

LAST EDITION.

SATURDAY EVENING.

TOPEKA, KANSAS, AUGUST 17, 1907.

SATURDAY EVENING.

FIVE CENTS.

LET BODY A ONE.

L. H. Perkins Heirs Win Point in Federal Court.

Judge McPherson Refuses to Make an Order for Autopsy.

HAS NO JURISDICTION.

Suggests That It Can Be Granted in Other Action.

Question One to Be Settled in Jury Trial.

The application of the New York Mutual Life Insurance company to exhumate the body of Lucius H. Perkins for the purpose of an autopsy and to discover whether death was due to an accident or to poison self administered was denied by Judge Smith McPherson in the United States circuit court today.

Judge McPherson holds that it is not properly before his court, that he has not the jurisdiction and that the case in equity but one to be determined by jury trial.

Lucius H. Perkins of Lawrence, a prominent attorney, fell from the roof of his newly built residence in the suburbs of Lawrence on the evening of June 1, 1907. The New York Mutual Life Insurance company which had insured his life for \$100,000, claim that the deceased later that he had purchased morphine and had taken the poison for the purpose of suicide just prior to mounting the roof of the house from which he fell. The family claim that the house was newly constructed and while Perkins was examining work newly completed, he made a mis-step and was hurled to the ground.

The attorneys for the insurance company made application to have the body exhumed in order that the contents of the stomach might be analyzed for traces of morphine.

One of the attorneys for the insurance company said with reference to the decision handed down today: "I don't know what step will be followed next. A conference of the attorneys for the company will be held immediately. I think there is no question but what we will continue to fight for an autopsy."

Sentimental considerations should not act against exhumation says Judge McPherson.

Order of the Court.

The order of the court follows: The application of complaint for an order to exhumate the body of deceased Lucius Hiram Perkins and to allow an analysis of parts of said body to be made, and the defendants' demurrer to the bill being filed, is sustained, heretofore submitted and by the court taken under advisement.

And now at this time the court being fully advised for the reasons stated in an opinion this day filed by the presiding judge, it is ordered:

1. The application of complaint for an order to exhumate the body of said Perkins and to allow an analysis of parts of said body to be made, is denied, but this denial of said application is without prejudice to any future application for such an order or any other in any action on or concerning the policy of insurance referred to in the bill of complaint hereinafter filed, and the court is authorized and each of all defendants except.

2. And the plea to the jurisdiction filed by defendant heretofore filed is well taken and is sustained, to which the complainant excepts.

3. And the demurrer filed by defendants to the bill of complaint is sustained, and the court is authorized to dismiss and complainant will pay the costs herein made and to be paid by the clerk, and if not paid within sixty days, execution thereof will issue, to which complainant excepts.

Done in open court at Kansas City, Kansas, August 17, 1907.

SMITH McPHERSON, Judge.

Not an Equity Question.

With reference to the claim that death was due to other than accidental causes and that the body should be exhumed Judge McPherson says: "This question is thus briefly presented, because it was discussed at the argument, and these tentative views are expressed without answer to the question. It is not now decided, because of this court in this case is not to be decided for the reason that it is a question of equity to be decided in an action at law on the policy, and it is not a question of equitable jurisdiction. The cases cited in this opinion are not intended to produce evidence in the case, but only to have any application. If this body is exhumed, it must be in advance of the trial, and the necessary time can be given to an analysis. Otherwise a jury will be kept waiting for weeks and the entire procedure a farce. But it is a question for the trial court in the law action, and there is no reason to say that the present occupant of the bench will preside at the trial. Section 724 of the revised statutes of the United States is practically a substitute for the remedy of discovery, and all other remedies as to evidence formerly existing in equity only. That statute avoids the necessity of going into equity for evidence. And if the right exists in any case to have an order to exhumate the body, such right exists in an action at law on the policy, and a bill in equity. The opinion of the court is that the complainant has a plain, adequate and complete remedy by way of the courts at law in the United States in any case where a plain, adequate and complete remedy may be had at law."

"This being so the application for an order in this case to exhumate the body will be denied, reserving the right of the complainant to renew the application in the courts at law, and the bill in equity will be dismissed, without prejudice by the ruling herein."

"But it is contended that to courts of equity belongs the power of compelling instruments of writing obtained by fraud, and that the rule established in the Riggs and Cable cases, and other precedents, is applicable to the present case. The claims are based on the grounds

CHANGE OF FRONT PLACQUE IN FRISCO

Striking Telegraphers Are Now Willing to Arbitrate.

