

RAILROAD TAX ARGUMENTS

Judge Munger Hears Demurrer to Bill Filed by the Companies.

ATTORNEY GENERAL BROWN ATTACKS

Case of the State Presented to Challenge the Burlington Plea of Fraud and Conspiracy by the State Board.

In the United States circuit court Judge Munger is hearing the arguments on the demurrer to the injunction granted in the railroad tax case. Attorney General Brown opposes the argument for the demurrer, which is brought by the state and the county attorneys of the various counties through which the respective railroads pass.

The question on nonjurisdiction because of the amounts involved being less than \$2,000 in some of the counties was not passed upon by Judge Munger. The general propositions discussed by Attorney General Brown were: Challenging the allegations of fraud. How may the state Board of Equalization, under the revenue law, arrive at the tax value of railroad property? Does this bill of the railroad companies allege fraud and challenge the jurisdiction of the court? In the amendment to the Burlington bill, does it charge conspiracy and fraud? This latter proposition of the Burlington charges that the board first ascertained the value of the stocks and bonds and mileage and used these findings as a pretext to carry out the conspiracy, and the Burlington questions the right of the board to use this method for fixing tax valuations, on the ground that the revenue law does not so provide.

Getting at the True Value.

Mr. Brown maintained that section 87 of the revenue law specifically provides for just this thing, in that in determining the taxable property of the railroads shall consist of the right-of-way, roadbed, slides, tracks, depots, rolling stock, capital stock authorized and number of shares paid up, the market and true value of such stocks, the secured and unsecured indebtedness, and the location and value of its real estate, all of which shall be taken into account to determine their true value. Also the total and gross and net earnings, improvements and assets of every character. Under this authorization of the law the board adopted this very test in arriving at the taxable value.

He then proceeded to show that \$4,000 of the stock of the Oregon Short Line had been included in the Union Pacific schedule in order to increase 3,000 mileage, making the grand total of the mileage 6,000, when as a matter of fact there was not a foot of the Oregon mileage in the state of Nebraska, the purpose being to make as big a divisor as possible in order that the general aggregate might be reduced on the mileage basis.

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SNOW FALL ON CITY STREETS

Great Problem of Administration During the Present Winter.

RAILWAY COMPANY SHARES EXPENSE

Efforts to Keep Down Town Streets Passable Have Exhausted the Emergency Power of the Local Government.

For the first time in the history of the city the street railway company will stand a share of the expense incurred by the city in removing and handling snow in the downtown district. The cost already has amounted to \$2,500. According to Mayor Zimmerman the company will bear one-fourth of the total expenses, or about \$500 of that incurred to date. The arrangement was brought about through the efforts of the acting mayor, who believed that it was no more than fair for the street railway to pay a proportion of the expense, since it has the use of a large part of the streets and sweeps them.

Matter of Franchise. "Another claim," said Mr. Brown, "is that the railroads hold that a federal franchise cannot be taxed. As a matter of fact the Union Pacific franchise came from Utah, and is therefore a state franchise. In the Union Pacific case under its present management, could not under the law purchase a federal franchise. Even admitting the original franchise to be a federal one, the present owners of the road are the third purchasers, and hence can have no possible claim to any federal franchise. The Burlington also claims to be operating under some sort of a federal franchise. In the Union Pacific case the Utah franchise is a franchise 'to be,' while the Nebraska franchise is a franchise 'to do,' and in Nebraska it must be assessed under the law."

Mr. Brown wanted to know why the state board had not been brought into this case to answer for fraud? "The roads do not come in until the last hour and last minute for the relief they demand," continued the attorney general. "It is a further rule of law that laches are not good grounds for relief. The railroads plead for equity, but invoke a rule that no other active taxpayer can invoke in this court. It is often said that public trust has lost confidence in the legislative and executive branches of government, but it has not lost confidence in the courts."

County Attorney J. L. Caldwell of Lancaster county followed Attorney General Brown along similar lines of argument, after which the railroad side of the case was taken up by C. J. Greene of the Burlington.

Position of the Railroads.

