

MUST ADHERE TO FREIGHT TARIFFS

Judge Ritchie Renders Decision In Which Agent Agreed to Lower Charge.

RAILWAY SUE FOR FULL RATE

Court's Judgment Is That Road Had No Right Except Shipment at Any But Tariff Filed and Published.

Judge M. L. Ritchie of the Third district court Tuesday rendered a decision upholding freight tariffs of railroads as fixed by the interstate commerce commission, regardless of the fact that the railroad by its representative had contracted to haul the freight for a lower rate than the published one.

The decision was in the case of the Oregon Short Line Railroad company against the Consolidated Wagon & Machine company. The railroad company, as a common carrier, transported shipments of hay for the wagon and machine company paid for the service at the rate of 14 cents per 100 pounds, the rate agreed upon between the parties.

It was contended by defendant that the general freight agent of the Short Line had agreed to the 14 cent rate, and the company should therefore be held to the contract of its authorized agent. It was also contended that the tariff sheet publishing the 19 cent rate was rejected by the commission as being irregular in form, and hence the commission had never approved that rate. Defendant relied upon the contract to carry the hay at 14 cents per hundred, and claimed that if the higher rate was imposed the defendant would sustain a loss on the shipment.

Judge Ritchie held that the defendant had no right to rely upon the rate fixed by the agent of the company, high or low in authority, because he could not bind the company by the approval of the tariff by the commission. As to the rejection of the tariff schedule by the commission, the evidence showed that the reason alleged by the clerk of the commission who returned the schedule was as set out in the title page: "Shipments to be accepted only at convenience of construction department." As to the right of the clerk to reject the tariff, the commission assigned, Judge Ritchie holds that so long as the rate is free from ambiguity and uncertainty and its application is definite and certain, the commission has no power to make regulations concerning it in any other respect. The judge holds that the tariff was duly filed and that the commission, which filed it, and that, in the eye of the law, constituted a filing. The tariff, therefore, as set out in the commission, the judge finds, was in effect binding the railroad company and the defendant. The railroad company is given judgment for the full amount asked in the complaint.

UNIVERSITY NEWS

The senior engineers will take a trip to Sunnyside on April 23. The class will be accompanied by professor of metallurgy, R. B. Bradford, professor of geology, Fred J. Pack, and Robert Forrester, chief geologist of the Utah Fuel company.

The order of the Glean, the women's literary organization at the university, has offered a prize for the best effort in an original essay, an informal critique on a contemporary essay, a critical and a poem. Prof. George M. Marshall, Prof. F. W. Reynolds and Instructor L. L. Butler will be the judges. Entries will receive the members of the winning class at their home, 230 North 4th street, next Friday evening.

The executive committee of the student body held a meeting Tuesday afternoon to elect judges of election for the election of officers held today. The judges are: H. H. Anderson, Leonard Whitmore and Miss Jeanne Williams. The polls will be open from 8:30 o'clock until 4 o'clock today.

The officers for the track meet which is to be held at the university on April 23, at 3 o'clock, have been named as follows: Referee and starter, Lieut. Elliott; judges of finish, Bassett, Mc-Niece and Home; time, Callahan, Dr. Plummer, Oscar Glinchick; field judges, Hedges, Olson, Roberts; scorer, Ray-bould.

Couch Joe Maddock leaves tonight for Holden, Millard county, where he will take charge of the three day track meet of the high schools and the M. I. A. of the county.

The athletic council will meet today to make arrangements for the Stanford track meet and also to consider the football contests with the Colorado colleges. The dual meet, either at Provo or Salt Lake, will also be discussed.

SALOONS ON U. S. LANDS

General Land Office Gives Decision Involving Patented Lands.

The general land office holds, in a decision received by the local land office this morning, that the selling of liquor on a homestead claim, provided that other stipulations have been carried out, will not invalidate a claim and prevent the applicant from receiving a final patent.

