

DEFENCE BY DAN O'REILLY

NEVER HAD PHYSICAL POSSESSION OF STOLEN STOCKS.

Did Not Know Plais Had Them in the Cab—Got No Share of the \$5,000 Reward and Only an Attorney's Fee of \$50—Contradicts Several Witnesses

Daniel O'Reilly, who is on trial before Justice Davis in the Criminal Branch of the Supreme Court, took the witness stand yesterday to explain his part in the return of \$15,000 worth of stolen securities to the firm of George Bancroft & Co.

O'Reilly was indicted for withholding the securities for a reward. He was in the witness chair almost all day yesterday and will go on again to-day.

He said that he was introduced in Rector's on March 15 to Frank J. Plais, now indicted with him for receiving stolen goods, and to Chester Yates, an ex-convict who is sought as one of the men who actually committed the robbery.

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RATE WAR MAY FOLLOW.

Commerce Commission Sees One in the Delaware and Hudson's New Rates.

WASHINGTON, May 22.—New freight tariffs which have been filed with the Interstate Commerce Commission by the Delaware and Hudson Railroad are regarded by officers of the commission as the first movement in the reopening of the differential rate war between carriers engaged in carrying traffic from the Atlantic seaboard to Chicago and other Western points.

The Delaware and Hudson road has evolved a new route from New York to Chicago and other lake points and has filed with the commission a new differential rate, effective June 15 which cuts the present differential rate from 31 to 10 cents a hundred pounds on the six classes of freight.

The new route of the Delaware and Hudson is known as river, rail and lake. The freight is to be carried from New York to Albany on the Hudson River by the Hudson Navigation Company and Murray's line, and from Albany to Lake Erie by the Delaware and Hudson and Hudson to the lakes, where it is to be handled by the Union Steamship Company.

The present standard differential rate from New York to Chicago and other Western points by rail and lake is a hundred pounds for the first class down to 23 cents a hundred pounds for the sixth class. The new rate proposed by the Delaware and Hudson graduates from 32 cents a hundred pounds for the first class down to 19 cents a hundred pounds for the sixth class.

The Pacific Express Company, which has been superseded on the Gould line by the Wells-Fargo, will be closed up. A lawyer speaking for the company yesterday said that the contract which the Missouri Pacific, the Wabash, the Mountain and the Texas Pacific have made with Wells, Fargo & Co. is sufficiently favorable to make up for the stock ownership which the Goulds and their roads had in the Pacific Express Company.

The stock of the Pacific Express Company amounts to \$8,000,000, of which \$2,400,000 is owned by the Missouri Pacific, \$1,200,000 by the Wabash and \$4,400,000 by the Gould estate.

It was said yesterday at the office of Wells, Fargo & Co. that much of the equipment of the Pacific, including cars, wagons and horses, would be taken over by the new contractors.

The Chicago Elevated Merger. National City Bank Will Take \$30,000,000 Notes if It Becomes Effective. Chicago, May 22.—The plan of Henry A. Blair for the purchase of the Metropolitan Elevated Company was presented to the directors at a meeting held late this afternoon. He offered 75 cash for the preferred stock and 27 1/2 for the common of the corporation.

The directors have taken the matter under advisement and will decide in a day or two. The Blair syndicate will be made to the South Side company at a meeting of the stockholders tomorrow afternoon.

The National City Bank has agreed to purchase \$30,000,000 three year 5 per cent notes of the Chicago Northwestern National City Bank, provided that sufficient outstanding stock of the company, which it is proposed to combine is deposited to make the merger effective. The issue will be sufficient, it was said yesterday, to complete the refinancing of the Chicago elevated lines. The notes will be secured by a mortgage covering all the company's property.

LETTING IN TRUST COS. Clearing House Expected to Pass Today on Some Applications. The nominating committee of the New York Clearing House will meet to-day to act on the admission of trust companies which have applied for membership. Eighteen companies have said that they expected to apply, and many of these have made formal application. Examiners for the Clearing House have been at work on the applications of the companies, and in some cases the examinations have been completed.

James B. McDougal, chief examiner of the Chicago Clearing House, to whom was referred the job of putting the new department in the New York Clearing House in order and running it, went back to Chicago yesterday saying whether he would accept the job or not, however, that he probably will come to New York. The salary reported to go with the post is \$20,000 a year.

THREE KILLED IN CARD GAME. Fifth Ace That Didn't Match the Pack Starts Automatic Gun a Pumping. PITTSBURGH, Pa., May 22.—A row over a game of cards resulted in the death of three men at Kittanning last night, and the wounding of a fourth. Richard Seneca, a miner, who died the shooting, was the only one of the four who was not a victim of a posse of miners and farmers.

Seneca, his brother Charles, Andrew Bratits and Rocco Bratits, his brother, and Walter Spilish were playing poker in a vacant house on the banks of a creek near Kittanning. Andrew Bratits dealt an ace to his brother who filled a royal flush with it. Richard Seneca drew two cards and when the showdown came three four aces on the table.