The position taken by Mr. Greene was, in effect, that this was an attempt upon the part of the state to seize upon \$600,000 of the property of the railroads. He wanted the court to determine whether the property of the railroads was over or under-valued. "We are only litigating the amount in excess of what it should be," said Mr. Greene. "The supreme court of the United States has decided upon nothing which we claim here. We want all of the counties joined in this suit in order that the question of jurisdiction may be established. A lot of defendants will make us lots of trouble. We maintain that the amount involved is in excess of the jurisdiction of this court and comes wholly within the province of this court. We hold that the state board exceeded its authority and consequently its action is void, and that it is joined in a conspiracy to seize our property."

County Attorneys Present.

Among the county attorneys present at the hearing were: Sam D. Killen of Gage, Charles O. French of Nemaha, J. L. Caldwell of Lancaster, Raper of Pawnee, Stanley of Hamilton, Myers of Harlan, Patrick of Sarpy, Rawles of Cass, Clapp of Jefferson, Arthur Mayer of Hall and Cheney of Frontier. Attorneys Hougland & Hougland of Lincoln county represent that county and County Clerk J. M. Wright and County Treasurer D. J. A. Dirks of Nemaha county are also interested spectators.

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Though the snowfall this winter has been unprecedented, reaching a total of about three feet since November 1, the city has used the most rapid and compatible method with necessity in handling the snow. Efforts have been confined to removing the snow from the principal intersections in the district bounded by Cass and Leavenworth and Tenth and Eighteenth streets; to keeping the sidewalks clear, flooding would not result in case of a sudden thaw; toward heaping the white covering up on the ridges formed close to the car tracks, in order to make use of the streets fairly easy, and in removing vast heaps from alleys where the snow had accumulated from the roofs of big buildings.

Extent of the Work Already Done. Approximately 4,500 wagonloads of snow have been picked up and removed. An average of thirty-five laborers and eighteen teams and teamsters have been employed during the month. Although no funds have been available until the very end of this week, the labor has been performed under the emergency clause in the charter. No sidewalks have been cleaned and costs taxed to abutting property owners under the direction of the Board of Public Works, as the ordinance permits.

Should the snow continue to fall in large quantities it is likely that compulsory sidewalk cleaning will be inaugurated by the city authorities. Many citizens who keep their own walks clean, but are forced to wade through the drifts in front of their neighbor's property, have made complaints and demanded that the ordinances be enforced.

In alleys where the snow from roofs has been deposited the accumulations are piled up as high as fifteen feet in some cases, making the alleys absolutely impassable. To these Street Commissioners Hummel has devoted all possible attention the last few days. The economical check rein has kept him from employing more men or trying to do more work than that described. In other cities, where the snow is removed altogether from the business districts, the cost will go into the tens and hundreds of thousands of dollars this winter. In Omaha, however, where retrenchment is the cry, money will be saved at the expense of public inconvenience.

Aside from the known cost of what the snow means to the city by reason of removing it and piling it where it will be the least in the way, there are the claims and judgments that will have to be paid for personal injuries to persons falling on the slippery surface. Eight notices of this kind have been filed with the city for accidents since the first of the year, the claims aggregating \$40,000.

CITY SALARY AND SERVICES

Excited Newspaper Doesn't Get Far Into the Facts in Its Scare Story.

An excited newspaper story credits Omaha with a \$1,500 a year mayor, circulating absurdly that Mayor Moore is receiving \$3,000 for his services whether he works or not, while Acting Mayor Zimmerman would get \$4,200, provided that he acted as mayor for a whole year and drew the salary of the councilman and mayor at the same time. The charter provides that the mayor shall be paid whether on duty or not, and that the president of the council, when filling the higher office, shall receive full emoluments therefrom. These include, besides the salary of \$2,500, an amount of \$800 as ex-officio member of the fire and police and license boards. The salary of a councilman is \$900 a year. No attempt is made to show that in receiving full pay Acting Mayor Zimmerman is not following out the law exactly.

