

VICTORY FOR EWERS IN REVENUE CASE

Judge McPherson Rules on Demurrer, Which Practically Settles Case Brought by Revenue Collector Against Dealer.

ASSESSED FOR PAYING NO PARTICULARS YET

One Brother Borrowed From Another and When he Paid it Back Uncle Sam Assessed Him \$100.

The opinion of Judge Smith McPherson in the case of Frank Ewers vs. H. O. Weaver, as collector of internal revenue, has been received by the deputy clerk of the circuit court here. The defendant's demurrer on the general grounds that no appeal was taken to the commissioner of Internal Revenue from the action of the collector of this district, was overruled. The action was one brought by the plaintiff, who is a Keokuk retailer in meats, to recover \$100 paid to the internal revenue collector under protest.

As to the facts in the case the judge says: "The plaintiff is a retail dealer in meats and similar products in Keokuk Iowa. His brother, A. P. J. Ewers, is likewise a retail meat dealer in the same city. Both were licensed retail dealers for the sale of oleomargarine, and had paid the tax required by law for the first six months of the year 1910. The plaintiff had made a purchase of Swift and Company, dealers in oleomargarine, for a shipment of that product, but before the arrival of the product, plaintiff's supply was exhausted, and he borrowed from his brother, a package of oleomargarine. In a few days plaintiff's shipment having arrived, he replaced with his brother the precise amount borrowed. The collector of internal revenue maintained that by the return of the like product on account of said borrowing, he had become a wholesale dealer, except the plaintiff could have made no sale for a few days pending the arrival of his merchandise. But he had the right to engage in retailing every day, because he had paid his license fee therefor. The transaction was a mere friendly and brotherly act. The one being short and the other long as to the product in kind, the one kindly loaned to the other a package which was restored in kind and brand, manufactured by the same concern. I am unable to see how this can be construed into a sale.

"Another proposition is that the statute allowing this assessment and the recovery of this money is in the nature of a penal action and the right of the government must clearly fall within the statute before the right can be given to make a levy and seizure. Such right can not be placed in the statute by construction, unless fully warranted by the statute.

"It would have been futile to have carried a perfunctory appeal to the commissioner of Internal Revenue, because his decision was forestalled by his ruling and why should the plaintiff have been driven through the idle form of such perfunctory appeal when the result was known in advance and such result hostile to the plaintiff."

This ruling practically disposes of this case unless the government should plead and be able to show that there was an actual sale for money of oleomargarine which was delivered by Frank Ewers to A. P. J. Ewers. This would be shown if possible in an amended pleading, which would subject him to the tax of \$100.

Touching on the merits of the case Judge McPherson says:

"The general proposition is, did either plaintiff or his brother make a sale? The holding of this court is that it was a mere borrowing or trade and not a sale. A sale means for money. An exchange of property is a mere barter or trade. The very purpose of money is to have a medium of exchange so that borrowing or trading or bartering can be dispensed with. In this case the government was not deprived of a cent of its revenue to which it was entitled. Both plaintiff and his brother made the same sales at retail that they would have made but for the transaction."

Al Rumbach left yesterday on a trip for the Eleemosynary Artificial Limb Co., of this city.

KEOKUK MAN LOST BOTH HIS LEGS

Joe Santo While Trying to Get on a Freight Train to Ride to Muscatine Has His Legs Severed.

NO PARTICULARS YET

Young Man Well Known Here Has Relatives in This City—Working in Muscatine at Button Works.

Joseph Santo, a Keokuk young man about thirty years old, had both legs cut off this morning, while attempting to board a freight train in the Davenport railroad yards. A message telling of the awful accident to the former citizen was received here this afternoon by the Gate City and by Chas. Noakes, secretary of the Eagle's lodge of this city.

Mr. Santon, it appears from telegraphic reports was trying to board the moving train to return from Davenport to Muscatine where he is employed in the button works. Davenport is about twenty-seven miles from Muscatine and it is supposed that the injured man was trying to "flip" one of the cars as it passed.

