

SAYS COP TOLD HIS LOVE IN 80 LETTERS

Delia McGovern Sues Patrolman Patrick McGovern for Breach of Promise.

WOODED HER ON BEAT.

Defendant Asserts that His Friendship for Nurse Maid Was Platonic Only.

Miss Delia McGovern, accompanied by three women friends, who are to be witnesses in her behalf, appeared in the Supreme Court today to prosecute a suit for \$5,000 damages against Patrolman Patrick McGovern, of the Tenderloin.

She says he wooed her when she gave the children of her employer an airing on his beat. After spending nine years in the primrose path of dalliance, during which she says, he sent eighty love letters to her he refused to name the wedding day.

Patrolman McGovern was attracted by the winning ways of the nursemaid, but through Lawyer Louis L. Fawcett denies that it was ever more than a platonic friendship. He scoffed at the idea that he ever asked Miss Delia to be his wife or even thought of such a thing. As for the eighty "love letters," the big policeman says if there is any love in them he didn't put it there.

Mr. Osgoodby, counsel for Delia, guards those eighty letters jealously, and says no one shall know how much sacrifice there is in them until he reads them to a jury.

Mr. Osgoodby complained today that he had been defeated in his efforts to find Patrolman McGovern's sister, a most important witness. He asked for an adjournment of the trial until Monday and that an attachment be issued for the hidden witness. Justice Davis granted the adjournment.

All this without the presence of Police-Master McGovern, for whose coming Miss Delia and her three women friends watched the entrance in vain.

NURSE WHO SAYS COP WROTE 80 LOVE LETTERS.



COURT REFUSES TO FORCE \$1 RATE ON GAS CONSUMERS

(Continued from First Page.)

of the United States, because the United States Supreme Court must be the ultimate interpreter of the Constitution in such matters. In analyzing the original intention of the Court says:

Entering Not Enjoined.

"In entering that order the Court did not find, nor did it express, nor even intimate an opinion that the action of the Gas Commission in fixing the price to be charged for gas at 80 cents per 1,000 cubic feet was legislative, and that the act of the Legislature, not that of the Commission, was the proper one to be enforced. (Chap. 13 of the original act in that respect unconstitutional and void. IT DID NOT UNDERTAKE TO ABRIDGE OR NULLIFY THAT PROVISION OF THE STATUTE. As between the consumer and the manufacturer it left the question as to what the former should pay to the latter precisely where it stood before. Any consumer who might be asked to pay the old rate was left by the order entirely free to decline to pay it and to make a tender at the new rate for the gas he had consumed."

Judge Lacombe goes on to explain that the order did provide that the gas company might charge or demand payment at the old rate and might collect at that rate from such as choose to pay it. In refusing to enlarge upon this provision of the original order Justice Lacombe allows it to stand just as it appears in the language quoted from his opinion above.

State Can Fix Fair Price.

The Court contends that a public service of public utility corporation can be controlled by the State to limit the price for its product to such sum as will be a reasonable return upon the investment in case of a corporation on the faith of the State's franchise. On the other hand the State, in attempting to fix such price, should be fair and reasonable and should certainly stop short of confiscation.

Judge Lacombe then calls attention to the drastic character of the provisions in the Eighty-Cent Gas Law, which virtually strips the gas companies from demanding more than 50 cents per thousand feet. This provision makes such a demand a confession of guilt and imposes upon the gas company a fine of \$100 for each instance in which more than 80 cents is charged. In other words, the gas company, by bringing suit, for instance, to recover the difference between 80 cents and \$1 per thousand feet on a bill of \$5 would be liable under the law to a fine of \$100. On this point the Court says:

Thinks Law Too Draconic.

"Now, whenever the seller of any thing verifies a complaint to be used in an action at law which asserts that he is entitled to receive and asks to recover a sum of money, he may fairly be said to be preparing to make a demand therefor. At the moment he serves such complaint upon the buyer he has indisputably made such demand. But the State, in the moment of making of such a demand shall constitute a complete defense.

"In other words, if the statute is valid, the cause of action, which the plaintiff may think it has, is slaughtered at the very moment it sets foot within the halls of justice. The merits of the controversy as to who was to be charged will never be tried. In such an action, because no defendant would be so foolish as to discuss any such issue when the mere making of a demand brought relief from all payment whatsoever."

Justice Brewer, of the United States Supreme Court, is quoted in a decision in the case of Gotting vs. the Kansas City Stock Yards, where similar cumulative penalties were provided for every charge of more than a certain sum per head for yarding cattle. This statute was declared unconstitutional. The Court then continues the order as follows:

Injunction Continued.

"In order, therefore, to secure to the complainant its right to prosecute this

lance. On this point the Court says: "These franchises were granted very many years ago at a time when there seems to have been no intelligent appreciation of the fact that they might become enormously valuable, and all sorts of franchises were given away without any provision for securing to the State its fair share of unearned increased value."