The case in question is that of the United States against John Aronco and the land involved is situated in Carbon county, one-half mile from Kentonville and contiguous to the property of the Independent Coal company. It was claimed that Aronco had not filed his homestead entry in good faith. It was shown that he had made improvements to the amount of \$2,000 and that he had established a house on the premises. It was charged that Aronco had established a saloon upon the premises but this was held to be within his rights.

EIGHTEEN CENT WOOL

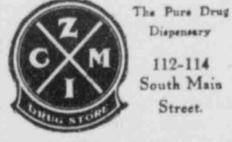
Monday at Millford, 40,000 pounds of wool was sold for 18 cents a pound, a total valuation of \$7,200. The purchase was made by J. C. Goodfellow for the Elsmann Brothers company. Ross M. Tuttle has just returned from the Millford district and reports wool matters in that vicinity rather brisk.

Bath Cabinets

Medical men generally are agreed upon the beneficial results received from taking Turkish, vapor and medicated baths. Make your selection now.

Bath Cabinets—\$5 \$7.50 \$10

Phones 148



OFFICIAL ROSTER OF I. O. O. F. GRAND LODGE

Grand Master John Morely and His Aids to be Installed This Evening.

The following new officials of the Grand Lodge of Odd Fellows, whose election by lodges this spring was announced in The News, will be installed this evening: Grand master, John Morely of Eureka; deputy grand master, T. P. Christensen of Salt Lake; grand warden, W. H. Dredson of Provo; grand secretary, P. A. Simpson of Salt Lake; grand treasurer, H. Kaiser of Brigham City; grand representative, Dr. F. E. Strauss of Bingham.

The following standing committee for the ensuing year were appointed this morning by retiring Grand Master W. J. Moore: Committee on Elections—C. A. Walker, W. O. Carbia, S. J. Wormdahl, lodge No. 1. Committee on Credentials—A. T. McCann, lodge No. 1; W. S. Marks, No. 35; R. B. Quay, No. 49; Jos. Hughes, No. 35; J. P. Curtin, No. 32.

Committee on Finance—Edward Pearce, lodge No. 1; W. L. Emery, No. 2; W. W. King, No. 3; Roy Watrous, No. 15; E. A. Bricker, No. 50.

Committee on Distribution—L. E. Hubbard, lodge No. 7; E. C. Baxter, No. 42; Joseph H. Nelson, No. 22; A. H. Waldemar, No. 20; Joseph Treloar, No. 31; Henry G. Hayball, No. 43; John Brown, No. 10.

Committee on Appeals—J. J. Thomas, chairman, lodge No. 1; C. A. Walker, No. 1; Ephraim Homer, No. 14; A. Stuart, No. 11; Edward Pearce, No. 1. Committee on Resolutions—Arbogast, lodge No. 3; J. P. Hodge, No. 46; Arthur Waller, No. 27; Rudolph Johnson, No. 48; Oscar Larson, No. 15; John R. Burton, No. 49; H. Coll, No. 49; A. Burrows, No. 24.

State of the Order—Ephraim Homer, lodge No. 14; L. I. Mudge, No. 1; Robert Crosby, No. 27; Joseph Hughes, No. 35; F. H. Colvinter, No. 21; Q. B. Kelly, No. 2; Grant Cowan, No. 24; Charles McClure, No. 45; Thomas Bracy, No. 20.

Committee on Rebekah—N. C. Price, lodge No. 2; H. E. Beebe, No. 14; F. A. Bradley, No. 1; T. W. Branson, No. 46; Henry Stagg, No. 29; Frank Barrett, No. 12; G. W. Bradford, No. 4; Parley Ford, No. 24; E. C. Tame, No. 32.

Committee on Mileage and Per Diem—J. H. Hornung, lodge No. 22; E. P. Richmond, No. 19; J. D. McCarthy, No. 17; C. C. Nowlin, No. 5; K. H. P. Nordberg, No. 39; John Staley, No. 32; J. H. Renz, No. 33; J. Edward O. Hall, No. 46; Jas. Harper, No. 19.

Committee on Correspondence—H. F. Evans, lodge No. 3; Jas. Gough, No. 43; John Yates, No. 34; W. J. Williams, No. 37; H. Hedges, No. 42.