Announcement Is Made by President Samuel Gompers.

ARE STILL STRIKING.

Eighty-Five Operators on Private Wire in St. Louis

Quit in Response to Order of Local President.

Chicago, Aug. 17.—The officials of the telegraphers' union have changed front on the proposition to arbitrate and announced that they would accept the offices of the general board of directors of the American Federation of Labor in settling their differences with the companies.

This board consists of John Mitchell of the Mine Workers, Daniel J. Keefe of the Longshoremen and President Samuel Gompers. It was Mr. Gompers who made the above announcement.

85 More Go Out.

St. Louis, Aug. 17.—About 85 operators working on private wires in brokers' offices have been called out by President A. L. Ewing of the local union of commercial telegraphers. As soon as the operators were notified they closed their wires and quit.

Deserters Return.

Portland, Ore., Aug. 17.—The telegraphic situation at Portland is much improved. The Western Union has three more men at work than yesterday including two deserters from the ranks of the strikers. The Postal is sending everything off promptly.

Only One Man Short.

Tacoma, Aug. 17.—The strike here is practically broken, according to the managers of the telegraph companies. The companies are only one man short of their force before the strike.

Press Operators Back.

Chicago, Aug. 17.—Many applications for reinstatement have been filed with the Associated Press by operators who deserted their keys when the Chicago strike was called. Three have been given their positions on the eastern circuit and other applications are being considered.

At each point being opened to communication the news bureau found loyal employees and adherents awaiting opportunity to get into direct communication with the main offices. The employees had adopted many expedients to relay their news to the main points when the direct connection was cut off and uniformly they had been successful.

The opening of each branch was taken by both the main office and the branch offices to mean the termination of the strike so far as they were concerned. Both are directing their efforts to manning the intermediate points where the delays have occurred.

General Manager Dehl

said yesterday that the news bureau probably would resume its ordinary operations in a few days. He said the walkout as a past incident. Electrical storms and other natural causes have affected the service far more seriously in recent years.

Object to Arbitration.

New York, Aug. 17.—The Chicago report that President Small and the other national officers had signed their names to the arbitration contract, however, discourages any such idea.

It is pointed out that the management is ambitious to carry the improvement of the system a great deal further than it has gone, the execution of which program will necessarily call for the expenditure of a very large sum of money during the next few years.

The Santa Fe management has for years made it a practice to return a considerable proportion of the surplus to the public. It is pointed out that this policy will hereafter be favored more than ever, in view of the disposition of most western railroads to return a large percentage of their earnings to the public.

The advantages of carrying on improvement work with appropriations from the public are many. It involves no interest on the capital in any form, at a time when the arbitrary regulation of rates so much in vogue, is an obvious evil.

Cool Weather Follows Rain.

Topeka Gets Another Ducking—Refreshing Wind Blows.

Bubonic Scourge Has Broken Out on the Coast.

Already One Death Has Resulted From the Disease.

THREE CASES KNOWN.

All Were Within Two Blocks of Old Chinatown.

Campaign Against Rats to Be Instituted at Once.

Washington, Aug. 17.—Bubonic plague has broken out in San Francisco and already death has resulted from it. The first intimation of the plague was received Thursday from San Francisco by the marine hospital service. The telegram read:

"Three cases and one death from plague in San Francisco. Diagnosis clinical and by stained smears from spleen and glands. No reasonable doubt as to the certainty of the diagnosis of cases seen and verified by Long in conjunction with the health officer. Cases found within two blocks of old Chinatown."

On receipt of this information, instructions were sent to Surgeon Austin to confer with the state and local authorities and make full report on the measures adopted for eradication.

Surgeon Austin telegraphed that two foci had been discovered; that the local board had disinfected known infected buildings and proposed to institute a campaign against rats. He said deaths in the city had been verified and a general disinfection of suspected districts would begin. He asked for the assistance of one or two medical inspectors and one as a bacteriologist in the state laboratory.

It is stated here that Passed Assistant Surgeon Austin is a competent bacteriologist and thoroughly competent to handle the situation.

SANTA FE EXPANDING.

Thirty-five Million of Improvements—New Contracts Awarded.

The Santa Fe is planning extensive improvements at Syracuse, Kansas, which is their most important station in western Kansas. A new station is to be constructed there which will cost \$54,000. The contract for this work has been let to C. A. Fellows of Topeka. Work will be commenced as soon as the structure, as soon as possible. The plumbing and heating of the building will cost several thousand dollars more, which will bring the total up to \$58,000. Mr. Fellows was also awarded the contract for completing the heating plant at Albuquerque.

