

RAILROADS GET INJUNCTION

Judge Munger Restrains City from Taxing Union Pacific and Burlington.

SAYS THE RECENT ASSESSMENT IS VOID

Court Holds that Power of Equalization Does Not Give Authority to Assess—Statement from City Attorney Council.

Judge Munger yesterday issued a temporary injunction against the city council and taxing authorities of the city restraining them from making a levy upon the property of the Burlington and Union Pacific railroads on the basis of the assessment returned by the tax commissioner and the Board of Review.

In his opinion the judge says the two cases presented so nearly identical conditions that one hearing determined the rule in each; that it appears that the tax commissioner did not follow the provisions of the city charter in accepting the assessment as returned by the state board. Referring to the unit system of taxation he says it has long been the statute law and has received judicial sanction, not only by the supreme court of this state, but by the supreme court of the United States. The judge quotes the decision of the Nebraska supreme court in the case of the state ex rel against Savage. In this case the supreme court said: "We know of no rule by which the State Board of Equalization under the present law can value railroad and telegraph properties in municipalities having taxing powers of their own at a uniform valuation with other properties therein, when the standard of value is different from that prevailing under the general revenue laws."

Judge Munger, commenting on this rule in his opinion, says: "This language of the court gives some force to the contention of counsel for respondents, but it will be observed that the court is only speaking of the standard of value, and in no manner questions the method of ascertaining the value upon the mileage basis. If, for instance, the standard of value for general revenue purposes throughout the state was fixed at one-half of its actual cash value, and in cities and municipalities the standard of value for local taxation is fixed at its full or cash value, there is no violation of the state board on a basis of 50 per cent should not be accepted as the final basis of value for municipal purposes."

POWERS OF CITY COUNCIL.

"The charter of the city provides that the city council shall sit as a board of equalization, when it shall hear and determine and equalize the value of property between individual taxpayers. If it shall appear to them when sitting as a board that the assessed valuation of one person's or corporation's property has been made upon a basis of 50 per cent of its actual cash value while the property of another individual or corporation has been assessed at 100 per cent of its actual cash value, they are empowered to remedy this inequality by raising the assessment of one or lowering that of the other to an equality."

"But the power of equalization does not give the authority to assess. It is clearly of the opinion that the alleged assessment and valuation of the complainants' property in the manner alleged was wholly without jurisdiction and void, and that the city council, not having a board of equalization, has no power or authority to assess the property of complainants at another or different valuation than that fixed by the state board, and that a tax levied upon the assessment as returned by the tax commissioner and Board of Review would be void."

"A party is not required to pay a tax which, as yet, has no existence. If a tax, when laid, may be enjoined because of its illegality, then a court of equity may enjoin the levy of such tax."

"For these reasons a temporary order of injunction will be granted, restraining the city council from levying a tax upon the assessment as returned by the tax commissioner and the Board of Review as to the property of the complainants assessed by the state board."

As to Personal Property.

The court then takes up that part of the complaint of the Union Pacific relative to the increase in the assessment of the personal property of that road by the Board of Review over the valuation as returned by the tax commissioner, and says:

"As it is charged in the bill that the Board of Review raised the assessment without any notice to complainant, and that they acted fraudulently and raised the assessment six times above that of other property, the temporary injunction will be granted as to that."

Referring to the injunction as to the property of the Union Pacific other than that returned by the state board, a member of the last Board of Review said that the board had notified the Union Pacific of its intended action, and that the company failed to appear. This contention was not touched upon in the argument before the court, as the city had filed no answer, and for the purpose of the argument the allegations of fact in the bill had to be taken as true.

City Attorney's Statement.

City Attorney Council said: "The effect probably will be a levy made on the theory that the final decision will be in favor of the city. This will mean that a shortage will exist in some of the funds for the various departments, but this condition will have to be met when it is reached. The council will undoubtedly make a levy in accordance with the action taken by the board, and obey the order restraining a levy on the railroad assessments as returned by the Board of Review and the Board of Equalization. They will make a levy on all property except the railroad property concerned, with the expectation that it will be reached later by a supplemental levy."

Judge Berka's Busy Day.

A new record was established in the police court yesterday by Judge Berka, when he disposed of seventy-seven cases which were on the court record, heard five adjourned cases, arraigned four alleged forgers, administered fines aggregating over \$150 and made four adjournments shortly after 12 o'clock. The unusual grit was quickly disposed of, considering the nature of the cases.