Joseph Santo was in Keokuk six or seven weeks ago, visiting with relatives and left again for Muscatine where he was employed. He has been working in the up river city last spring in May and June. No particulars of the accident, other than those given have been received here. Relatives expect details late today.

CITY NEWS.

—Read The Daily Gate City.

—The Colored Young Men's club of this city will present the Five Minstrels at the Parish hall on Fourteenth street, this evening and tomorrow night.

—A number of gang men are at work today cleaning up dirty Johnson street. The street has been in need of a good cleansing for some time and appearances will be better as soon as the accumulation heaps have been carted away.

—The United States steamboat, Lilly, and the snag boat, David Tipton, are tied up at Cottonwood Island, one mile above Quincy, on account of low water. This morning word was received at the lock to send the dredge Etna as soon as possible, which at the present time is engaged at Rock Island.

—Mr. and Mrs. L. H. Baker of No. 502 South Eighth street, are the proud parents of a ten pound baby girl.

—City Solicitor Ralph B. Smith has been asked to talk on the commission form of government at Champaign, Ill., which city is expected to vote on the proposition.

—A marriage license was issued this afternoon to Frank M. Winkler and Stella Hamill.

—This afternoon twenty Greek laborers arrived in the city from Hannibal and will be engaged on the C. & B. and Q. section gang. The greater portion of them carried their wearing apparel in their arms.

PERSONALS.

Mrs. G. W. Perego and daughter of Galva, Ill., returned to their home today after a three weeks visit with Mrs. J. A. Roberts.

Miss Hazel Betts departed this afternoon for Chicago, where she will make a short visit.

W. M. Young and A. H. Ackley left for Montrose this afternoon on business.

G. P. Weik, road foreman for the C. & B. and Q. with headquarters in Centerville, was in the city this afternoon on business.

Mrs. L. M. Stafford of Kahoka arrived in the city this afternoon where she will spend a few days visit with her daughter, Mrs. W. N. Sage.

R. S. Latta of Montrose made a business visit in the city this afternoon.

H. F. Korff of Colfax, Iowa, who has been in the city for several days on business, returned to his home this afternoon.

Mr. and Mrs. J. C. Wolfe of Carthage were city shoppers this afternoon.

Ladies of St. Mary's. The ladies' society of St. Mary's church held a very enjoyable meeting yesterday afternoon at the hall.

Received Fine Hand Bag. Mr. and Mrs. R. T. Burgess left last night for Bay City, Texas, and that vicinity. The Ladies' Aid society of the Second Presbyterian

SOCIETY

Second Party at Mrs. Sage's.

This afternoon the second function at Mrs. William N. Sage's was held, fifty ladies being entertained at six-hand euchre. The color scheme in the drawing room where the games were continued with enjoyment, and in the dining room was white. White chrysanthemums were used as floral adornments, and each guest received a favor similar and equally as beautiful as the ones given yesterday, small French baskets containing white chrysanthemums and greenery. A beautifully appointed course repast was served and rivalled in elegance that of the bridge luncheon of Wednesday.

Mrs. Sage was assisted in the entertainment of her guests by Miss Lella Stafford of Chicago, house-guest at the Sage residence and Miss Mary Rubidge, Mrs. Louisa M. Stafford of Kahoka, mother of the entertaining hostess, was the out-of-town guest present.

All Over the Color Scheme.

From Iowa City, the state U. comes the following tale of a wrangle between the co-eds and the gentlemen students because of the combination of colors the latter wished to use at a social function.

An incident which will claim prestige in the history of the university of Iowa for its uniqueness took place this week when some two hundred sorority girls entered a strenuous protest against the determination of the sophomore cotillion company of ten young men to carry out a color scheme of red and green for the class party at the university armory on the evening of December 16.

For several weeks previous to the announcement of the plans of the young men, the color scheme for the party had been a much mooted question and when the chairman of the committee, Carl Strickler of Sibley, Iowa, announced the decision of his committee feminine Iowa rose up in arms.