Another contract has been let to Contractor Carter of Lawrence for the construction of a freight building at Syracuse, which will cost \$4,000.

New York, Aug. 17.—The question has already been raised in some quarters whether the Santa Fe may not be persuaded to increase the dividend at the October meeting. The best authority on the subject, however, discourages any such idea.

It is pointed out that the management is ambitious to carry the improvement of the system a great deal further than it has gone, the execution of which program will necessarily call for the expenditure of a very large sum of money during the next few years.

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The advantages of carrying on improvement work with appropriations from the public are many. It involves no interest on the capital in any form, at a time when the arbitrary regulation of rates so much in vogue, is an obvious evil.

"Comparatively no business is being done in the region where this Deputy President of the Santa Fe is in charge. The mails and the express companies are handling 85 per cent of the telegraph companies' business. On Long Island the telegraph companies are completely tied up, and business is paralyzed in New Jersey. Reports from the west and southwest show this condition to be an epidemic. Such reports are absurd. The union officers deny most emphatically that a strike has applied for reinstatement."

Opposed to this is the statement of Superintendent Belvedere Brooks of the Western Union:

"We are running like a mill race and consider the strike matter closed. I have heard nothing of tearing down of Western Union signs in upstate towns. We are rapidly straightening out the kinks in the service," he said.

Roosevelt Has Trouble.

From the Postal spokesman, Vice President E. Nelson says that the Deputy President believe the backbone of the strike already is broken.

President Roosevelt in his Oyster Bay summer capital has been having difficulty keeping in telegraphic communication with the White House. The Western Union, after several complaints, has succeeded in stringing a wire which runs through none of the railroad telegraph offices. Official messages are now free from the telegraph public has been interrupted by sympathetic railroad operators.

Only Seven Men Went Out.

Chicago, Aug. 17.—The telegraphers' general strike order has had apparently no effect in this city. The Western Union people today claimed that its only effect was to call out seven men. Both companies declare that the order has had no effect in this city. The Western Union officials continue to assert that the telegraph companies are hopelessly crippled. The peace makers are making no progress in any direction.

Mr. Coburn Places Its Condition at 74 Per Cent.

Four Big Maize Producing Counties Bring Down Average.

WHEAT, 70 MILLIONS.

At That Worth as Much as Last Year's Crop.

Considered a Remarkable Showing Despite Forebodings.

Corn condition 74 per cent. Area planted to corn, 6,796,315 acres. Winter wheat yield, 70,057,362 bushels. Area planted to winter wheat, 7,051,872 acres.

Average wheat yield per acre for state, 2.53 bushels. Banner county of state, Reno, with 2,902,927 bushels.

The above are some of the interesting factors taken from the crop report issued last Friday afternoon by F. D. Coburn, secretary of the state board of agriculture.

The showing for the total wheat crop is remarkable, considering the pessimistic prophecies made earlier in the season when the green bugs and other hostile reptiles were touring the state. At that time it was thought that about 25,000,000 bushels was all that could be expected. Later estimates have been about 60,000,000 bushels, while the official returns, made from the assessors' figures, show that the state raised 70,057,362 bushels, which will probably be worth more money than the average wheat crop of the state.

Corn conditions of the state are generally favorable, except in the four big corn producing counties—Jewell, Smith, Phillips and Norton. Norton county reports a poor condition in the soil only 19 per cent.

The following is the report: Assessors' returns for 1907 show that the area sown to winter wheat for this year amounted to considerably more than had hitherto been reported, aggregating for the state 7,051,872 acres. This is about 550,000 acres more than the estimate made by the board's correspondents in the fall of 1906; is 813,000 acres more than was devoted to winter wheat last year, and gives a total of 61,000 acres more than any previous season's sowings for winter and spring wheat combined. Not only does the area increase, but it is of a much higher quality than in previous years.

Excellent conditions for ripening are reported in detail later in the year after the average of the harvesters' results in grain that will grade well, nine-tenths of the whole being reported as "good, merchantable quality." The average yield per acre is 2.53 bushels on the entire area sown. Kansas is credited with a total yield of winter wheat in 1907, of 70,057,362 bushels, as stated at this time by the men who have grown it, and who are now threshing and marketing it. This year's crop, at an average annual output for the decade ending with 1906, and while these figures are accurate for all practical purposes they are not yet final. The report in detail later in the year after the average of the harvesters' results in grain that will grade well, nine-tenths of the whole being reported as "good, merchantable quality." The average yield per acre is 2.53 bushels on the entire area sown. Kansas is credited with a total yield of winter wheat in 1907, of 70,057,362 bushels, as stated at this time by the men who have grown it, and who are now threshing and marketing it.