COGNAC advertisement with image of a bottle and text: 'FOR MORE THAN 40 YEARS... (Has been the Favorite Wine with Connoisseurs. It is Sparkling, Delicious and Absolutely Pure.)'

FOUNDATIONS IN THEIR WAY

Hayden Brothers Assert that Their Newly Acquired Lot is Not Clear.

Hayden Brothers started two suits in district court yesterday for possession of property which they allege they acquired when they purchased the St. Mary Magdalene church premises on Douglas street between the Boston store and the Patterson block and across the alley south from their own store.

The church building is in the center of the lot and the plaintiff alleges that the Patterson block's foundation intrudes two feet over the boundary line, though under the surface of the ground, and therefore suit is brought for immediate possession and for \$83 judgment, the latter amount alleged to be the reasonable value of possession during the year since the Haydens bought the premises.

The one-year lease of the church has also expired and the church people are preparing to move into their new building at Nineteenth and Dodge. This leaves the way open for Hayden Brothers to build their new addition on the church lot early this spring. To work on the full width of the lot, when they come to excavate for the footings for the east wall they will find four feet of the Boston Store foundation in their way and for their west wall two feet of the Patterson block foundation. In both instances the foundations extend from Douglas street north to the alley, so the complication is quite serious, and to get it straightened out these suits are brought, with the possibility of an adjustment without much court procedure."

FOUR ARE UP FOR FORGERY

Three Call for Preliminary Hearings and One is Held to District Court.

In police court yesterday four of the alleged forgers who were taken into custody last week were arraigned. None of the prisoners entered a plea of guilty. Ed G. Rothron charged containing two counts. After considerable delay he decided to have an examination and his preliminary hearing was accordingly set for Thursday. Grant D. Kelfer, who is alleged to have passed a worthless check upon the bank in the Boston Store, waived his examination and was bound over to the district court under \$100 bonds. Henry Kaempfer of Kansas City, who admitted that he gave the check to Kelfer, had his preliminary hearing set for Tuesday morning. John W. Carpenter, who is alleged to have floated considerable worthless paper, was arraigned on two warrants, containing two counts each. Judge Berka set his hearing for Tuesday morning.

MAUD PARKS PLEADS GUILTY

Girl in Short Skirts Enters Plea that May Send Her to Penitentiary.

Judge Estelle has gone to St. Paul to take Judge Stubbs' docket and Judge Stubbs has come here to preside in the criminal court for a week or two. The exchange is made because Judge Stubbs was interested in certain cases pending there and because his brother is interested in others.

The only matters demanding Judge Stubbs' attention here yesterday was the roll call of the new panel of jurors and the taking of the new plea of Maud Park. Maud is a girl still in short skirts. Recently she was arraigned on a charge of grand larceny, the complaining witness being Kitty Alberts of 734 North Sixteenth street, who alleged Maud had stolen \$49.50 from her. When arraigned Maud pleaded not guilty, but this morning changed her plea to guilty and was remanded by Judge Stubbs to await sentence.

BERTHA LIEBKE SENTENCED

Pleaded Guilty to Robbery Charge and Goes to Illinois Penitentiary.

Chief of Police Donahue has received a letter from Sheriff Hurburg of Galesburg, Ill., in which he is informed that Bertha Liebbeke, better known in police circles as "Painting Bertha," has pleaded guilty to the charge of having robbed Mrs. J. Robinson, while she was enroute from Omaha to her home in Galesburg. This is the first time in "Painting Bertha's" career that she has ever admitted her guilt. She has been given an indeterminate sentence to the Illinois penitentiary. Bertha admitted robbing Mrs. Robinson of a valuable gold brooch while on the train.

The Courage of Our Soldiers.

In the recent report received from the Philippine Islands a high tribute is paid to the courage and kindness of our soldiers in military operations. There is also great tribute paid to the famous Hostetter's Stomach Bitters by thousands of grateful people who owe their good health to its use. If you are a sufferer from heartburn, indigestion, dyspepsia, insomnia, constipation, biliousness or malaria, try a bottle of the Bitters today. It will prove the first step towards good health.

They Say Stock is Worthless.

Euclid Martin, as administrator of the estate of Robert Majors, and William Hainaway, wife and son, as the other defendants, appeared as plaintiffs in a suit against Daniel P. Stowell to compel him to convey to them the lot 1114 on Douglas street, known prior to the death of Majors, Stowell bought the lot of him for \$20,000. Stowell shows gold mining and milling stock, but that the stock was not worth what he represented to Majors, nor indeed worth anything at all.

No Venom in 'Em.

