

BURRS REMAIN IN TOMBS

Government Seizes Money, Mail and Attaches Bank Accounts.

VICTIMS TELL SAD TALES

C. H. Tobey and E. W. Preston Give Bonds to Appear for Trial Here.

Though they took in \$20,000 in three hours on Monday before they were arrested, the officers of Burr Brothers (Inc.), still remained in the Tombs last night, unable to obtain bail. The money which came into the office on Monday was seized at the time of the raid by Postoffice Inspectors Kincaid, Reddy and Booth. Up to noon yesterday about a thousand letters had been received in reply to advertisements on Sunday offering stock in the Buick Oil Company and other enterprises for which Burr Brothers sold the stock.

Of the money received on Monday only \$700 was in cash. Of the balance there were checks for amounts varying from \$25,000 to \$125, while there was one postal money order from France for \$125 and another from England for a smaller amount. The corporation believed in keeping its money scattered, for it had accounts in eight or nine banks, the largest amount deposited in any institution being \$7,000. Proceedings were initiated yesterday to attach the money in the banks, in order to recover as much as possible for the victims of the swindlers. Besides the money received with orders for stocks, there were telegrams from various parts of the country making reservations of stock, and announcing that the money was being sent to cover the orders.

Tobey and Preston Coming.

C. H. Tobey, who is regarded as having been the real brains of the corporation, was arrested yesterday at Bloomingdale, Mich., and gave \$20,000 bail for his appearance in New York to answer the charge of conspiracy to defraud. He investigated the proceeds of his operations in the concern in real estate in Michigan, and is reported to have large holdings in that state.

E. Wesley Preston, who up to September last was a member of the firm of Burr Brothers (Inc.), also gave bail in New York in \$20,000 for his appearance in New York to meet the charges against him. He has been since September connected with the California Consolidated Oil Company, of which Admiral Rowley D. Evans is president. He has not been in California since the summer, however, as the members of the Burr company were excluded from that state upon the report of Louis E. Aubrey, the state mineralogist, who denounced them as swindlers.

In his report to the state authorities Mr. Aubrey said that this concern and others like it sold stock on all properties, taking the name of some well known oil producing company, like the Conanga, which they twisted to various names. In no case, however, said Mr. Aubrey, was the alleged property controlled by the Burr companies within less than six miles of a producing well. The pictures published were those of other companies' fields, and they even carried visitors to California and had them inspect producing wells as they went. As a matter of fact, only last Saturday, two days before their arrest, the Burr Brothers (Inc.) had hired a private car to take eighteen people to California to visit alleged oil properties.

Want Their Money Back.

Postoffice Inspectors Kincaid and Reddy went the forenoon yesterday at the office of Burr Brothers (Inc.) with Cashier Reddy, of the company, and during the two hours they were there about twenty-five customers came in and asked whether there was any chance of getting their money back. One woman, about sixty years of age, said she had bought 11,000 shares of the Buick company at 50 cents a share. She would not leave the office, but kept repeating: "They told me that it would be all right if I would only wait a

Little, and she moaned as she told how she had invested all she had in the enterprise.

Assistant United States Attorney Arnold, who is assisting Mr. Dorr in preparing the case, had a string of visitors all day, and a number of letters came telling the same story of loss of a lifetime's savings. Mrs. Lavinia Lawrence, of Philadelphia, said she had put \$4,000, the proceeds of her husband's insurance, into oil stock, hoping to live on the dividends, and now she is penniless. Mrs. David Crabb, of No. 127 East 3rd street, is a widow with a family. She bought 5,000 shares of oil stock at 50 cents a share when she was told that she would not have to work after a little while. Fred Gundel, of No. 72 Sands street, Brooklyn, was another victim. John Emerson, a bricklayer, of No. 109 Bluecock street, told how he had been inveigled out of his savings by alluring literature bearing the name of ex-Governor Sparks of Nevada and had even received a letter from Chicago purporting to be from Governor Sparks commending the property as an investment.