The girls declare that they will be unable to show off the pretty pink, old rose, yellow and other nobby colored dresses that their dressmakers have been planning for them for the past month, and all because the colors are so horrid. If it had been anything but green and red, they say, it would have been all right, but as it is they will have to wear white.

Scores of them are not prepared for this. Not contemplating antagonistic colors they did not take the trouble to order white party dresses and now will have to rush work through in time to fill their engagements for the party and be attired in a white creation.

On the other hand the ten young men who compose the cotillion committee remain obstinate and declare they will not change the color scheme.

Turkey Supper at St. Francis.

Last evening an excellent turkey supper, prepared and served by the ladies of St. Francis de Sales church was immensely enjoyed by the large number who were present. A committee of ladies in charge of the arrangements served the delicious bird supper with the "trimmings."

Miss Anna Schaefer Weds.

Last evening at the residence of Mr. and Mrs. Conrad Schaefer, 1111 Main street, occurred the marriage of their daughter, Miss Anna, to Mr. John N. Rickett of Hamilton, Illinois. The ceremony was performed in the presence of about forty wedding guests, relatives and intimate friends of the couple. The Rev. Jacob Nuesch, of the St. Paul's Evangelical church, spoke the words uniting the estimable young people in wedlock. Miss Eva Schaefer, sister of the bride attended as bridesmaid, and a brother of the groom served as best man.

An elegant wedding supper succeeded the ceremony, served by the parents of the bride in honor of their daughter's guests, who participated happily in the event. Several Hamilton guests, relatives and close friends of the groom, were present.

Mr. and Mrs. Rickett will make their residence in a cozy home between Seventh and Eighth on Palean streets, and they will undoubtedly be accompanied there by the best wishes of many friends.

With Mrs. Sprankle.

Mrs. Geo. Sprankle entertained ten lady friends at her residence, 220 North Ninth street, from two until five o'clock yesterday afternoon. Refreshments were served and a very enjoyable time was had by the guests present.

Ladies of St. Mary's.

The ladies' society of St. Mary's church held a very enjoyable meeting yesterday afternoon at the hall.

Received Fine Hand Bag.

Mr. and Mrs. R. T. Burgess left last night for Bay City, Texas, and that vicinity. The Ladies' Aid society of the Second Presbyterian

THE WORLD'S MARKETS. Furnished by E. W. Wagner & Co., 99 Board of Trade, Chicago—Members Chicago Board of Trade—Chicago Stock Exchange. BRANCH OFFICE: ROOM 13 JAMES BLDG., FT. MADISON, IOWA. P. O. BOX 5, MISSISSIPPI VALLEY 195—IOWA 71 X. PRIVATE WIRES A. G. PERKS, MGR.

Table with columns: Daily Range of Prices, CHICAGO, Ill., Nov. 10.—Open, High, Low, Close. WHEAT—Dec, 88 1/2, 90 1/2, 87 3/4, 90 1/2. CORN—Dec, 46 1/2, 46 3/4, 46, 46 1/2. OATS—Dec, 31 1/2, 31 3/4, 31 1/4, 31 1/2. PORK—Jan, 17 55, 17 55, 17 52, 17 55. LARD—Jan, 10 40, 10 45, 10 37, 10 40. RIBS—Jan, 9 37, 9 37, 9 25, 9 30.

Estimated Receipts Tomorrow. Wheat, 42; corn, 425; oats, 147; hogs, 15,000.

New York Produce. NEW YORK, Nov. 10.—Today's PRODUCE markets are as follows: Buttery—Creamery, extra, 32. Process—Special, 27 1/2c. Eggs—Fresh, gathered, western first—28 and 31 cents. Box Fowls, 13 1/2 to 17 1/2c. Iced Fowls, 13 to 14c. Iced chickens, 12 1/2c. Local Grain Market. KEOKUK, Nov. 10.—The following markets, furnished by the O. A. Talbot company: No. 2, Wheat, red, .79. No. 3, Wheat, .75. No. 2, Wheat, hard, .78. New white oats, .26. New mixed oats, .25. Corn, new, .33. Local Live Stock. KEOKUK, Nov. 10.—The following live stock market furnished today by Joseph Haubert: Hogs—Good butchers, \$7.50. Sheep—Butchers, \$5.00 to \$6.00. Calves—\$5.50 to \$6.50.

