

THE FALLS CITY TRIBUNE.

Vol. VIII

FALLS CITY, NEBRASKA, FRIDAY, JULY, 14, 1911

Number 36

NO INJUNCTION WAS GRANTED

FEDERAL JUDGES SAY APPLICATION ILLEGAL

GIFT LAW ARGUED ON ITS MERITS

State's Motion to Dissolve Temporary Injunction Sustained by the Court.

Three federal judges last Tuesday refused to issue a temporary injunction forbidding the enforcement of the Nebraska anti-free gift law, popularly known as the anti-trading stamp act. The court refused, however, to declare the statute unconstitutional, its refusal being based upon the technical ground that the application for an injunction had been improperly brought against the attorney general, whereas there was no evidence at hand to show that he intended to attempt any action against patrons of premium enterprises.

The decision came almost immediately after attorneys for the plaintiffs had finished presenting their case. Deputy Attorney General Ayres offered a motion that the temporary injunction be dissolved on the ground that the plaintiffs had failed to show that they were in any manner endangered by an act of the defendants, Governor Aldrich and Attorney General Martin. In sustaining this motion, Circuit Judge W. L. Smith of Council Bluffs, who shared the bench with District Judges W. H. and T. C. Munger, said:

"It is not necessary for this court to express an opinion on the validity of the statute. The theory of an injunction is that the person whom it is desired to enjoin is about to commit an act of trespass upon the property of the plaintiff. I do not mean this to be taken in an absolute literal sense. A man's business is his property and is subject to trespass.

"The plaintiff's complaint embodied an alleged interview with the attorney general in which he announced his determination to enforce the law. This has been shown to be untrue and it is not attempted to make an utterance of the deputy attorney general stand in its stead.

"The court finds that there is no evidence that the attorney general had any intention of undertaking the unusual proceeding of himself bringing a prosecution under this statute. There has been no showing of any danger to the business of the plaintiff. The court holds the opinion that it cannot enjoin the attorney general on fear alone. Therefore the restraining order issued by the district judge is dissolved and the temporary injunction is refused.

Attorney C. C. Flansburg, representing Sperry & Hutchinson and William Gold, two of the plaintiffs, asked permission to amend the plaintiffs' bill to substitute the deputy attorney for the attorney general as a defendant and his declarations for the alleged statements of the attorney general. The court gave its permission to this change, provided that it not be with a view to a reconsideration of the application for temporary injunction but solely for use in the final hearing on application for a permanent injunction.

Claim Act Unconstitutional.
The two New York companies, which are premium concerns giving merchandise in exchange for trading stamps or premium tickets, claim that the Nebraska law is unconstitutional in that it prohibits a legitimate business and in that it is class legislation. They aver that their business is in no sense a gambling enterprise, but a straight business transaction, for the execution of which they have valuable contracts outstanding which would be injured by the enforcement of the law. William Gold of Lincoln, as Gold & Company, with whom Sperry & Hutchinson

has a contract for trading stamps, is named as co-plaintiff in the Sperry & Hutchinson suit. The Magazine & Book company's case was filed as a separate suit.

Judge T. C. Munger granted a temporary restraining order against Governor Aldrich and Attorney General Martin a week ago.

W. G. Hamilton of New York is attorney for the Sperry & Hutchinson company. He remarked that his company has a similar suit pending in Michigan, where a law somewhat like that of Nebraska has been put on the statute books. No other similar cases are pending, he said.

Bailey's Free List Defeated.
Washington, July 13.—Senator Bailey's free list amendment to the Canadian reciprocity bill has defeated in the senate today by a large majority. So evident was the margin against it that Senator Bailey did not ask for a roll call.

Pursuing the policy of forcing the opponents of reciprocity to proceed without delay, Senator Penrose urged Senator Bailey to introduce his wool tariff amendment at once. The latter did so, and the senate adjourned with the amendment pending. It is a modification of the wool tariff bill recently passed by the house, and places all duties on raw and manufactured wool at a general average of 30 per cent.

The consideration of the reciprocity bill is expected to move with rapidity from now on. The wool amendment probably will be disposed of tomorrow.