The government officials regard the assertion that the Burr Brothers cannot obtain bail as a ruse to obtain a reduction of the amount, and say that if a reduction was made the prisoners would jump their bail. No further arrests were made in the Continental Wireless case, though there was an air of expectancy about the Federal Building whenever the case was mentioned.

Postmaster General Hitchcock was at the office of W. W. Dickson, postoffice inspector in charge, and indicated the state department that the raids on Monday would be "kept up until the crooks had been cleaned up." It required some time, though, to get conclusive evidence, he said.

TRAFFIC ALLIANCE RUMOR

Wall Street Hears St. Paul and Frisco Have Deal On.

Officers of the Chicago, Milwaukee & St. Paul Railway Company and the St. Louis & San Francisco Railroad Company would not discuss yesterday a report that the two roads were likely to form a traffic alliance in the near future.

The rumor grew out of an inspection trip that is now being made over the "Frisco" system by a party composed of Percy A. Rockefeller, A. J. Earling, president of the St. Paul, and B. E. Yoakum and B. L. Winchell, chairman of the board and president, respectively, of the "Frisco." It was learned that this trip was arranged by Mr. Yoakum, who is understood to be desirous of having the St. Louis & San Francisco enter into a traffic agreement with the St. Paul, whereby the latter would divert all its traffic from the West bound for Southern ports to the "Frisco" lines. In return, of course, the "Frisco" would give all its business destined to Northwestern sections to the St. Paul.

It appeared to be the belief in railroad circles that the St. Paul would have absolutely nothing to gain, but on the contrary would be a loser by entering into such an agreement. The business received from the "Frisco," it was said, would not compensate the St. Paul for the loss of traffic from the roads with which it now has agreements.

ADVANCE IN AMERICAN CAN

Preferred Closes at 83 1/2 After a Day of Heavy Trading.

American Can preferred distinguished itself yesterday in a dull and narrow market by a volume of transactions exceeded only by Steel common. Union Pacific and Reading and by a maximum advance in price of 4 1/2 points, its closing price, 82 1/2, representing a net gain of 3 1/2 points. No news came out explanatory of the movement.

Friends of the company said that the business for the current year had been the best in its history. There was a rumor, which was not generally credited, that the dividend on the preferred would be increased next month. The preferred stock is a 7 per cent cumulative issue. The first dividend after the organization in March, 1901, was 2 1/2 per cent in September, 1902. Beginning with 1904, 8 per cent has been paid each year, the accumulated dividends thus totalling more than

CHECK INVESTIGATIONS

Aldermen Rebuff Board of Estimate by Cutting the Budget.

GAYNOR CAN REVERSE THEM

Dowling Leads Attack, Aided by Two Republicans and Three Fusion Aldermen.

Under the lash of Alderman Frank L. Dowling, the Tammany leader of the Board of Aldermen, and chairman of its finance committee, that board yesterday administered a rebuff to the Board of Estimate. On the ground that the Board of Estimate was trying to usurp the prerogatives of the Board of Aldermen by providing for any investigation of city departments, the aldermen cut from the budget for 1911 \$50,000 appropriated for an investigation of the Board of Education, \$35,000 for an investigation of the Department of Charities and Correction, \$15,000 for \$25,000 for an investigation of the equalization of salaries paid in the various departments of the city government. The finance committee having cut out these items, the board passed the budget without them. Mayor Gaynor has the power of veto over any action of the board, but he would not say last night whether or not he would use it. Not only may he cut items passed by the board, but he may rescind their excisions, leaving the budget as a whole.

The investigations that had been planned by the Board of Estimate were not of past actions in the departments, but a general investigation of the departments, in order that they might be reorganized with a view to more economical and efficient management.

Partisan Line-up.

