Is this an occasion?" asked the attorney. "Were members of the Legion asked to appear in uniform that their testimony might be enhanced by the uniform?" "Possibly," Roberts answered.

With mock deference Abel told him not to wear the uniform next time, so that his case would not be offended.

"I wish to take an exception to remarks from the attorney for the lumber trust," Vanderveer came back.

Abel's speechless. The judge's gaze directed more toward the defendant, who was on the heads of the quarrelsome barristers.

REMEMBERS WHITE HAT The wide brimmed felt hat with high crown, said to have been worn by the man who was seen coming from the alley in the rear of the Ayalon immediately after the shooting, was again described Monday afternoon as having been worn by Eugene Barnett. Barnett is accused by the prosecution of having shot from the Ayalon.

The witness was A. D. Purvis, Centralia grocer, who had known Barnett for two years, he said, the latter having traded in his place of business. Purvis said that he observed Barnett riding toward the business district of Centralia on horseback, about noon of Armistice day. Unable to describe the rest of his clothing accurately, the witness said that Barnett wore the kind of hat described above.

Still later in the day, Purvis was in an automobile in the parade, fourth from the front of the auto section. When the parade slowed down in front of the I. W. W. hall his machine was about 150 feet north of that place. Attracted by the sound of crashing glass in the Arnold rooming house, across the street to the west, Purvis said that he distinctly observed the flash of a rifle through the broken pane.

SAW FLASH OF FIRE After the firing had died down, Purvis drove around the corner to Second street, he said, and saw two wounded men, Ben Casagrande and John Earl Watt, lying in the gutter.

Purvis is the first witness yet to testify in regard to shooting from the Arnold. He said that a number of shots were fired from there.

Under cross-examination at the hands of Vanderveer, the witness declared that the flame from the rifle shot out at least a foot from the window of the Arnold.

The witness' statement under the probing questions of Vanderveer, the next witness, O. W. Gibbons, formerly proprietor of a grocery store on Tower avenue on First street, got up and roared his replies into the face of the impassive attorney.

DID NOT HESITATE Gibbons was driving a machine just ahead of the one carrying Purvis. In it were his wife and 6-year-old child. His machine had just passed a little north of the corner of the I. W. W. hall to the north when there came a sound as of exploding firecrackers, he said.

His wife suddenly called attention to an ex-soldier dropping at the corner of the store. The witness testified, "Almost the same instant he saw bullets kicking up dust spurts on the macadam street, and almost simultaneously he looked up and saw the flash of rifle from the broken window in the Arnold.

Vanderveer asked him if he went into the I. W. W. hall.

"I certainly did not," Gibbons assured him. Instead he went around to the alley in the rear of the hall, where he saw a crowd of men congregating about the back door.

The office of Attorney Elmer Smith in his office after the shooting was described by W. H. Graham, principal of the Centralia high school. Graham said that he organized and led the Boy Scouts' parade, just back of the mounted section.

"Twenty of us left the front of the city jail and went south along the avenue," he narrated. "We expected to meet him" in the street, but later found him in his office."

Smith was standing near his desk, and wore a raincoat. As the posse went in, he jerked back, Grayson said, drew a revolver from his pocket, and said that no one but an officer could take him.

ALL PARADES TOOK ROUTE Some men in the street had guns and these were pointed at him, the witness declared. One of them was a rifle, the end of which was clogged with mud.

In a few seconds Smith surrendered and was taken to jail.

The witness was asked if the parades in which he had participated had always gone as far north on Tower avenue as Third street before turning back. He replied in the affirmative.

The question was apparently asked in relation to Vanderveer's charge in his opening statement that this was the first parade planned to go that far north, and that it was so arranged in order that a demonstration could be held at the I. W. W. hall. The parade was headed by Dr. David Livingston, county coroner, and Lieut. A. F. Cormier, the witness said.

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SCHOOLING IS DECLINED Counsel asked her if it was not true that previous to her marriage that Hawley had offered to send her away for a year's schooling. She replied that he had, but that she refused because she didn't think it would look right. Being further questioned, she answered that she had been given an opportunity to study in a rooming house after her marriage, but when her baby was coming she had to give them up. Trouble with help in the home was also brought up by counsel, to which Mrs. Hawley

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