Committee on Ways and Means—F. E. Straup, lodge No. 10; A. L. Mitchell, No. 12; A. J. Cushing, No. 11; W. E. Foster, No. 47; John Cooper, No. 16; J. G. Davis, No. 25; E. M. Taylor, No. 10; Lee Felter, No. 4; James McKeith, No. 5.

Committee on Petitions—J. J. Thomas, lodge No. 1; E. P. Marks, No. 23; Fred Mackerell, No. 41; P. N. Davis, No. 27; Wm. H. Kearns, No. 3; Ed. Gordon, No. 40; J. H. Couch, No. 28; D. J. Hills, No. 43; H. S. Ivis, No. 29.

Committee on Grand Representatives Report—A. Stuart, lodge No. 11; Thomas S. Jones, No. 14; W. S. Jones, No. 50; George Flister, No. 43; R. T. Bagley, No. 16.

Committee on Legislation—H. C. Wardlaw, lodge No. 4; A. T. McCann, No. 1; W. L. Emery, No. 2; Moses Tippet, No. 31; J. H. Couch, No. 28; Roy Watrous, No. 15; J. B. Decker, No. 1; W. S. Marks, No. 47; Chas. Hiss, No. 38.

Committee on Judiciary—E. D. Hope, lodge No. 2; W. O. Carbia, No. 1; F. E. Straup, No. 10; N. C. Price, No. 2; L. E. Hubbard, No. 7; Lev. Olson, No. 11; J. I. Mudge, No. 1; W. W. King, No. 3; J. H. Hornung, No. 22.

Committee on Thanks—John T. Buckle, lodge No. 3; J. B. Decker, No. 1; A. B. Waldemar, No. 20; Grant Cowan, No. 24; Edwards, No. 35; J. P. Curtin, No. 32; Robt. Crosby, No. 27.

Committee on Necrology—H. T. Evans, lodge No. 3; Q. B. Kelly, No. 2; J. G. Dorris, No. 25; A. F. Hendrickson, No. 35; William Welch, No. 28; O. Holmstead, No. 26; S. R. Gee, No. 47; J. H. Steinst, No. 21; J. M. Stephens, No. 25.

The ladies of the Rebekahs continued in secret session this morning, and are installing this afternoon, these officers: President, Mrs. Sarah Brown, Stockton; vice president, Miss Jennie Binkan, Ogden; warden, Miss Mary Suddenhauer, Salt Lake; secretary, Miss Clara I. Moore, Salt Lake; treasurer, Miss Clara Hines, Provo. The president will appoint subordinate officers also this afternoon. An excellent luncheon was served by the ladies for the visiting Odd Fellows. The sessions of both the Grand lodge of Odd Fellows and the Rebekahs conclude this evening, with a banquet.

RESIGNS SECRETARYSHIP

At last night's meeting of the A. O. U. club, in its new quarters in the Commercial club building, Secy. A. C. Rees tendered his resignation as secretary and to succeed him John D. Giles was elected. Mr. Rees gave as his reason for resigning an excessive pressure of business. As Mr. Rees is a member of the business office family of The News, it can be stated in these columns as the truth that Mr. Rees is a busy man. This is not entirely because of his professional duties in connection with the management of the advertising department of the paper, but, too, because of recent additions to his sphere of activity. This has been occasioned by the arrival at the Rees domicile of a second baby boy, the event having taken place Monday.

CAR HOLIDAYS SENT TO PRISON

George Radcliff and Charles Murphy Sentenced to Five And Ten Years.

BOY GETS THE SHORTER TERM

Judge Lewis Goes on Record as Being Opposed to Too Many Recommendations for Mercy.