It was largely a partisan line-up when it came to a vote, all the Democrats voting for the adoption of the report of the finance committee, also three fusion members and two Republicans. Other than this the Republicans voted solidly against it, but the report was carried, 47 to 25. All of the borough presidents and William H. Fisher, President of the Board of Estimate, were proxy voted against the report.

The two Republicans who represented their colleagues on the proposition were Michael J. Volkman and Waldo S. Godwin, of The Bronx. The fusion men who voted with Tammany were Lawrence J. Mulhearn, Lawrence J. Fagan and William H. Fisher. The aldermen based their argument that they and not the Board of Estimate have power to investigate departments on Section 54 of the charter, which says the board "may from time to time appoint a special committee to inquire whether the laws and ordinances of the city relating to any department are being faithfully observed, and the duties of any officer in the city are being faithfully discharged, also to report whether there are any unnecessary, inefficient or unfaithful employes or any excessive salaries or compensations paid."

Alderman Johnson, leader of the Republican minority, declared that the Board of Estimate was not a sincere effort in the direction of harmony, but a partisan attack on the Board of Estimate.

Borough President McAneny said that while he felt the aldermen had made up their minds, he wanted to protest against what he considered an attitude of "a division exists in this board on the subject of passing the budget," said President McAneny. "It will be a direct slap at the Board of Estimate, which is not inclined to divide along partisan lines."

Dowling Leads Attack.

Alderman Dowling was on his feet most of the time while President McAneny was talking, and frequently interjected remarks, so that it took on the nature of a colloquy. "The city already has investigators and experts on its payrolls to the tune of some \$24,000 a year," declared Dowling, "and now you want to add some \$100,000 to the budget to provide jobs for more."

Alderman Dowling attacked the item for a budget exhibit, declaring that the one recently held was a joke. "The only good thing about it was a horse that was killed and attempted to kill himself. Dalby is on trial, charged with attempted murder. He is a musical director for theatrical productions. Mrs. Dalby is known on the stage as Teddy Hudson. She testified that she had left Dalby because he abused her and she had simply provided for reducing the force through the regular course of resignation or death. Herman Ridder, representing the Hudson-Fulton celebration committee, asked the aldermen to appropriate \$20,000 to wind up the affairs of the committee. The request was sent to the finance committee. The board passed a resolution calling on citizens to contribute to the fund for St. Mary's Hospital, in Hoboken, as a gift of gratitude for what was done for Mayor Gaynor."

AGAIN NO TYSON WITNESSES

Justice Blanchard Believes Inquiry Into Autoist's Case Is Necessary.

Justice Blanchard in the Criminal Branch of the Supreme Court yesterday denied a motion for dismissal of the indictment for manslaughter reported against John H. Tyson, of Stamford, Conn., over two years ago. Tyson is charged with driving the automobile which killed Miss Anderson, steward of the Columbia Yacht Club, on February 23, 1908. He is under \$10,000 bail. "It is a significant fact that every time the case against Tyson is called the witnesses for the prosecution cannot be found," said Assistant District Attorney Du Vivier in opposing the motion. "I intend to have the matter thoroughly investigated," said Justice Blanchard. District Attorney Whitman is trying to find evidence of any conspiracy to keep the needed witnesses out of the court's jurisdiction.

P. S. BOARD LOSES APPEAL

Experts on Reorganization of Action Brought by Electric Co. Denied.

Albany, Nov. 22.—The Court of Appeals to-day denied the motion of the New York City Public Service Commission for a reorganization of the action brought by the Longacre Electric Light and Power Company, of New York, to compel the commission to grant its application to issue stocks and bonds. The commission denied the petition, saying it lacked power, but the Appellate Division of the Supreme Court sent the application back to it for a rehearing and decision. The commission appeared to the Court of Appeals, which upheld the Appellate division, but declared it could not pass upon the merits of the case until the commission had given a rehearing. Counsel for the commission recently asked the court for permission to reargue the case, which is denied.