"Nevertheless, when the State offers a franchise to whomsoever will take it without requiring any money return thereon, and for the sole consideration that the taker shall promptly, comply with and this device is for the expenditure of his own money, and such offer is accepted and the terms of the agreement carried out by the taker, there results a contract, which, with due consideration of all proper conditions and circumstances inherent in the nature of the particular contract, is as much within the protection of the Constitution as are all other contracts.

"A franchise, whatever its value may be, which has not expired, nor passed, nor been in some way forfeited, is property in the hands of its holder."

Consumers NOT Restrained.

After all, says Justice Lacombe, the fundamental question is: "Is the rate fixed by the Legislature (80 cents) so low as to be unjust or confiscatory?" This question he holds, must be decided only upon the presentation of the whole case, and testimony taken. Then comes the provision leaving it to individual consumers to pay 80 cents or a lower rate, if they so choose, as follows:

"HEREFORE, UNTIL THE COURT AT FINAL DECISION MAY HAVE THE OPPORTUNITY TO PASS UPON SUCH A RECORD, ALL RIGHTS OF THE BUYING ORDER IS CONTINUED, ITS TERMS WILL BE ENFORCED AS TO INDIVIDUALS WHO ARE NOT PARTIES TO THIS SUIT AND HAVE NOT BEEN SERVED WITH PROCESS."

The City of New York, which is a party to the suit, is referred to at some length. Justice Lacombe suggests that the six officers and the officers of the gas companies confer and reach some agreement as to the procedure which will be followed in the case pending by the provisions of the statute the city is to secure its gas for 50 cents a thousand cubic feet, and the gas companies hold that this is an outrageous rate.

No Reason for Long Delay.

The Court announces that the great importance of a prompt disposition of the case is appreciated because it affects the interests of nearly half a million of households, and expresses the opinion that there is no apparent reason why a final hearing on the merits should not be reached with reasonable expedition in the event of a demand for exceptions to any pleading being filed by either side, the court will hear and dispose of same at any time after the summer vacation upon a week's notice. When the case is put on the calendar it will be given preference because of its great public importance, and Justice Lacombe expects that it will be finally decided by the end of the year. The testimony is to be taken before some competent master who is to make all needed computations and find fully the facts. In conclusion the Court says:

As to the Refund.

"The order continuing the injunction should contain a clause providing that in the event of a complaint failing to proceed, that the gas companies be required to pay the amount of the refund and the distribution of the amount due to the respective consumers (including such interest as the condition of the fund after paying expenses of administration may warrant).

Franchisees Have a Value.

The Court here takes up the question of the value of the franchises used when the gas companies operate, and says that the Gas Commission acted in excluding that these franchisees have a value. He points out that the State through its taxing officers values these franchises at several millions of dollars. The contention that some of the franchisees have expired or lapsed in some way is held to be not material because it is not asserted that all of them have

shall be performed by the company; and upon its being shown that refund has been made to any consumer by crediting the amount due him upon any current monthly bill or bills, or otherwise, such amount shall be returned to the company, week by week, or at such shorter intervals as the court may approve.

It will also contain a further clause that all consumers who may change their address or may remove out of the borough should notify the clerk of the court, or the gas company of such change of address to the end that whatever refund they may be eventually found entitled to may be paid to them at their new address without their being put to the inconvenience of coming to the Special Master or to the company to collect it."

ALFONSO PARDONS DESERTERS

MADRID, June 8.—A decree granting amnesty to all army and navy deserters residing in America has been published.

DIAMOND DEALERS CONFESS LARCENY

Morris and Joseph Klein Surprise Trade by Pleas of Guilty in Court.

Morris Klein and Joseph Klein, brothers, pleaded guilty today in Judge Roosevelt's part of the Court of General Sessions to grand larceny in the first degree. Their pleas were a great surprise to the Jewellers' Board of Trade, which had retained Lawyers Abraham Levy and George Simpson to prosecute them.

The Kleins composed the Klein Bros. Company, manufacturing jewelers, at No. 51 Maiden lane. Following the failure of this firm, with liabilities exceed-

ing assets by \$50,000, the two brothers were indicted on eight different counts charging grand larceny in the first degree. Allegations were made that the accused had obtained on credit just before the failure of their firm, diamonds exceeding \$50,000 in value. From one diamond importer they obtained \$12,000 worth of diamonds. Many other dealers in diamonds complained that they, too, had sold diamonds to the Klein brothers just before they failed. As it was expected they would make a hard fight, their pleas of guilty to a charge of grand larceny in the second degree came as a surprise. Both were believed to be wealthy. On their pleas each may be sentenced to five years in prison. They were remanded to the Tombs for sentence on next Wednesday.

Less Child Labor Fewer Accidents. WILKES-BARRE, June 8.—Jonathan W. Davis, Factory Inspector for this district, in his report declares that the enforcement of the new Child Labor law during the last six months has reduced the number of accidents 2 per cent, and has reduced the number of child workers 80 per cent. The law provides that minors desisting employment in this district, shall be examined by the Superintendent of Schools in the district and must show a fair knowledge of English and the common branches.