Seneca claimed the pot, but Seneca started to sweep the money in. The man next him leaned over, turned one of Seneca's aces to his back and found that it did not match the deck. A four player started for Seneca. He backed against the door, drew an automatic gun and pumped the bullets into the four men. Spilish, with a bullet in his abdomen, was the only one of the four alive when Seneca went away.

The committee also authorized opening Irving places through to the south through private property to Fourth avenue at Twelfth street at a cost of \$2,500,000. For this purpose an issue of \$1,000,000 was authorized, the rest to be provided next year.

The sum of \$500,000 was voted for street paving in Manhattan in addition to \$1,000,000 already appropriated and \$200,000 was voted for an asphalt repair plant. One reason for this was a statement by Commissioner of Public Works Frothingham. He said that Gen. Bingham had told him that \$5,000,000 could be expended to good advantage on the city's streets but that there were not enough contractors to do the work.

MORE LONG ISLAND WATER?

MAYOR INSPECTS THE REGION EAST TO RONKONKOMA.

That Lake is Very Low, Nearer to City Pumping Has Let Many Ponds Dry—Suffolk May Be Called Upon to Give Us More—Decision Coming Soon.

Mayor Gaynor returned to New York last night after a trip on Long Island to inspect the Brooklyn water supply. The party, consisting of the Mayor, Water Commissioner Thompson, Charles Strauss, chairman of the Board of Water Supply, and Assistant Engineer Brush of the same board, left the Mayor's residence at 81, Madison street, at 10 o'clock on the morning of the first visit to Lake Ronkonkoma, seven miles from St. James, as the Mayor wished to show the other members of the party by illustration the shrinkage of the surface water supply on the island. Lake Ronkonkoma was found to be very low. Lower in fact than it has ever been known to be. It is fed by underground springs, and from that fact the deduction was drawn that the underground supply of water is not as large as it once was. The destruction of the forests by fire and by clearing was thought to be one cause.

The party then went to the South Side road by way of Sayville and continued on toward New York. A stop was made at the South Side Club, and several ponds belonging to the club were inspected. The club is one of the strongest opponents of the long water from Suffolk county for Brooklyn. The few members of the club who were there were strong in their hopes that their waters would not be interfered with.

The party then continued its trip westward, stopping to examine lakes and ponds on the way, often turning into side roads for that purpose. When they got to sections where the water is pumped from wells by the city the sight of ponds which were run entirely dry was frequent. In other cases they found ponds kept full by the city pumping.

The Mayor took great interest in all this. The engineers explained to him how ponds were kept full by the city pumping the water table is near the surface of the earth, or on the level of the bottom of a pond, or even a little below, the result of pumping is to draw up the water. As the party approached Massapequa, near the Suffolk county line, in Nassau county, they inspected the wells and also the filtration plant. The Mayor was interested in the water which is pumped from wells in the Suffolk county line. The engineers view the saturation bed of water under Long Island as a reservoir, and the source of production of water, is the expense of building a plant to pump the water out of the earth into other reservoirs. The Mayor discussed the actual cost with them, the question being to decide whether water can be got cheaper by extending the Catekill system to other streams and creeks, besides the Esopus stream, than by extending the Long Island plant into Suffolk county. All pumping stations were examined, but not the Woodhaven being the last visited, and the party then went to the Ridgewood reservoir, into which all water is pumped before it comes to the city. The Long Island system will be extended to Suffolk county or the Catekill system will be extended will be decided in a short time.

Why a code now opposed to calling this code asked Mr. Kenneally. The first section merely gave the name of the instrument.

"I'm opposed to this section and to every other one, and I might as well say so now as any other time," said Ernest Flagg, the architect. "This ordinance seems to have been drawn up."

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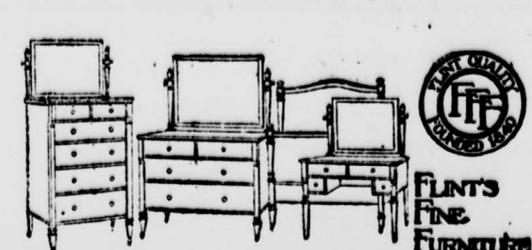
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Every piece "Built Flint Quality" is guaranteed to be in every way as represented; is designed "right," built "right" and wears "right," and is the best value obtainable anywhere.

OUR SHOWING OF SUMMER STYLES comprises furniture for every home and every purpose, with Draperies, Wall Papers and Summer Rugs in the newest materials and designs.

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We go 'em on better. Our "Outing" suits have no waistcoats; are lined through the shoulders only, and are made of really tropical fabrics.

Homespun, wool crashes, flannels, batistes, hosiackings, Canadian crashes, feather-weight worsteds, serges, nuns-cloth, mohairs and natural silks.

\$16 to \$30.

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Straws! For several seasons we've had such success with the oval shapes, that naturally most of our straws are now made in this comfortable way, and seldom require shaping.

ROGERS PEET & COMPANY.