PROTESTS FEWER STUDIES.

The Public Education Association has sent a letter to the Board of Education protesting against any move to curtail the work of the special teachers in elementary schools. "We feel," it says, "that it would be nothing short of a calamity to lessen this special training which has proved to be of value to all the children. The work of these special teachers has conclusively proved that the mental training derived from shop work and from cooking is of great value to every child."

MORGAN SEES DICKINSON

Asks Consent to Enlarge Steamship Piers.

[From The Tribune Bureau.] Washington, Nov. 22.—The fog has lifted. The secret is out. The mysterious visit of J. P. Morgan has been explained, and the capital, which was thrown last night into a flurry of hysteria, has resumed its normal tranquility. The status of the Chinese loan has not changed, the Mexican rebellion will receive no help or hindrance, the successor to the late Henry M. Hoyt has not been named and the railroad rate hearing is being held according to schedule. There is to be no upheaval, no cataclysm and the precocious Washington prognosticators have fallen again. Mr. Morgan came to Washington to secure the consent of the War Department to the extension of the pier lines on both sides of the Hudson River at New York in order that the great White Star and Cunard lines, which are now under construction may be accommodated. Because of their immense length—about 1,000 feet—these carriers cannot now obtain accommodations between the existing piers. Mr. Morgan pointed out that unless the piers were extended the vast hulls of the steamers would protrude into the river and menace navigation. Secretary Dickinson, after a conference to-day with Mr. Morgan, referred this vexed and much talked about New York problem to General Bixby, chief of engineers.

ELECTION LAW PARTLY VOID

Convention Committee Can Nominate Another Party's Candidate.

Albany, Nov. 22.—The Court of Appeals to-day decided that the provisions of the election law which prohibit the nomination of a candidate of another party by a committee of a convention are unconstitutional. The decision was given in the litigation presented to the court just previous to the last election growing out of the endorsement of the nomination of Garret J. Garretson for justice of the Supreme Court in the Brooklyn-Queens district by the Independence League, the Republicans having made the original nomination. Objections to the name of Justice Garretson going on the ballot in the Independence League column were made in behalf of the Democratic nominee, Patrick J. Callahan, the Secretary of State, who ruled them out, and the matter was then taken to the courts. In the opinion deciding that the provision in the law is invalid and upholding the action of the Secretary of State the court is practically unanimous. Judge Haiglit alone writing a dissenting opinion. Prevailing opinions in which all the other judges concurred were written by Chief Judge Cullen and Judge Gray. Chief Judge Cullen, in the principal opinion, says: "The legislative power must be so exercised as not to deny or impair the rights of any department for whom they will. If the Legislature has the constitutional power to prevent a committee from nominating as its own candidate a candidate already in nomination by another party, it may equally forbid a convention from making such a nomination. For the past nine years every member of this court has been elected on the common nomination of the two great political parties. The other judges concur with the election this year, but under the construction of the statute contended for by the appellant, assuming it is valid, the candidate of the party which made the latest nomination was not entitled to place his name on the ticket of the other party because that party had first held its convention and entrusted the nomination of one of the vacancies to a committee in the hope that there might be presented to the electors two common nominees worthy of the support of all of the people and thus avoid division on partisan lines. I think that the Legislature has not the right to legislate so as to induce either partisan voting or independent voting. If the argument by which it is sought to sustain the legislation is sound, it could be said that no right was impaired because conventions were at liberty to nominate re-elected men, though committees were not."

INSANITY, DALBY'S DEFENCE

Tells Court Stories About Wife Drove Him to Double Shooting.