How misleading the assertions regarding a "\$7,500 a year mayor" are concerned is shown by the records that since Zimmerman has been president of the council he has received a total of \$1,096.46 for acting as mayor and member of the Board of Fire and Police Commissioners during parts of June and July and during August and September, 1904, and January, 1905. During these periods Mayor Moore was forced to go to resorts for the benefit of his health. He is now at Phoenix, Ariz., improving rapidly, but under physician's orders not to return to Omaha until the worst of the Nebraska winter is done with. The figures quoted show that during thirteen months the alleged "\$7,500 mayor" business amounted to only about \$1,000 over the minimum. Under the conditions no less could have been paid, according to law, unless either the mayor or the acting mayor chose to donate their claims to the city. In one official act, by arranging for the payment by the street railway company of 20 per cent of the cost of removing and handling snow on the streets, the acting mayor has already reimbursed the city for one-half of what has been paid him for acting as chief executive.

NOT THE BURLINGTON ROAD

Schemes for Normal School at Lincoln is Backed by Former Officials, But Not by the Corporation.

That the Burlington railroad is interested in the proposal to establish another normal school at Lincoln, as outlined in The Bee's dispatches from its legislative correspondent, is strenuously denied by C. J. Ernst of the auditing department. "The Burlington has nothing to do with the property which it is proposed to donate to the state, and never had any interest in it," says he. "The title to this property was vested in me until a few months ago as trustee for the owners, who are four different banks—three in Lincoln and one outside—that had loaned money upon it and were compelled to take the security for the loan. Mr. Perkins, of course, is largely interested in some of these banks, but Mr. Perkins is no longer actively identified with the Burlington railroad, and even when president of the road always kept his personal investments entirely distinct. I do not know anything definite about the present plan. The land is good farming land, aggregating about 800 acres, and could be

CUNNING Baffles Handcuffs

Local Police Treated to Edifying Exhibition by a Man Who Knows How.

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For the first time in many years a jail delivery was effected at the city jail this morning. Despite the precautions of the police officials, who handcuffed and bound five and a half minutes Cuningham, to get out of the iron and under the very eyes of the authorities. The man who made his escape has a reputation as a jail breaker, having escaped the police in many cities. He is known as "Cuningham, the Jail Breaker."

Five and a half minutes Cuningham remained himself. He also got out of a straitjacket used to restrain insane people. Some of the old police officials were free to admit that Cuningham is more than his name would imply.

BOYNTON HELD AS A BURGLAR

Accused Waives Examination and is Bound Over to Await District Court Trial.

Edward Boynton, the young man arrested by Detective Mitchell on charges of burglary, waived preliminary examination in police court when arraigned on two charges of burglary. It was charged Boynton entered the room of D. W. Vaughan, Jr., at the Atlantic hotel and stole a grip containing valuable personal effects. The second charge was that of entering the rooms of H. G. Chamberlain at 618 North Seventeenth street and stealing several garments. The police authorities have a number of other cases against Boynton, but it is expected conviction will be obtained in the district court on the complaints just filed in police court.

Southwest Colonist Rates.

On February 21st and March 21st the Iowa Central will sell special one-way settlers' tickets at half fare plus two dollars to points in Nebraska, Colorado, Kansas, Missouri, Arkansas, Oklahoma and Indian Territories, Texas, etc.

Don't fail to consult agents, or address Mr. D. H. Murphy.

G. P. & T. A., Minneapolis, Minn.

Sightseeing Omaha Car.

W. E. Bridgman of Denver, manager of the Central will sell special one-way settlers' tickets at half fare plus two dollars to points in Nebraska, Colorado, Kansas, Missouri, Arkansas, Oklahoma and Indian Territories, Texas, etc.

LOCAL BREVITIES

Miss Fannie Arnold, supervisor of music in the public schools, writes The Bee to say that her late brother, Dr. E. D. Arnold, was not a brother to Assistant City Health Commissioner H. L. Arnold.

Grace Scott, alias Jewel Clark, of Fourteenth and Capitol avenue has been fined \$5 and costs in police court where she was arraigned on the charge of being a vagrant and disorderly character.

