

FIRST BLOOD FOR RIGHT

Justice Martin of Court of British Columbia Decides White Pass Ry. Co. Can Be Sued For Over-charges—Cannot Make Subterfuge That Portion of Road is in America.

Victoria, Feb. 10.—As a result of the ruling of Judge Martin in actions against the White Pass & Yukon Ry. Co., Higgins & Elliott have instituted another action against the road for \$180,000. This covers the Upper Yukon company's claim against the railway for overcharges in 1900 and 1901. The other action by the same company was for years preceding the two last mentioned, and came before the courts as a test case on a motion by the railway's counsel to determine the legitimacy of recovery by proceedings. The Upper Yukon Company and Joseph Clearhuk, being joint claimants, are represented by Barristers Frank Higgins and R. T. Elliott, the latter for a time manager of the Canadian Development Co. Robert Cassidy, attorney for the railway, contended that the railway act did not vest in the claimants any such right of action as was attempted to be exercised; that part of the railway ran through United States territory and hence control of the railway and its rates is not within legislative jurisdiction of the Canadian parliament; that the court would have no power to apportion rates between that portion of the line in United States territory and that portion lying in Canada; and that in all other respects the claimants shown have no chance of success owing to the decision of Lees vs. Ottawa and New York Railway Company, decided by Chief Justice Meredith and two associate judges of Ontario a year ago. Higgins, in reply, cited the provisions of the railway act relied on by the claimants, and also several cases decided by the House of Lords of England and by the Supreme Court of Canada, establishing the right of action claimed, and showing that the decision of the Ontario court could not be sustained, as it was contrary to a long line of high authorities directly opposite to its terms; also raising the question that the railway company had received a Canadian charter through disputed territory and was bound by its terms.

In giving his decision, Justice Martin declined to be bound by the Ontario case, pointing out that it appeared to have been unargued and that the attention of the Ontario court had not been directed to important sections of the act and to authorities bearing on the question. He further held that the statements of the claim disclosed good causes of action arising under the terms of the railway act. Insofar as related to the question of United States territory and arguments adduced against the powers of the Canadian parliament to regulate rates, His Lordship confined himself to the expression of the opinion that these were questions of great importance, and that he could not accede to the contention of the railway company; that they were so far settled as to bind him to take judicial notice of them for the purpose of dismissing the actions and that he entertained doubt as to the power of the railway company to "appropriate and reprobate," i.e., to

obtain a charter and secure the benefit thereof and then disavow the obligations imposed thereby. He therefore dismissed the railway company's motion with costs, and the actions will go to trial.

The decision is of the utmost importance, as the questions embraced are those most strongly relied on by the claimants and are thus passed upon in their favor. The claims, therefore, seem to be based upon a more substantial foundation than has heretofore been supposed. No matter how the legal responsibilities of the company may be determined, it is certain the rates will be materially reduced by the opening of navigation in the spring. Not only will freight charges drop, but passenger rates on the railway and on the British Yukon Co. steamers will also be greatly reduced. This, it is promised, will enable the transportation companies operating from Puget Sound and British Columbia ports to give a through freight quotation which will place Dawson merchants upon a fair competitive basis with other establishments importing via the lower Yukon.

THROUGH RATES

From Puget Sound to Dawson Will Be Soon Drafted.

Seattle, Feb. 10.—The Alaska S. S. Association at a meeting just held in Seattle discussed a draft for a through freight tariff to Dawson and other river points. The consideration was blocked, however, by the uncertainty of railway rates. As the British-Yukon Navigation fleet is controlled by the White Pass directorate, the railway company will be enabled to fix rates on down river transportation. A. B. Newell is at present east, but is expected on the coast in two weeks, when another meeting of the Alaska Steamship Association will be called and a through tariff drafted.

After Cranks

Berlin, Feb. 10.—"Eddyism," otherwise known as Christian Science, is the sensation of the hour throughout Germany. The press, religious, secular, humorous and scientific, is unanimously antagonistic to the creed and the authorities are doing all in their power to suppress what they term a "worn-out American fad."

Whitehouse Baby

Washington, Feb. 10.—Little Theodore, President Roosevelt's youngest child, is very sick but somewhat improved over yesterday. It is expected the crisis in his sickness will be reached tomorrow and the physicians hope it may be passed safely.

Disappointing

Berlin, Feb. 10.—Chancellor Von Buelow has disappointed the agrarians by intimating that the government's present amendment to the tariff laws is the limit of concessions that will be made to agricultural interests.

Report Denied

New York, Feb. 10.—President August Belmont denies that the New Securities Company will lease or merge the business of the Rapid Transit Sub-Way Construction Co.

Perjury Charged

St. Louis, Feb. 10.—President Geo. A. Kobush of the St. Louis Car Co., has been arrested on a grand jury indictment for perjury.

Prince Henry

Berlin, Feb. 10.—Upon his return from America Prince Henry of Prussia will celebrate the 25th anniversary of his service in the navy.

ONTARIOITES ARE EXCITED

Proposed Prohibitory Legislation Most Important Provincial Issue Ever Sprung—Principal Grant Vigorously Attacks It in Toronto Globe—Organizations Split.

Toronto, Feb. 10.—Never in the history of Ontario have the electors been so wrought up over a local issue as at present on the subject of prohibitory legislation which threatens to create breaches in church, school, political, business and even family circles.

Saturday's issue of the Globe contains an article from Principal Grant, an ardent temperance man, which vigorously attacks the prohibition proposals as being more injurious than advantageous to the cause of temperance. In support of his attitude he cites the operation of the Tilley prohibition law in 1856 and the present very unsatisfactory prohibition legislation in Prince Edward Island.