Temporary insanity caused by stories of friends regarding the actions of his wife was the reason given by Alfred R. Dalby yesterday in General Sessions for shooting her on July 22 in front of No. 24 West 43d street and attempting to kill himself. Dalby is on trial, charged with attempted murder. He is a musical director for theatrical productions. Mrs. Dalby is known on the stage as Teddy Hudson. She testified that she had left Dalby because he abused her and she had simply provided for reducing the force through the regular course of resignation or death. Herman Ridder, representing the Hudson-Fulton celebration committee, asked the aldermen to appropriate \$20,000 to wind up the affairs of the committee. The request was sent to the finance committee. The board passed a resolution calling on citizens to contribute to the fund for St. Mary's Hospital, in Hoboken, as a gift of gratitude for what was done for Mayor Gaynor."



E. GASTON HIGGINBOTHAM. Who resigned yesterday as a magistrate.

HIGGINBOTHAM QUILTS BENCH

Tells Mayor That He Wishes to Resume Practice of Law.

After a somewhat turbulent and troubled career on the bench, E. Gaston Higginbotham, of Brooklyn, sent his resignation as city magistrate to Mayor Gaynor yesterday afternoon. It was promptly accepted, but the Mayor said he had no comment to make on it. He has not had time to think of a successor. Magistrate Higginbotham's term would have expired in June, 1911, as he was appointed by Mayor Van Wyck in 1901. In recent years Magistrate Higginbotham has frequently been in trouble. Only recently he was tried in the Court of Special Sessions on a charge of assault made by a young girl named Mary Hickey. The magistrate made a vigorous denial of the charges, saying that they were made by political enemies, and the court acquitted him. Chief Magistrate Kemper, however, refused to give Magistrate Higginbotham any more regular assignments and practically closed the Bedford avenue court. Magistrate Higginbotham was accused a year and a half ago by Mrs. Mary Donohue, of Brooklyn, of withholding \$500 that she had put up for bail. The money was finally found, it is said, in the magistrate's desk. He frequently appeared in the courts to defend his guardianship of several infants, and has had several judgments issued against him. The magistrate visited the Mayor's office yesterday morning. He seemed to be laboring under some strain, and a friend held his arm as he walked up the steps of the City Hall. Two hours after the magistrate had returned to Brooklyn the Mayor received the following note from him: "I hereby resign the office of city magistrate. I desire to resume the practice of law."

PLEADS "CIRCLE INSANITY"

Dr. Evans, on Stand, Tells of Another Form of Lunacy.

[By Telegram to The Tribune.] Somerville, N. J., Nov. 22.—Dr. Britton D. Evans, the alienist of "brainstorm" fame, told a jury in the Somerset Court here to-day of another form of lunacy, which he termed "circle insanity." He testified that a man afflicted with this form of mental derangement had circles of insanity, in which it was possible for him to start from a lucid point and go through a series of revolting acts and then arrive at an apparently normal condition after he had been strapped to a bed and a garden hose played on him for an hour by a county jailer. Dr. Evans was called to testify in the case of Alfonso Viola, a retired hotel keeper at Raritan, who is charged with a crime in which a three-year-old girl is the victim, and in which the case is being tried before Judge Clarence E. Case, Viola's counsel, Nivah A. Clark, in an effort to prove that Viola was insane when he committed the act called Dr. Evans, who has charge of the Morris Plains Insane Asylum, and Dr. Evans then gave his testimony on "circle insanity," in which he accounted for Viola's state when he committed the crime and his present lucid condition, which has existed since James P. Major, the jailer, played a garden hose on him in his cell four weeks ago.

SURE BODY IS CALLIER'S

Continued from first page.

she let him have. She was surprised to see him, she said, because she had read in the papers that he had disappeared on the eve of his marriage to Miss Enright, a trained nurse. She asked him what had happened to him at that time and he said: "Oh, never mind that; forget it." She never saw him again, she said. Any suspicion that the man in the trunk was Lewis, as a number of persons who had known him seemed to think it was from the police yesterday afternoon when the records of Dr. Carra Ulman, a dentist, who formerly had an office at No. 318 West 116th street, showed that in May, 1899, she made for William Lewis, residing at No. 140 West 63d street—one of Lewis's addresses known to the police—a full set of false teeth, and also fitted him with twelve gold fillings, one gold crown and a gold facia. Dr. G. C. Rathfelder, a dentist, who bought out Dr. Ulman's business three years ago, had preserved Dr. Ulman's books, which showed these entries. According to the description of the dead man, he had no false teeth and the teeth were all well preserved.