The 2-year-old baby boy that was left at the home of Mrs. Mary Delmore, 1411 Cass street, recently has been taken by Rev. E. S. Quincy, superintendent of the Children's Home society. A number of applications has been received for the child. The Omaha Philanthropic society will meet at its hall, northeast corner of Seventeenth and Douglas streets (entrance on Seventeenth street), on Friday afternoon at 2:30 o'clock. The subject will be "Fodder for an enterprising boy." A good part of his coal in order to get out of the snow.

A fire of mysterious origin damaged the interior of the dwelling owned by John Rathier at 1211 South Fourteenth street. The house recently occupied by a German family by the name of Johnson, but is said to have been vacated several days ago. The house was closed up by a policeman when the firemen arrived. The loss will amount to \$100.

THE VALUE OF CHARCOAL

Few People Know How Useful it is in Preserving Health and Beauty.

Nearly everybody knows that charcoal is the safest and most efficient disinfectant and purifier in nature, but few realize its value when taken into the human system for the same cleansing purpose.

Charcoal is a remedy that the more you take of it the better; it is not a drug at all, but simply absorbs the gases and impurities always present in the stomach and intestines and carries them out of the system.

Charcoal sweetens the breath, relieves the stomach, drinking or after eating onions and other odoriferous vegetables.

Charcoal effectually cleans and improves the complexion, it whitens the teeth and further acts as a natural and eminently safe cathartic.

It absorbs the injurious gases which collect in the stomach and bowels; it disinfects the mouth and throat from the poison of catarrh.

FIFTY-SEVENTH ANNUAL STATEMENT OF THE PENN MUTUAL LIFE

INSURANCE COMPANY OF PHILADELPHIA.

HENRY F. WEST, President.

Net Assets, Jan. 1, 1904, at book value, \$58,641,032.70

Table showing Receipts During the Year for Premiums and Annuities, For Interest, etc.

Table showing Disbursements for Claims by Death, Matured Endowments and Annuities, Surrender Values, etc.

Table showing Total Paid Policyholders, Installment Payments, Pennsylvania and other State taxes, etc.

Table showing Net Assets, Jan. 1, 1905, at book value, \$65,866,657.42

New Business of the Year, 33,871 Policies for \$ 80,356,199.00 Insurance Outstanding December 31, 1904, 145,286 Policies for \$ 342,676,444.00

C. Z. GOULD, Gen'l Agt., 522 Bee Bldg., OMAHA, NEB.

F. W. FOSTER, Special Agent J. A. WILLIAMS, Special Agent

CURSE OF DRUNKENNESS Drunkenness Whiskey and Beer Habit CURED TO STAY CURED BY WHITE RIBBON REMEDY

Given in a Glass of Milk, Tea, Coffee, Water or Mixed in Food Without Patient's Knowledge. I announce to the world that I have an absolute cure for drunkenness in any form...

LIVE STOCK EXCHANGE SOCIAL Merry Time Indulged in by Members and Their Friends on Friday Night.

POP BOTTLE BOYS GO FREE Jury Decides They Were Only Looking for a Drink When Over-taken by Policeman.

PERSONAL PARAGRAPHS. C. F. Way of Lincoln is a guest at the Hotel...

DR. BAILEY DENTIST 312 Paxton Block, Telephone 1065. Reference—Any Bank or Business House.

THE VALUE OF CHARCOAL Few People Know How Useful it is in Preserving Health and Beauty.

POP BOTTLE BOYS GO FREE Jury Decides They Were Only Looking for a Drink When Over-taken by Policeman.

A Porcelain Inlay Filling Is the most comfortable, as well as the most artistic and lasting of all fillings. Costs a little more than gold as it takes longer to make it, looks just like the tooth and never discolors.

DOCTORS FOR MEN. Nowadays specialty work is called for and demanded; notably so when the sufferer's life or health is endangered.

CONSULTATION FREE. STATE MEDICAL INSTITUTE 1208 Farnam St., Bet. 13th and 14th Streets, Omaha, Neb.