No poisonous purgatives enter into Dr. King's New Life Pills. Easy, but prompt; they cure or no pay. Only 25c. For sale by Kuhn & Co.

Wittmann Company's Answer.

The Wittmann company has filed response to the bill of the National and Edison Phonograph companies in the suit pending in the federal court to restrain the company from selling its records below the established price and to bring about an accounting for goods already sold. In the response it is stated that the lowest price was quoted in certain cases to dispose of surplus goods which had been delivered to the contract to give the respondent exclusive sale of goods in certain territory.

Trial of Bandit Begins.

DES MOINES, Ia., Feb. 23.—The trial of Frank Baird, the bandit wounded at Hamilton, New York's eye, on the robbery which he held up Mr. and Mrs. P. Sullivan, securing \$1,800, commenced at Knoxville today. The defendant asked for a continuance. Ex-United States Marshal W. H. Rice, who indicted for conspiracy in the robbery, is still at large, presumably in Mexico.

Conference Still in Session.

TOPEKA, Kan., Feb. 23.—The conference between the Santa Fe officials and committee of the railroad law trustees and conductors is still in session. No definite action has been reached at 2 o'clock this afternoon.

BURT SETS CONFERENCE DATE

President Will Meet Conductors and Trainmen Next Monday Morning.

TO TALK OVER PROPOSED WAGE SCALE

Meanwhile Striking Machinists Request Their National Council to Call the Southern Pacific Road to Account.

After waiting for many weeks the Union Pacific general committee of the Order of Railway Conductors and the Brotherhood of Railway Trainmen have secured a date for the desired conference with President Burt, it being March 2. Mr. Burt yesterday set this time. The committee here, as elsewhere, will ask for the 20 per cent raise of the work of setting the matter of double headers on trains that scale more than one engine's rating. In other places the committees have secured a concession of 15 per cent raise for freight men and 12 per cent for passenger, and the same is expected here.

Meanwhile the Fremont, Elkhorn & Missouri Valley general committee are still waiting, as General Manager Bidwell has set no date. The committees expect to be held till the Chicago & Northwestern committees and general manager come together, as the work of settling the matter for these two roads will undoubtedly be merged in view of the recent complete absorption of the Elkhorn by the Chicago & Northwestern. General Manager Gardner of the latter road probably will adjust all the matters for the two roads.

The executive council of the National Association of Machinists has been asked by strike leaders here to either compel the Southern Pacific to take off its fifteen engines now in use on the Union Pacific or to declare a machinists' strike on the Southern Pacific. The council has been informed that some decided stand on this matter must be taken and strikers are eagerly awaiting its answer.

Meanwhile the boiler makers have still to hear from their executive council, which has some weeks ago asked the company whether to extend the boiler makers' strike to the Southern Pacific. Some of the members of the council are taking their time about responding.

At the regular meeting of the Locomotive Builders' Trades council yesterday it was reported that the story of the Rock Island engine being used by the Union Pacific near Denver was unfounded.

That Awful Cold

and its terrible cough can soon be cured by Dr. King's New Discovery for Consumption. Try it. No cure, no pay. 50c. For sale by Kuhn & Co.

TO TEST THE TOBACCO LAW

William Stein, After Being Fined for Selling to Minors, Will Appeal.

William Stein, who was convicted in the police court on the charge of having sold tobacco to minors, was fined \$25 and cost yesterday. Stein immediately gave notice of an appeal and furnished bonds for his appearance in the district court. He intends testing the validity of the old tobacco law under which he was arrested, and which he contends was repealed by the new cigarette law.

A Wonderful Change.

Weak, sickly invalids are soon changed by Electric Bitters into healthy men and women. They cure or no pay. 50c. For sale by Kuhn & Co.

SNOWDEN'S INJURIES SERIOUS

Doctors Say Pioneer Will Not Be Out for Six or Eight Weeks.

"Uncle Bill" Snowden of the county court has not recovered from the injuries his left hip sustained when he fell upon the ice at his home on Fourth and Jones streets, two weeks or more ago, nor does it seem probable that he will soon. Drs. Jonas and Sommers made an examination of his injuries last Saturday and have given no more encouraging report than that he cannot be about again in less than six or eight weeks.

MISS ROSA McMAHON OF BUTTE.

How After Two Years She Found a Remedy for Dandruff.