LATE AFTERNOON BULLETINS

SAVANNAH, Ga., Nov. 10.—The first serious accident credited to the grand prize automobile race to be run here Saturday occurred here this afternoon when W. H. Sharpe and his machinist, Albert Schuferts, were both probably fatally injured.

MONTEREY, Mex., Nov. 10.—Advices received here today from Mexico City say that a bomb was thrown at American Ambassador Wilson during the excitement over the anti-American revolt. Wilson is said to have escaped uninjured and the would-be assassin captured. Press dispatches and telegrams from Mexico are being censored.

WASHINGTON, Nov. 10.—The United States will ask an immediate and full explanation of the lynching of Americans reported from Mexico and will demand complete reparation. It was learned that Secretary Knox has received a long cipher report from Wilson. This report was sent in secret this afternoon but it is known to have contained important information and a consultation of department chiefs is now being held.

Chamberlain's Stomach and Liver Tablets do not sicken or gripe, and may be taken with perfect safety by the most delicate woman or the youngest child. The old and feeble will also find them a most suitable remedy for aiding and strengthening their weakened digestion and for regulating the bowels. For sale by all dealers.

WILL SPEAK ON MENTAL SUGGESTION

Dr. A. B. Hughes and Prof. E. L. Patterson Two Speakers at Current Events Club Tonight.

Dr. A. B. Hughes will speak before the Current Events club at the Y. W. C. A. tonight on "Mental Suggestion." Prof. E. L. Patterson, principal of Washington school, will tell of educational news. These two speakers will address the meeting of the club aside from the regular topics which are to be spoken of by the members.

This afternoon a meeting of the high school club was held. The intermediate gym class met this afternoon instead of tomorrow afternoon.

Banquet Program.

Following is the corrected program of toasts which will be carried out at the membership banquet which is to be held tomorrow evening in the association rooms: Toastmistress—Mrs. Winona Reeves. Reading—Miss Cora Parsons. A word of welcome—Mrs. C. D. Streeter. Toast—"The Y. W. C. A. Present and Future"—Mrs. R. M. Lapsley. Toast—"Our New Members"—Miss Harriet Solomon. Reading—Mrs. C. A. Armstrong. Solo—"Mrs. Co. Ingwood Tucker. Toast—"Educational Advantages"—Miss Eleanor Brown. Toast—"Our Membership"—Miss Emma Nivling. Association song—Junior Quintette.

TRIED TO POISON WEALTHY HUSBAND

Woman is Under Arrest and Sick Man is in the Hospital.

WHEELING, W. Va., Nov. 10.—Mrs. Martha Fransworth Shank, the wife of John C. Shank, a millionaire, has been arrested, charged with poisoning her husband and is held in jail with-

out bond. Arsenic was found in his food. He was taken to a hospital and may recover.

PEORIA HAD A BAD BLAZE

Fire Caused Loss of \$100,000 or More to Several Different Firms.

PEORIA, Ill., Nov. 10.—Fire starting from an unexplained cause, entailed a loss variously estimated from \$100,000 to \$130,000 and for a time threatened the destruction of an entire block. For several hours the firemen battled against the spreading flames, and it was not until a general alarm had been sounded and every piece of fire-fighting apparatus in the city had been called to the scene, that the flames were checked.

The fire started in the rear portion of the first story of the two-story double building. With the front of the south half of the building given over to broker's offices, the rear is occupied by the McCoy & Co. wholesale grocers, as a warehouse. It was in this part of the building that the fire originated. The McCoy people are the heaviest losers. Their stock was more complete than at any other time of the year, November being a month when wholesale grocers stock up. The dry food stuff and other merchandise made great fuel for the fire and when discovered, the flames had a good headway. Officers of the company were unable to say this morning just how much their warehouse stock was worth, but it probably will go to \$100,000. The property is insured.