Present reports indicate that this fall's sowing will be below that of a year ago. Most of the leading growers report smaller areas probably due to the unfavorable conditions prevailing in the northeastern corner counties will likely materially enlarge their areas. This year 28 counties each raised more than 2,000,000 bushels or more while last year there were five with more than 3,000,000 bushels, and three with over 4,000,000 bushels to their credit. Reno county leads this year with a yield of 2,902,927 bushels, followed by Barton with 2,748,320 bushels and Pratt with 2,650,000 bushels. The largest yields per acre are in the northeastern part of the state, as in 1906. Brown and Nemaha, adjoining (eastern) counties in the northern tier, carried the largest yield per acre, averaging 28 bushels; Pottawatomie and Wabasha rank next with 23 bushels, followed by Washington with 22 bushels and Atchison with 21 bushels.

The lowest yield is three bushels per acre in Sherman, Lane and Hodgeman counties. Despite the unfavorable conditions prevailing at the usual planting time the area devoted to corn is over 3 per cent larger than one year ago, aggregating 6,796,315 acres, according to assessors. Reports suggest that for corn sowing has been a most peculiar season in many localities. Much of that put in early progressed very slowly or had to be replanted, owing to the long continued unseasonably cool weather, and most of the crop is not so far advanced as usual for the time of year. Prospects are widely variant in adjacent fields because of the different plantings. The present average condition for the whole state is 74 per cent, 100 representing a good average state and satisfactory growth.

The principal corn territory the best outlook is in a block of sixteen north-eastern counties north of or adjacent to the Kansas river, and there the best conditions are reported, each, with one exception, averaging 30 or better. The western two-thirds of the southern part of the state present a quite promising prospect, and the least favorable seems to be in the southeastern and northwestern counties. The situation in the quarter of the state comprising the counties of Jewell, Smith and Phillips, adjoining counties bordering Nebraska, is discouraging, the condition on their combined areas being 60 per cent, or aggregating one-tenth of the state's crop area) averaging but 32.5. Marshall reports more ground planted than any other county, 1,250,000 acres, with a condition of 90 while the next largest in area is Jewell,

HER SCALP TORN OFF.

It Is Saved Intact and Surgeons Sew It On.

Wreck on the Wabash Causes Injury of Five Persons.

HER SCALP TORN OFF.

It Is Saved Intact and Surgeons Sew It On.

Kansas City, Aug. 17.—Wabash passenger train No. 9, that left St. Louis yesterday afternoon, was wrecked at Randolph, Mo., ten miles from Kansas City, last night, when the two cars, a chair car and a buffet and observation car were overturned. Five persons were injured. The injured included Francis G. Lane, Los Angeles, rib broken.

Fred Asht, Tarkio, Mo., leg broken. The accident was due to the rear wheels of the tender leaving the track when the train was running fast to make up time.

HER SCALP TORN OFF.

It is saved intact and surgeons sew it on. The scalp was removed from the fly wheel intact and surgeons performed a rare operation by sewing it back in place. Incisions are that the operation was successful.

The Normal to Open September 3.

Emporia, Kan., Aug. 17.—The fall term of the normal school opens today, September 3, which is two weeks from the coming Tuesday. Applications from prospective students are coming in daily, and principally from this correspondence that the probable attendance is estimated.

President J. H. Hill said this morning that from his indications the enrollment for the coming year will equal that of the past year.

Weather Indications.

Chicago, Aug. 17.—Forecast for Kansas: Fair tonight and Sunday.

HER AMBUL ACT.

Erie Woman Attempts the Killing of Four.

Drives in the River With Children and Grandmother.

EXPECT TO HANG THEM

Water Suddenly Deepens and Wagon Sinks Beneath.

Mother Uses Desperate Efforts to End Life of All.

Are Finally Rescued by the Sheriff and Deputy.

Erie, Kan., Aug. 17.—One of the most appalling attempts at suicides and child-murder ever known in this county occurred here late Friday, when Mrs. John Huffman attempted to drown herself, her two children, aged six and eight, and her grandmother, Mrs. Carrie Chambers.