Miss Rosa McMahon of 211 West Quito street, Butte, Mont., says: "Herpicide has thoroughly cleansed my scalp of dandruff, which was entirely covered, and it has stopped my falling hair. I have tried many different preparations in the past two years, but none took effect except Newbro's Herpicide. Dandruff is a germ disease and Herpicide is an infallible destroyer of the germ. 'Destroy the cause, you remove the effect.' Kill the dandruff germ. Ask your druggist for Herpicide. It is a delightful dressing, allays itching, makes the hair soft as silk."

One-Way Rates

To many points in the state of California, Oregon and Washington. Every day the Union Pacific will sell one way colonist tickets at the following rates from Missouri river terminals: \$25.00 to San Francisco, Los Angeles and many other California points. Tickets on sale February 15 to June 15, 1903. \$20.00 to Ogden and Salt Lake City. \$20.00 to Butte, Anaconda and Helena. \$22.00 to Spokane and Wenatchee, Wash. \$25.00 to Everett, Fairhaven and New Whatcom, via Huntington and Spokane. \$25.00 to Portland, Tacoma and Seattle. \$25.00 to Ashland, Roseburg, Eugene, Albany and Salem, via Portland. Tickets on sale February 15 to April 30, 1903. City ticket office, 124 Farnam St. Phone 316.

Publish your legal notices in The Weekly Bee. Telephone 225.

Mortality Statistics.

The following births and deaths have been reported in the city: Births—Frank Willard, 245 South Twentieth, girl; Frank Gallagher, Douglas County hospital, boy; Henry P. Pagler, 322 North Thirty-first, boy; Edward Smith, 312 North Twenty-eighth, boy; Emil Walstrom, 323 Marcy, boy. Deaths—Infant of C. Davenport, 1711 Dodge, 36 days; Jerome Patrick, Douglas County hospital, 66 infant of B. Lancaster, 250 Davenport, 3 days; Ethel M. Frick, 225 Lake, 13; Felix Moss, 219 Burt, 81.

GRAIN-O THE PURE GRAIN COFFEE

If you use Grain-O in place of coffee you will enjoy it just as much for it tastes the same; yet, it is like a food to the system, distributing the full substance of the pure grain with every drop. TRY IT TO-DAY. At grocers everywhere; 10c and 25c per package.

BRANDELS BOSTON STORE & SONS Special White Goods Sale Very Extraordinary Offerings for Tomorrow Only SPECIAL BARGAIN IN THE BEST GRADES OF LONG CLOTH No. 200—Regular price \$1.10; a bolt, 75c No. 300—Regular price \$1.85; a bolt, \$1.25 No. 350—Regular price \$2.00; a bolt, \$1.39 No. 400—Regular price \$2.10; a bolt, \$1.50 No. 500—Regular price \$2.25; a bolt, \$1.75 No. 600—Regular price \$2.85; for tomorrow, \$2.00 Victoria Lawn—Fine quality 40-inch Victoria lawn; a yard.....10c Finest Quality Victoria Lawn—40-inch, wide-regular price 19c; a yard.....15c Extra Special Muslin Bargains Sheetting at 10c—Full bleached, 7-4 pearl sheetting—regular price 10c—a yard.....10c Sheetting at 14c—Full bleached, 8-4 pearl sheetting, regular price 20c—a yard.....14c Sheetting at 15c—8-4 sheetting, regular 22c—a yard.....15c Pillow Caseing at 7c—42-inch pillow caseing, full bleached, good quality, for tomorrow only, a yard.....7 1/2c Long Muslin Remnants at 6c—10 yards of long remnants Lonsdale Muslin—each piece branded Lonsdale—regular price 9c—all go at—a yard.....6 1/2c Special Sale at Stationery Counter 10,000 pounds of the best grade of Writing Paper, in pound packages, all sizes and all styles of fine paper, worth 25c a pound—goes at—a pound.....15c Fine Box Paper at Special Sale A special purchase that we made at a low price enables us to offer this fine box paper at 10c, 15c, 18c and 25c a box. All worth more than double.....25c-19c-15c-10c Celluloid Poker Chips, the 25c kind, go at, a box.....10c Bicycle Playing Cards, the 25c kind, go at, a pack.....15c 5c Writing Pads, each.....1c Regular 10c quality Ink Tablets go at two for.....5c Envelopes—All styles and sizes of white manilla Envelopes, the kind that generally sells for 5c a package, we will sell tomorrow at two packages for.....1c

BRANDELS BOSTON STORE & SONS Watch Our Windows

BLAMES PENSION ATTORNEY

Old Soldier Says Lawyer's Misrepresentation Gave Him Into Trouble.