Should the matter of prohibition for Ontario come before the people, all other issues will pale in insignificance in comparison with it.

FIRE-SWEPT PATERON, N. J.

Paterson, N. J., Feb. 10.—Fire Saturday night and yesterday devastated the business sections of this city, working damage to the extent of upwards of \$8,000,000, but fortunately sparing the silk mills and locomotive works, which are the city's largest employing industries, and involving no fatalities. Hundreds are homeless, however, and thousands are unemployed. All the neighboring cities contributed to the force which fought the fire for 24 hours and with much success; albeit the majority of the city's civic, educational and commercial institutions were consumed. The fire commenced Saturday at midnight and was spread by a northerly gale until more than 500 dwellings and apartment houses and 12 business blocks or public institutions fell. The blaze originated in the car sheds of the Jersey City, Hoboken and Paterson Traction Co. and soon converted Main, Ellison and Market streets from end to end into avenues of fire. By 1 a. m. the city hall and all surrounding institutions were gone. At 2 a. m. a series of explosions created a second fire area, sweeping Park and Washington streets and licking up St. Joseph's Church, railway depot, clubs, etc. The fire continued to rage all Sunday and is only under complete control this afternoon.

REAR ADMIRALS RETIRED

Sampson and Cromwell Placed on List Today.

Washington, Feb. 10.—Rear Admirals Sampson and Cromwell of the United States navy were today placed on the retired list, having reached the age of 63. Rear Admiral Sampson is at present very ill at his home in Washington, while Rear Admiral Cromwell is in command of the Chicago in the Mediterranean. Captain Jos. E. Craig, as senior officer, will assume command on the Chicago pending the arrival of Admiral Crowlshield, who in turn will be succeeded in charge of the bureau of navigation by Rear Admiral Taylor, whose nomination is now before congress.

ST. JOHN DIX MAY PEACH

Absconding Banker Promises Sensations if Crowded.

Whatcom, Wash., Feb. 10.—H. St. John Dix, the absconding banker recently extradited from London, denies that he personally obtained one dollar of misappropriated money from the bank and he further announces that all depositors will be paid in full, but that sensational disclosures will be made if unfair efforts are made to saddle the responsibilities of the bank's failure on him.

Runaway Train

Seattle, Feb. 10.—A runaway freight train on the Great Northern yesterday ran three miles and fell into the Thompson river near North Bend. There were no fatalities.

Fire Alarm Tested.

Fire Chief Stewart and an assistant gave all the fire alarm boxes their usual weekly test this morning. All worked satisfactorily with two exceptions and the defect in them was speedily remedied.

dead by D. M. Sylvester, a union machinist and labor leader whom he had discharged.

Sad Accident

Pittsburg, Feb. 10.—One man is dead, four fatally and seven seriously injured as the result of a blasting accident on the new cut-off of the Bessemer & Lake Erie Railway.

Shot His Wife

Montreal, Feb. 10.—Mrs. David Sutherland was shot today by her husband from whom she had been separated a short time. There is little hope for her recovery.

Highbinders

Nanaimo, Feb. 10.—Highbinders last night dynamited the house of Lung Keo, Nanaimo's wealthiest Chinaman, and completely wrecked the building. No one was killed.

We Want to See It

New York, Feb. 10.—The authorities in charge of the launching of the Kaiser's launch Meteor are deluged with applications for press invitations.

SOCIALIST GERMAN PAPER

Being Sued For Publishing Private Government Documents.

Berlin, Feb. 10.—The German government is prosecuting the Voerwaets (Socialist organ) for receiving stolen goods, in publishing the secret memorandum of the secretary of admiralty. The Liberal papers condemn the action of the government as illegal and unconstitutional, urging upon the Reichstag the framing of a new criminal code explicitly declining to make publication of official documents a felony.

HATRED FOR POLES

National Feeling in Russia is Very Bitter.

St. Petersburg, Feb. 9.—Polish national feeling still runs so strong that nearly all Polish nobles invited to the government ball refused to attend for the reason that the invitations were in Russian. The few Poles who did attend required police protection going and returning.

Europeans Out

Pekin, Feb. 10.—The Chinese government has dismissed all European professors from the Imperial University. The directors contend that elementary schools are more needed.

Control of Le Roy

Rosland, Feb. 8.—It is stated that Whittaker Wright has again secured control of the Le Roy mine.

Suffocated

Quebec, Feb. 10.—William Salter was suffocated today by the collapse of a snow house.

Meeting Postponed.

The meeting of the Dawson Whist Club which was to have occurred this evening has been postponed until tomorrow evening. The club will be entertained at the residence of Mr. Charles Macdonald.

ROOSEVELT'S MODESTY

Declined to Recommend Himself For Brevet Rank.

Washington, Feb. 10.—President Roosevelt has approved all the recommendations made by army brevet board, of which Gen. MacArthur is president, for the bestowal of the brevet rank on army officers who rendered especial service during the Spanish war and subsequent campaign in the Philippines, with the exception of himself, Roosevelt. The brevets now go to the Senate for confirmation.

Factory Burned

Brooklyn, Feb. 10.—Shallbolt's wagon factory burned last night. Twenty horses perished in the flames. The loss is \$200,000.

To Repeal Law

New York, Feb. 19.—The merchants and manufacturers of the New York Board of Trade are urging the repeal of the personal baggage law.

Police Chiefs

Louisville, Ky., Feb. 10.—The international association of police chiefs of the United States and Canada will meet here on May 7th.

Act of a "Cracker"

Fernandina, Fla., Feb. 10.—Edward Burton, superintendent of the Seaboard Air Line Railway, was shot

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