Franklin Simon & Co.

IMPORTANT REDUCTIONS FOR SATURDAY.

- Boys' Summer Clothing
KNICKERBOCKERS of khaki, tan linen, white duck or gray crash; 7 to 17 years. Value \$2.00..... 1.00
BOYS' WASHABLE SUITS, Sailor or Russian Models, of Linen, Galatea and Poplins. 2 to 12 years. Heretofore \$3.00 to \$5.00..... 1.75
BOYS' WASHABLE NORFOLK SUITS of tan linen; 8 to 16 years. Heretofore \$5.00 to \$7.50..... 2.50
BOYS' SUMMER NORFOLK SUITS, in three shades of Gray worsted homespuns. Extra pair knickerbockers; 8 to 17 years. Value \$12.50..... 6.75

Imported Straw Sailor Hats for girls and boys, heretofore \$1.75 to \$3.75, 50c. and 95c.

- Misses' and Girls' Summer Apparel
GIRLS' DRESSES of white, blue or tan linen; also chambray and dimity; 4 to 14 years. Heretofore \$4.50 to \$6.75..... 2.85
PETER PAN SHIRT WAISTS; 12 to 18 years. Heretofore \$2.75 to \$4.50..... 1.50, 2.75
MISSES' SKIRTS, of imported white washable poplin or linen; 12 to 18 years. Heretofore \$4.50 to \$7.50..... 2.85, 4.75

Misses' Peter Pan Suits of white linen, with light blue or pink collar, cuffs and tie or solid white; also cadet blue chambray and tan linen; 12, 14, 16 and 18 years. Real value \$9.75, 5.75

FIFTH AVE., 37th and 38th Sts.

WM. VOGEL & SON.



Summer Suits for Men That Reach the Ideal. Let us define the ideal summer suit. It must be free from superfluous weight; it must be easy and graceful in line and curve; it must fit without loss of comfort; it must be thin of fabric, yet so tailored that shapeliness and style will be permanent. We are quite sure this defines the ideal summer suit, and we are also certain that these qualities from the first to the last may be found together with our "Concave" Shoulder and "Closefitting" Collar, in all of our

Fifteen Dollar Summer Suits for Men.

These suits are form in a series of single and double breasted models of conventional or radical styles, medium length and long coats with deep side or centre vents or without vents. Fashioned of blue and black serges, black thickets and velvet finished cassimeres and worsteds in gray monotones, herringbones, stripes and overplaid.

Other Suits, \$15 to \$40.

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Extraordinary Sale of Muslin Underwear

- WOMEN'S DRAWERS, of Cambric, Nainsook and Muslin; French felled seams, trimmed with lace, tucks, embroidery and hemstitching; excellent value..... 50c
WOMEN'S DRAWERS, of Cambric and Nainsook; prettily trimmed with embroidery and tucks..... 78c
WOMEN'S CHEMISES, of Cambric and Nainsook; prettily trimmed with lace and ribbon..... 78c
WOMEN'S GOWNS, of fine Nainsook; prettily trimmed with lace and embroidery, chemise style, all French felled seams..... 88c
WOMEN'S GOWNS, of fine Long Cloth; chemise and empire styles, handsomely trimmed with French embroidery and fine edging..... 1.25
WOMEN'S EXTRA SIZE GOWNS, of Cambric and Long Cloth; V-shape neck, trimmed with embroidery, tucks and hemstitching..... 85c
WOMEN'S EXTRA SIZE GOWNS, of fine Cambric; square yoke or round neck, trimmed with embroidery and hemstitching..... 1.25

We carry a complete stock of Women's Extra Size Underwear in Muslin, Cambric and Nainsook, made exceptionally full in length and width.

Summer Corsets

AUGUSTINE CORSETS, of very fine Batiste, trimmed with lace and ribbon; medium bust and long hip. All sizes from 18 up; value \$2.00, for..... 95c

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Genuine Oak Soles direct from our own tanneries used in every pair.

Men's Dollar-Off Store 600 8th Ave., near 57th St. 274 W. 125th St., near 104th Ave. 291 Broadway, near 24th St. 141 E. 62nd St., near 1st Ave. 104 31st Ave. (Prosper's Bldg. 3rd Fl.) 141 E. 62nd St., near 1st Ave. 192 Broadway St., near Fulton St. 129 Broadway St., near 10th St. 10 E. 20th St., Metropolitan Life Bldg. BROOKLYN, N. Y. 119 Broadway, near De Kalb Ave. 484 24th Ave., near 10th St. 643 645 Fulton St., near Rockwell Pl.

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1, 2, 3, 4, 5, 6—60 times to the Minute, 60 Minutes to the Hour, 3600 Boxes an Hour, 36,000 Boxes a Day of Ten Hours, 1,080,000 Boxes a Month, and then some. Think of it—220,000 People take a Cascarets tablet each day. Millions use Cascarets when necessary. The Judgment of Millions of Bright Americans is Infallible. They have been buying and taking Cascarets at that rate for over six years.



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