Narrow Escape
Last Tuesday night as the "jerk water" train pulled into Salem, Ray Ziegler, the night operator, was standing near the track to give the engineer a copy of the orders, and was closer than he figured and as a consequence the pilot of the engine struck him, knocking him down. He had presence of mind enough to catch hold of the rod and hold himself from being thrown under the wheels. The engineer saw the accident and applied the emergency brake, stopping the train very suddenly, thus giving Ray a chance to regain his footing. As it was he was bruised up somewhat, but considers it very fortunate that it was no worse.—Salem Standard.

Robber Got Away.
Joplin, Mo., July 13.—While an express car of the Pacific Express Company was standing at the Missouri Pacific station at 6 o'clock this afternoon, a robber entered it during the brief absence of Messenger L. D. Hill and stole the money pouch, containing \$400. The robbery occurred in broad daylight at a time when scores of persons were passing along Main street not fifty feet away.

Hill had gone from the car to another ahead to assist in loading some express. He was absent about five minutes. He did not discover the robbery until the train had reached the first station east of here. He immediately reported to the police, but up to a late hour tonight no clew to the robber had been secured.

Bed Clothing Takes Fire.
Grand Junction, Col., July 13.—Two are dead and three were seriously burned today at Ruby, Col., as the result of a fire originating in the bed clothes which had been saturated with gasoline during house cleaning. J. R. Williams, his wife and one child were brought to the hospital here suffering from burns. The dead are two children of Williams.

Woman Deserter Arrested.
The first local case of a woman being arrested, under the Iowa law, for deserting her husband arose last Wednesday night when Mrs. A. Soderholm of Ottumwa was held by the Des Moines police, charged with leaving her spouse. The husband and the Ottumwa chief of police came after her. She was on her way to Rock Island to join her mother.

McMahon's Amusement Company opened last night with a big attendance.

Henry Caverzagie Dead.
Henry Caverzagie died at the home of his mother in Rulo, July 7, 1911. In a few days he would have been 31 years of age. He was born in Rulo, and has spent most of his life here. He was a member of the O. U. W. lodge of Rulo, and his going left the ranks broken for the first time. He had been failing in health for some months, but had not been bedfast longer than a week before his untimely death. Four sisters and two brother together with his widowed mother mourn his departure to the Great Beyond. The funeral was held from the Catholic church Monday morning at nine o'clock and a large crowd assembled to show their last respect to his and sympathy to his fond ones. The remains were laid to rest in the Catholic cemetery southwest of Rulo.

Girl Attempts To Hold Up Bank.
Akron, O., July 12.—Edna Doble, a thirteen-year-old Akron girl, is under arrest charged with attempting to hold up the Cuyahoga Falls bank in the true western style today. She walked into the bank and asked for the cashier, J. W. Wolfinger. He happened to be out, and D. B. Gensemer, a bookkeeper, was in charge.

The girl then pointed a gun in Gensemer's face and demanded that he give her all the money that was in the vaults. He told her the safes were locked and that he had no keys to them. "Then give me all the money you have in your pockets," she said. "Sorry, but I have not any with me," answered the bookkeeper.

The girl then backed to the door, still covering Gensemer. He called to the town marshal, who was in the street near the bank, and the girl was arrested.

Plant your advertisement in the Tribune and watch your business grow.

Base Ball Notes

BASE BALL NOTES
If we can't win the pennant we want Humboldt to win it.

Falls City's outfield is the hardest hitting outfield in the league.

Trainer is playing a magnificent second and how he does smash the ball.

Poor Nebraska City. The team representing that burg is the limit. Watch us go up when we meet them.

Tappan is showing some of he gets in shape the team will hit his last year's form of late. If he is unbeatable.

"It's all right to be courteous to the visiting team," says Shanty Doyle, "but there's no reason to be too d— courteous."

McNeil has his eye on the ball again and is driving them to the outfield with a regularity very pleasing to the home fans.

Finch was the demon hitter in the first Maryville game last week, two singles and a home run is some hitting for a pitcher.

Falls City has six left-hand hitters on the team and they all wallop the ball. We should have at least five men hitting in the three hundred class at the end of the season.

It would mean more money to Falls City if Hiawatha would get the Maryville franchise, both in attendance and expense, but the fans were all pulling for Humboldt just the same.