Other firms who lost were: Nixon Printing Co., occupants of entire second floor of the south half of the building. Loss \$10,000, covered by insurance.

Jones Bros., merchandise brokers, loss \$1,000, insured.

Boyd & Ryan, plumbers, occupants of the basement of the building. Loss \$2,000, insured.

Charles Hall, managed Easton estate, owners of the building, occupant of office suite on first floor of north half of building. Loss \$1,000.

Fred Allen, wholesale cigars, stock damaged by fire and water. Loss \$1,500, insured.

H. S. Drobisch, merchandise broker, office suite damaged by smoke and water. Loss \$50, insured.

The Easton estate, owners of the building. Loss \$10,000, insured.

Oakford-ahnstoeck Grocery company, stock in their No. 3 warehouse, damaged by smoke and water. Loss, \$10,000, insured.

THE OLD FEATHERED BOY MUST VAMOOSE

Indian Cigar Signs Are Becoming a Rarity Nowadays, Though They Were Once Costly.

The older residents of the city can remember when every cigar and tobacco store had its wooden Indian out in front. Some of them were Indian maidens, but they were all doing the same—holding aloft in one hand a bundle of cigars or a bunch of tobacco and in the other a tomahawk. They all occupied the same positions, one foot resting on a stone and eyes turned toward the skies. Every year they would be given a coat of paint.

Where are they now? No one knows, except that they have gone the way of all earthly things. Some drunken roysters would reel against them and knock them to the sidewalk, breaking off an arm or a nose. It would be glued back in its proper place, only to be broken off again by the next imbiber of nose paint, and finally Pocahontas or Modoc would be split up into kindling wood.

In years gone by the wooden Indian was the recognized sign of the cigar store, just the same as the striped pole is today the insignia of the barber shop and the wooden clock proclaims the fact that there is a jeweler in the immediate neighborhood. In olden times when a man started a tobacco store one of his first purchases was a wooden Indian,

The Little Giant Alcohol Stove. Has no wick. Price \$1.00. City Drug Store Seventh & Main.

Cloisnone Enamel Jew'ry. Beautiful iridescent effects. Sterling Silver metal. Floral and conventional designs. BELT PINS \$3.00 to \$6.00. BAR PINS \$1.00 to \$2.00. HANDY PINS Pairs 75c to \$1.75. BROOCHES \$1.00 to \$3.00. LEBRON'S 404 MAIN STREET.

Scott & O'Reilly Prescription Druggists. PURE DRUGS. Accurate Prescription Work. 600 MAIN ST.

and oftentimes they represented an outlay almost as large as the stock in trade itself. The fixtures were carved by hand from a solid block of wood, with the exception of the uplifted right arm, which was made separate and "spliced." An ordinary cost \$100 and an extra fine one, life size and mounted on rollers, cost double that sum.

The wooden figures of late years, however, have come to be regarded as a sort of a nuisance, and in many cities ordinances were passed requiring their removal from the sidewalk. This was never done in Keokuk, however, and now there is no need of it. The last survivor takes up no more room than scores of other signs, and a kindly disposed city council will no doubt allow him to remain until the wood from which he is made falls to decay and he goes the way of the great majority of his brothers in the flesh—to the land where even wooden Indians will not be required to hold up one hand throughout eternity and gaze toward the rising sun.

LOSS IN FOREST FIRES \$200,000,000

Destruction This Year Equivalent to Six Years' Growth of All Forests and is Double Annual Cut.

Forest fires cost the United States between \$175,000,000 and \$200,000,000 in 1910, according to American Forestry. Before the severe fires of August were more than a probability the magazine placed the loss to property from fires in the United States and Canada at about \$100,000,000.