Sure It Is Not Lewis's Body.

Because of the repeated assertions of a number of Lewis's friends that they believed the body found was his, detectives investigated that phase of the case yesterday with added care. They said afterward that they were convinced that these friends of Lewis had no trustworthy grounds for their suspicions and would not be able to identify the body if they saw it. Coroner Winterbottom and Dr. Lehane, the Coroner's physician, who performed the autopsy on the body, conferred with Deputy Police Commissioner Flynn at police headquarters yesterday afternoon. Dr. Lehane said afterward that it had been established beyond a doubt that the body was not that of Lewis. "Lewis was known to have false teeth," said Dr. Lehane, "and there was only one false tooth in the mouth of the dead man. The teeth were all well preserved. Portions of the hair and mustache remaining had clearly been light. There were no gold caps on any of the teeth." Dr. Lehane, Coroner Winterbottom, Professor John H. Larkin, of the College of Physicians and Surgeons, and Assistant District Attorneys Nott and Rubin were present at a conference in the office of District Attorney Whitman yesterday. It was decided to make a more minute examination of the body in order to determine, if possible, the cause of death. The body will be sent to-day to Professor Larkin, at the College of Physicians and Surgeons, where he will make a microscopic and analytical examination. Justice Blanchard, in the Criminal Branch of the Supreme Court, issued an order yesterday afternoon, at the request of the District Attorney, authorizing the employment of Professor Larkin by the Coroner for that purpose.

Good Likeness of Lewis.

Thomas Critchley, of No. 15 Catharine street, Manhattan, and William G. Critchley, of No. 106 Vanderbilt avenue, Brooklyn, say that the photograph of Lewis with the little cutting fur, published by The Tribune yesterday, is an excellent likeness of the man. "This photograph was taken in 1903 or 1904, I should think," said William G. Critchley last night, "and I think that at that time Lewis was employed by the Cuttings at their home in Garden City. I don't know the initials, but I think the man who employed Lewis was called 'Captain' Cutting. "Lewis was always a quiet fellow," he continued. "He told me he was a collector for an instalment furniture house, and used to retail some of the experiences he had with people who put him off when their payments came due. I never heard of Callier, and all I know

T. W. LAWSON'S ARREST ASKED

Accused of Disregarding a Summons in Heineze Suit.

Boston, Nov. 22.—The arrest on a capias of Thomas W. Lawson, the financier, of this city, on the allegation that he had disregarded a summons issued by the Massachusetts Supreme Court, was asked for in a bill in equity filed in the Supreme Court to-day by counsel for J. A. Day, a broker, who is one of the defendants in the series of suits brought by F. Augustus Heineze, of New York, the copper mining operator, against several Boston brokers. The hearing of these suits has been in progress before F. Rockwood Hall, as master, for more than a year. Mr. Lawson, whose testimony was desired, was summoned yesterday to appear before the master to-day, but it is alleged he failed to appear, and the bill in equity asking for his arrest resulted. Justice Braloy, of the Supreme Court, will give a hearing to-morrow on the matter of issuing a capias for the financier's arrest.

Advertisement for Sanatogen, a tonic for weak nerves. It features a bottle of the product and text describing its benefits for various ailments like nervousness and weakness.

Advertisement for the Army and Navy Game, featuring Philadelphia on Saturday, Nov. 26, and a two-hour train every hour on the New Jersey Central RR.

Large advertisement for the New York Central Lines, promoting the 20th Century Limited train service. It includes details about departure times to Chicago and return services, and contact information for the railroad.