Black will greatly strengthen the team both in fielding and hitting. His only weakness is a disposition to smash the ball

Blames Rebates For Trusts.
Washington, July 13.—"If the tariff is the other of trusts, the trunk line railroads of the country constitute the father and the trunk line association the grandfather," declared Frank L. Neale of Philadelphia, a steanship and railroad shipping broker, in protesting to the house sugar investigating committee today against what he terms a discrimination in freight rates against Philadelphia's sugar business. He did not lay this discrimination expressly at the door of any interest. He contended that distance from refineries should control the freight and consequently the selling price of sugar.

Mr. Neale said he believed railroad rates now were honestly adhered to, but he was not so sure as to what was done where the "trust" had lighterage arrangements, etc.

The witness said artificial reasons "led the sugar trust" to transfer a large percentage of the sugar refining business, from Philadelphia to New York, although Philadelphia received an advantage in freight rates to the west, got coal cheaper and had better water facilities. He referred to the Brooklyn terminal company, "owned by the Havemeyers, reaping enormous profits in lightening sugar in New York harbor" and to the "opportunity to commit customs frauds," as possible reasons.

Park Meeting.
The Methodists will hold their Sunday evening service at the City Park the coming Sunday. The orchestra will furnish the music, and everyone is invited. The service begins promptly at 7:30 o'clock. Sermon by the pastor, Rev. Oliver M. Keve.

Epworth League
The young peoples' meeting will be held at the City Park the coming Sunday evening at seven o'clock. Mrs. C. P. Fordyce will lead. This will be followed by the preaching service and music by the orchestra.

whether it is over or not. A little patience will do wonders for him.

Woods was in the luck to get away without being scored on in the fourth inning of the last Maryville game. Three hits in succession were made off him with none out, but a fine double play pulled him out of the hole.

For Auburn to be among the leaders is the joke of the league. Auburn has four good players and the rest are of very ordinary ability. Shenandoah is fifty per cent superior and is the only team capable of giving Falls City an argument.

Be sure and attend the home games this week and root for the home team. When our boys are in Auburn the crowds never quit them the slightest encouragement or applause no matter how sensational they play. Auburn never has a kind thought of our team or our city and it's time our people got wise.

At the time of writing it is not known whether Humboldt will get the Maryville franchise, but whether she does or not you will still have to doff your cap to our west end sister. To go out in one afternoon and raise enough money to support a Mink league team is an evidence of public spirit that would be creditable to a city several times as large as Humboldt.

Notwithstanding Humboldt is the smallest town in the league we venture the assertion that it will lack a great deal of turning out, the smallest crowds. Another thing about Humboldt, it isn't a quitter; if things break badly, as they always do before the season is over, you will find our neighboring town taking her medicine with a smile and coming back for more.

Girls Held By Jury.
New York, July 12.—Ethel Conrad and Lillian Graham, who, on June 6, shot W. E. D. Stokes, the millionaire hotel man in their apartment were held in \$5,000 bail today for the grand jury on a charge of felonious assault.

Magistrate Freschi, in deciding to hold the two girls for the grand jury stated that he would ignore the element of scandal in the case. He said a prima facie case had been offered and therefore there was nothing left for him to do but to hold the young girls. The spot light shifted frequently yesterday in the inquiry into the shooting of W. E. D. Stokes, the millionaire hotel man. After it had rested on Ethel Conrad and Lillian Graham until they had been bound over in \$5,000 bail each for a grand jury investigation, it was focussed briefly upon James Cummings, Stokes's private detective. Cummings was examined in the investigation of how important letters from Stokes to Miss Graham had disappeared, but the court later dismissed these proceedings.

The testimony indicated there had been originally two bundles of the Stokes letters. One tied with a wide red ribbon was produced in court. The other package, tied with narrow pink ribbon, is the one which Robert W. Moore, the young woman's counsel, declares contains the important letters, is missing. This bundle was picked up, handled and tossed back into Miss Graham's trunk by detectives on the day following the shooting, according to the testimony of John Bloom, superintendent of the apartment house where Miss Graham lived.

Charges were made today against four city detectives in connection with the disappearance of the letters, and their trial was fixed for Thursday.