Mrs. Huffman, who lives seven miles southwest of this place, drove to town in company with her two children and her grandmother, Mrs. Chambers, with apparently no other purpose in view than to do some shopping and assist the older woman in drawing some pension money which was deposited in one of the banks. Late in the afternoon the two women and the children left town supposedly for home. Before leaving, however, Mrs. Huffman purchased, among other articles, a quantity of small rope. On crossing the river bridge about a mile south of town, instead of proceeding homeward on the International Harvester company team of mules she was driving into a lane that leads to the left down through the woods to the river bank. Arriving there she tied the rope to her waist and to each of the children, a boy of eight and a girl of six, and drove up the river through the shallow water, half-straggling under the bridge. Here the water suddenly deepens, this being the site of the old mill dam, attaining a depth of almost ten feet. The buggy and the mules sank out of sight, and within three minutes the two children into still deeper water and leaped after them.

The grandmother, who is almost blind, lunged desperately to the wheel which the struggling mules were towing toward the shore. As the children rose to the surface their mother relentlessly placed her hands on their necks in spite of their cries of terror. At this point Sheriff Marion Ogg and his deputy, W. D. Reynolds, who were scouting from the shore, saw the distance toward the cries and appeared upon the scene. They succeeded in saving both the woman and her children, not, however, until the little girl had been half-straggling. Sheriff Ogg brought his charges here this evening and placed them under the care of a local physician.

Just what will be done with Mrs. Huffman is not yet determined. Those who know her say she is mentally unbalanced.

WHO OWNS THE LAND?

Union Pacific Claims Farm Under Old Grant.

The Union Pacific Railway company has secured a writ of error from the Kansas supreme court in the Saline county case of the Union Pacific against Morris Harris, James G. Harris, Anna Harris and Nellie M. Daniels, and will appeal that case to the supreme court of the United States.

The question involved in the case is one of great importance to the Union Pacific, which has thousands of acres of land which it claims as a right of way at Saline, and which the county is using as a test of the whole proceeding.

The facts in the Saline county cases are as follows: On April 22, 1861, Edward Blou settled upon a quarter section of land known as "unoffered" government land. On May 13, he filed a declaratory statement showing a right to the land under the preemption law. He remained continuously in possession of the land until September 5, 1865, when he entered the land in the name of his wife, and on the 15th of December, 1870, and received a patent in 1872. This land has now passed into the possession of the four defendants in the case.

On July 1, 1862, a year after Blou settled on his land near Salina, congress passed an act incorporating the Union Pacific, giving to it the 400 foot right of way through all public lands. The railroad was built through Blou's land in 1867, and the company recognized his right to the tract by securing a deed from Blou for a 100 foot right of way through the tract. In 1862 the Union Pacific proceeded to fence in a 400 foot right of way and build sidetracks on the 200 foot strip to the south of the track. Then Harris and his associates brought ejectment proceedings in the Saline county court in favor of Harris at every point, and the supreme court sustained the decision.

The opinion was written by Justice H. F. Mason, and the syllabus says: "A tract of land owned by the United States but lawfully occupied by a settler who had filed a declaratory statement claiming a right to it under the preemption law, was not public land within the meaning of section 2 of the act of congress of July 1, 1862, giving to certain railroad companies the right of way through public lands, and no right was conferred to such tract as thereby granted."

PINKERTON IS DEAD.

Head of the Detective Agency Passes Away at Sea.

New York, Aug. 17.—Robert Pinkerton, head of the detective agency, died on board the steamer Bremen on August 12 at sea. He was en route to Germany for his health.

UNCLE SAM SECOND.

In Some Respects His Navy Leads the World.

New York, Aug. 17.—The tenth annual issue of "The Fighting Machines of the World" for 1907, which has just been published in London, puts the United States in the lead among the navies of the world, with England first. Speaking of the United States Navy, Mr. James, in his preface, says: "The superiority of the United States Navy over the navies of other nations is a fact of which the world is becoming increasingly aware. The United States is an extremely good second, and the corresponding lead in invulnerability outside 7,000 yards is considerably increased."

HIGHEST RENT PAID.

Steel Trust Pays \$240,000 a Year for 4 Floors.

New York, Aug. 17.—The largest rent paid anywhere in the world for business quarters will be that contracted for by several companies affiliated with the steel corporation. Nine of the leading concerns in the steel industry have leased four floors in the building which the Hudson Tunnel company is erecting as a terminal for its tunnel under the Hudson. The four floors will be leased for ten years, for which period the leases have been made.

TWO CARS UPSET.

Wreck on the Wabash Causes Injury of Five Persons.