Elijah Hancock, arrested for an attempt to fraudulently secure a pension from the United States, gave bond yesterday afternoon and returned to his home at Hebron. He is 71 years old and is one of four brothers who served in the civil war. He says his trouble is caused by a pension attorney who extended to him the Elkhorn branch of the Northwestern to that of general passenger agent, with jurisdiction over both roads. The jurisdiction of Assistant General Manager E. H. Ashton and of General Superintendent W. D. Canfield was also extended to include the Elkhorn.

WILL GIVE THE BRIDE AWAY

"White Beaver" Will Take Part at Wedding of "Buffalo Bill's" Daughter.

A scout, an Indian chief, a white man and an ordinary physician, combined in the person of Dr. B. Frank Powell, will officiate at the coming marriage of Miss Irma Cody at North Platte in the absence of her father, Colonel William F. Cody. Dr. Powell passed through Omaha from his home at St. Paul yesterday, enroute to North Platte. He will have the honor of giving the bride away at the altar to her future spouse, Lieutenant Stott. The marriage is to occur at high noon Tuesday.

Perfect Confidence.

Where there used to be a feeling of uneasiness and worry in the household when a child showed symptoms of croup, there is now perfect confidence. This is owing to the uniform success of Chamberlain's Cough Remedy in the treatment of that disease. Mrs. M. I. Basford of Poolesville, Md., in speaking of her experience in the use of that remedy, says: "I have a world of confidence in Chamberlain's Cough Remedy, for I have used it with perfect success. My child Garland is subject to severe attacks of croup and it always gives him prompt relief."

Announcements of the Theaters.

Rose Coghlan, supported by a company of unusual merit, will be seen at the Boyd for a single performance Thursday night in A. W. Pineros famous drama "The Second Mrs. Tanqueray." Every famous emotional actress has essayed this part. The same storm of controversy that has raged about "the notorious Mrs. Elphinstone" and "Iris" has beaten against "The Second Mrs. Tanqueray" for some years past. Those, however, who have assailed it on the ground that social problems are unfit for stage presentation are free to admit that it teaches a powerful lesson and that it is handled by its author with great skill and finesse. Miss Coghlan is said to play and dress the part superbly.

DIED.

WIRTH—Mrs. Magdalena F., wife of John A. Wirth, February 23, 1903. Deceased was born March 27, 1831. Funeral Wednesday afternoon at 2 o'clock from the residence of W. G. Shriver, 192 North Twenty-fifth street. Interment in Prospect Hill cemetery. FIELDS—Louisa A., February 23, 1903. Aged 61 years. Funeral Wednesday, February 25, at 10 o'clock from the residence of Mrs. E. H. Thirteenth street. Interment Forest Lawn Friends invited. She is survived by one daughter, Miss Julia E. Phelps.

The Best Men's Shoe Values Ever Placed on Sale That's what we are in a position to say about the men's shoes that went on sale Saturday. Men who saw them bought. Men who were not in need of shoes, bought. Men who had no intentions of buying shoes, bought. We say to you in all seriousness, that if you come and examine them, you will also become a buyer and a wearer of the best shoe in the land for the price of an ordinary shoe. Your size is here, but we cannot guarantee that it will be here very long. \$3.50 Values for \$2.50 Nebraska Clothing Co. CLOTHES FOR MEN AND WOMEN ALBERT EDHOLM, JEWELER, 107 North 16th Street. Opp. P. O. Watch Inspector for U. P. R. R. Co. Cut Glass and Birthday Rings Some choice pieces in Hawkes' Cut Glass at from \$2.25 to \$5.00. Hometowne Birthday Rings for March, \$2.00 to \$15.00. Diamonds, loose and mounted, \$1.00 to \$50.00. BAILEY THE DENTIST YOU MAY BE paying too much for your Dentistry. Let us examine your teeth and give you an estimate on what is needed. We make a Gold Crown for \$6.00. A good Set of Teeth for \$5.00. 312 Paxton Bldg. JEWELERS AND WATCHMAKERS We have a very complete line Ladies' and Gents' Watches, with Elgin, Waltham, Hamilton, Howard and other movements of all grades. If you are in need of a watch or want yours repaired, give us a call and we guarantee you satisfaction. We sell on very small margin and can assure you that we can save you money by purchasing anything in the jewelry line from us. P. E. FLODMAN & CO., JEWELERS. Phone 1574. 1514 Capitol Ave. STOP THAT COUGH AND ASK FOR HOWELL'S ANTI-KAWF For sale by all drug gists. Price 25c and 50c.

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