The great fires in the Northwest since have caused losses of probably not less than \$50,000,000 worth of timber owned by states and persons. The startling statement is made in the analysis of the damage done by fire, that to replace the supply destroyed this season would take six years' growth of all the forests of the country, since not more than one-third as much timber is grown as it takes

Loss Twice Annual Cut. The timber consumed or damaged beyond hope of utilization before it

REAL ESTATE

7 room, bath, gas, N. S. \$2600. 7 room, modern, 50x150 N. S. \$3300. 8 room, water, 95x150, S. S. \$3300. 8 room, fine lot, fruit, S. S. \$2200. Two 8-room, full lot, SS. each \$2200. 7-room, corner lot, good SS. \$1500. 5-room, new cottage, S. S. \$1500. 30 acres, 8 miles, poultry and berries trade for city property \$2,000. 40 acres good, near Moar. \$2,000. 50 acres, good house and barn, bottom \$80 per acre.

75 acres fruit, berry and dairy, 1200 bearing trees, good improvements \$65 per acre.

317 acres, 8 miles, 200 in cultivation, finely improved stock farm \$50 per acre.

Splendid bargains in improved farms in Scottiana County, Mo. All sizes and low prices. Come in and see us.

M. S. Ackles "The Real Estate Man" Room 1 Estes Bldg.

Want Column

WANTED.

WANTED—Experienced chamber maid at Royal Hotel.

WANTED—A young man to work in Store. Address D. E. M., care Gate City.

WANTED—Boy with bicycle, to work in store and deliver. Address "S" Gate City.

WANTED—Ambitious young men who are willing to work for a correspondence course. P. O. Box 274.

FOR RENT.

FOR RENT—Seven room cottage with bath, modern. 419 Fulton. Inquire of Jos. W. Steiger.

FOR RENT—House of six rooms, No. 902 North 12th street. Maxwell & Tumelty. Iowa phone 222 Black.

FOR RENT—Front room, nicely furnished, 713 High street.

FOR RENT—Modern cottage, 5 rooms, bath and furnace, 516 Orleans Ave. New house, 7 rooms, bath, furnace and laundry, 520 Morgan street. Six room house, 511 1/2 Exchange street. Inquire A. J. Ruddick, 504 Orleans Ave. Both phones.

FOR RENT—Dwelling, 309 Blondeau St. 6 rooms, gas, bath, electric lights. E. F. Renaud, Agt.

FOR SALE.

FOR SALE—My driving mare, kind and gentle, well broken to the city; one phaeton buggy, one set of harness for same. A complete outfit suitable for a lady to drive. Apply to M. Meigs, 511 N. Third street.

FOR SALE—160 acres good land; well improved; near Keokuk. Address "Z", care Gate City.

FOR SALE—Cheap, \$60 Superior range, can be seen at 808 North Twelfth street.

becomes a total loss by decay was roughly equivalent to the entire lumber cut of two years, assuming 40,000,000,000 feet as the average annual cut. To fight the forest fires of 1910 cost not less than \$1,500,000, and probably more. American Forestry also figures a loss of \$8,000,000 to industry, in wages that would have been spent on the timber destroyed, since the production of every 1,000 feet of lumber represents \$10 in wages. This loss is said to apply even if an equivalent amount is spent for labor in salvage or in converting other forests into manufactured products; for in the long run the reduction of the forest stock below the minimum required to meet the current demand means depression of the lumber industry, curtailment of the cut, and consequently a diminished outlay for labor, with a corresponding loss in wages.

Private Losses Heaviest. A comparison of the public losses with the private losses for the whole country indicates that private losses were seven times greater than public. In spite of the fact that privately owned forests are not more than five times greater in extent and are more accessible than those publicly owned, in the fires of the Northwest and lake states it is probable that state and private owners of timber suffered more nearly three times than twice as heavily as the nation by these fires.

Great Increase in Los Angeles. WASHINGTON, D. C., Nov. 10.—The population of Los Angeles, Cal., is 319,088, as compared with 102,479 in 1900. An increase since 1900 of 216,719, or 115 per cent.

Ayer's Sarsaparilla Temperance

Buy PAINT at Wilkinson & Co. KEOKUK'S BIGGEST DRUG STORE 422 Main Street