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BUILDING CODE IN A HURRY

CHORUS OF OBJECTIONS AT ALDERMEN'S COMMITTEE HEARING

The Committee Has One Section Read at a Time and Allows Oral Objections Only to Specific Sections—Protests Thicken as the Reading Goes On.

There were a few minutes of fireworks at the beginning yesterday afternoon of the first hearing on the new building code before the committee of the Board of Aldermen, which William J. Kenneally is chairman. Mr. Kenneally introduced the code at last Tuesday's meeting just before adjournment.

The headquarters of the American branch of the Sailors and Firemen's Union of Great Britain at 3 State street was filled all day yesterday with sailors who wanted to know if the strike order had come. Matthew Tearle, secretary of the American branch, said: "It is all very well for the agents of the steamship companies to throw cold water on the coming strike, but if they think it will not amount to much their eyes will be opened. It is nonsense to say that the men can be arrested if they strike here. When they ship at Liverpool or any other port they get an advance on their wages which covers the wages earned for the trip across. Very often seamen when they come here on English ships do not go back. They are not under the American laws."

He predicted that about 135,000 seamen will strike when the order comes. He expected it in time, he said, to tie up the steamships, which is scheduled to sail tomorrow. The German seamen will not join in the strike, but he expected that the members of the International Seamen's Union of America, in spite of official statements to the contrary, will go on a sympathetic strike.

Marine Superintendent Lockwood of the American, White Star and Atlantic Transport lines thought that not more than 5 per cent of the men would obey the strike order; that most of them would balk at a breach of contract by striking in this country.

The great bulk of the seamen are perfectly satisfied and have a right to be satisfied, he said. "They are paid better and treated better than ever they were before, and know it. Their main demand that the medical examination be abolished is absurd."

REASONABLE RESTRAINT.

Oil Decision Gives Defendant Steamship Line Another Hearing.

Because of the Federal Supreme Court's recent decision in the Standard Oil case recognizing a distinction between "reasonable" and "unreasonable" restraint of trade the United States Circuit Court of Appeals gave permission yesterday to the defendants in the case of Thomsen against the Union Castle Mail Steamship Company to file additional briefs in an argument on appeal from a verdict of \$25,310 awarded the plaintiff on April 28, 1909. Hugo Adelberto Thomsen, a shipper, brought suit against several steamship lines alleging restraint of interstate trade and commerce under the Sherman law. Judge Hough of the Circuit Court dismissed the complaint on the ground that the offense stated was not unreasonable restraint.

"By the common law it is my opinion that the restraint of trade, of commerce, if partial and reasonable, is lawful," said Judge Hough. This was in January, 1907. An appeal was taken to the Circuit Court of Appeals and Judge Noyes of that court overruled Judge Hough, saying that it made no difference whether the restraint was reasonable or unreasonable so long as there was restraint. On a new trial Thomsen recovered the \$25,000 verdict and then followed the present appeal. Argument was heard two weeks ago, but that was before the Supreme Court had decided the Standard Oil case and so the Circuit Court dismissed the complaint on the ground that the offense stated was not unreasonable restraint.

The committee adjourned to meet again tomorrow morning.

LURED BY CARNegie'S NAME.

Trust Company Depositor Sends a Letter to Justice Giegerich. Supreme Court Justice Giegerich, who is considering the motion of the Superintendent of Banks for permission to pay a dividend of 25 per cent. to the creditors of the Carnegie Trust Company, handed down a memorandum yesterday saying that he had received a letter from J. P. Bennett of 105 West 114th street, a depositor in the trust company, which had been left with the clerk of Special Term, Part 1, for inspection by persons concerned in the application to pay dividends. The letter stated that Bennett had deposited that little money he had saved by hard labor with the trust company and that "it was solely on the strength of the name of Carnegie and the name 'Carnegie' that he deposited the money."

After the letter had been shown to several persons Justice Giegerich withdrew the letter and sent it to the Superintendent of Banks. The letter contained allegations that might be libellous if published.

A FRANK GOULD MERGER.

Virginia Railway and Power to Take Over Norfolk and Portsmouth Traction. A plan to consolidate the properties of the Virginia Railway and Power Company and the Norfolk and Portsmouth Traction Company was approved at meetings of the two boards of directors held in New York yesterday. Frank Gould is controlling stockholder in both concerns.

The Virginia company will take over the traction company's common and preferred stock and issue its own stock in place of it on the basis of one and one-half shares of common for each share of Norfolk and Portsmouth common, and share for share of preferred. Together the companies are capitalized for \$18,000,000. The merger will be effective on July 1.

MAY STOP MAURETANIA.

Strike of 135,000 British Seamen Said to Be Imminent.

Officials of some of the transatlantic steamship companies heard yesterday that the strike of the sailors, firemen, cooks and stewards of the British vessels throughout the world might be declared within twenty-four hours. Representatives of some of the companies were puzzled to know exactly what was going to happen or what the strike if it came would amount to.

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AMUSEMENTS.

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