Injured By Gasoline Explosion.
Aberdeen, S. D., July 13.—Miss Meta Luscombe, a Langford, S. D. young woman, had a narrow escape from death when a gasoline stove which she was filling exploded. Instantly the room was ablaze and the young woman's clothing caught fire. Frenzied with pain, she rushed out of doors, where a high wind was blowing, screaming for help. Her sister Bessie managed to overtaken her and threw a blanket about her, smothering the flames, but not until she was terribly burned about the arms and legs. Mrs. Luscombe, the girl's mother, was in the room when the accident occurred and she succeeded in putting out the fire with slight burns about the arms. Miss Luscombe will be confined to her bed for many weeks, but it is thought she will recover.

A Good Crowd.
The innovation of having church service at the City Park seems to be a pleasing one. The Methodists held their service out there last Sunday evening, and a large crowd attended. Everyone enjoyed the singing of the old familiar hymns. The sermon was by the pastor, Rev. O. M. Keve. Next Sunday's service will be in the Park.

Gives Minor Saloon Rights.
Des Moines, Ia., July 13.— Marriage by a young man under 21 years of age confers upon him the legal right to buy drinks in a saloon despite the fact that the state law prohibits minors from patronizing liquor houses, according to a ruling announced today by Special Counsel Robbins of the attorney general's office.

Last Week Of The Locusts
The 17-year-old locusts which made their appearance throughout Connecticut this year will disappear this week and the larvae will remain in the ground until 1925. The locusts have left destruction in their wake, and experts figure the damage to trees and vegetation in this state at more than \$100,000.

Postal Bank Opens.
Beatrice, Neb., July 13.—The Beatrice postal savings bank will open today. It is expected there will be a large number of deposits made on the opening day.

ANOTHER PURE FOOD LAW SUIT

CEREAL COMPANY ENJOINS THE STATE OFFICERS

AGENTS VISIT WHOLESALE DEALERS

Company Secures Temporary Restraining Order From Interfering.

Chester H. Aldrich, governor of Nebraska, and William R. Jackson, deputy food commissioner, were Tuesday made defendants in an action instituted in the district court of Lancaster county, the Minneapolis Cereal Company securing a temporary restraining order, forbidding the officials mentioned from interfering with it in the sale of a breakfast food manufactured by it, and from enforcing or attempting to enforce that portion of the pure food law which forbids the giving of any present or premium with any food product.

In its petition the plaintiff alleges that it is the manufacturer of a breakfast food and that its product has an extensive sale in the state of Nebraska and in Lancaster county; that the governor is the food commissioner of the state and that the defendant Jackson is the deputy commissioner; that they have appointed and have working under them a large number of deputies, whose names are to plaintiff unknown.

It is further charged that defendants and their deputies and agents have visited numerous wholesale dealers in Lincoln and elsewhere and instructed and warned them that the product of plaintiff can not be legally sold in Nebraska for the reason that such is in violation of that section of the pure food law forbidding the giving of gifts or premiums. Wholesale and retail dealers, it is said, have been warned that to continue the sale of the product of plaintiff would subject them to arrest and prosecution. The plaintiff gives with each package of its food a silver spoon.

The attention of the court is called to the fact that in the case of the state vs. James R. Burligh, the district court of Lancaster county, in July, 1909, held that section of the pure food law which defendants are now attempting to enforce, to be unconstitutional. This judgment was never appealed from and therefore stands as the law at the present time. Burligh was arrested for giving a coupon with a package of food. He instituted habeas corpus proceedings and obtained his liberty, of which the court held he was unlawfully deprived. The section of the law under which he was prosecuted was held to be void.

The plaintiff in the present action asserts that to enforce the law in the manner now being done by the defendants would irreparably injure its business and that it has no adequate remedy under the law. An injunction is therefore asked for.

Gov. Aldrich, while a member of the state senate in 1907 was one of the leaders in the fight for the enactment of the present pure food and drug act, which was strenuously opposed by many manufacturers.

Strung Up, But Cut Down.
Maysville, Ky., July 13.—A sensation was created here this afternoon when Thomas Ham, sixty years old, was led into town by police officials with a rope around his neck and his arms securely bound. Ham is charged with an alleged assault on three little girls, whose ages range from nine to twelve years. He was arrested near here this morning and locked in a barn belonging to Ben Woods, a farmer, pending the arrival of officers from Maysville. Ham was later discovered by Woods hanging from a rafter with a rope around his neck. He was cut down and revived.