George Radcliff and Charles Murphy, charged with robbery, were sentenced to terms in the state prison by Judge Lewis this morning. Murphy to 10 years and Radcliff to five years, both at hard labor. Radcliff and Murphy pleaded guilty to holding up George N. Hock and Philip Kunkle, two street car men, and when they came before the court this morning for sentence, District Attorney F. C. Loofbourou recommended a lighter sentence for Radcliff who, he said, appeared to have been completely under the influence of Murphy, a hardened criminal, and he thought the boy should have the benefit of the shorter term. Judge Lewis, however, passing sentence said he was opposed to too many recommendations for short terms of imprisonment where the circumstances were so flagrant as in the present instance, in which the full penalty, in the opinion of the judge, was none too heavy. He accepted the recommendations of the district attorney, however, and sentenced Radcliff to the shorter term.

Dr. and Mrs. F. E. Straup of Bingham are registered at the Kenyon hotel, a guest of the New Windsor.

Walter Eitch, a mining man of Eureka, is staying at the Kenyon for a few days.

A. N. Fishburn, a successful young merchant from Tremonton, one of the new towns of Boxelder county, is in the city on business, and a guest of the Kenyon. He is accompanied by Charles McClure of the same place.

James B. Wilson of Midway, who represented Wasatch county in the last legislature, is in town on business, and is registered at the New Windsor. While in the legislature, Mr. Wilson sailed under the euphonious title of "Watchdog of the Senate."

Ezra C. Dalby, connected with the Rexburg academy, Rexburg, Ida., is a guest at the New Windsor.

C. C. Valentine, June Hanson and S. Hanson of Brigham City are registered at the New Windsor. He is accompanied by Charles McClure of the same place.

W. S. Boubaker and H. R. Wood of Washington, D. C., are at the Kenyon while visiting in the city for a few days.

John Farr, a business man of Ogden, is registered at the Wilson while spending a few days in town.

Miss M. P. McQuellen of Detroit, Mich., an old time friend of Chief of Police Loughborough of the Kenyon, is in the city sight-seeing and visiting friends for a few days. Miss McQuellen is well known in banking and insurance business in Detroit, where her energy and business acumen have given her quite a standing in business circles of her native city. She is now on her way to visit relatives in San Francisco.

Dr. and Mrs. F. E. Straup of Bingham are registered at the Kenyon, the doctor being one of the prominent physicians of that prosperous copper camp.

John T. Caine, III, a business man of the Queen of Cache, is down from the north, a guest at the Kenyon.

J. D. Killpack, a real estate agent from the town of Driggs, Idaho, is registered at the New Windsor today, having come down on business.

Ephraim Bates and H. A. Jorgensen, prominent sheep men of Wanship, Summit county, are in town for a few days, guests at the New Windsor.

H. G. Hayball, Charles Holmes, M. Garratt, J. H. Westover, L. A. Ball, George H. Westover, J. W. Westover, Logan came down Tuesday evening to attend the big parade of the Odd Fellows.

Inspector Breakey—Dr. F. E. Murray, chief of the local bureau of animal industry, has returned from his recent visit to the hospital Sunday night, from renal troubles, and the body will be shipped east tonight, by S. D. Evans, Mr. Hevere had been in the hospital in California for his health, and was en route to his eastern home accompanied by two ladies who were looking after him. After leaving Sacramento, the doctor began to grow worse, so that on reaching this city it was necessary to take him to the hospital.

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M'GONE HOME AFTER A LONG ABSENCE

Reports Success in the Plans for His South American Railroad Project.

BUS PASSENGERS

A. W. McCune returned home Tuesday evening, after an absence of 18 months, in which time he has been twice to London and twice to Peru, and after completing preliminary plans for the building of the much talked of connection between the railway lines of Peru and the headwaters of the Amazon river.

The name of the road is the Amazon & Pacific railway, for which Mr. McCune has received from Peru valuable concessions. These include 5,000,000 acres of land and approximately \$25,000 per mile for the line on the Pacific slope and \$65,000 per mile for the other line to the Amazon.

From Lima, the Peruvian Central operates over the highest range of the Andes, and at Oroya begins the Cerro de Pasco railroad, which runs to Cerro and to the east into the Goyllarisquiza. It is from this point that the Amazon & Pacific survey commences.

The plan is to establish a through water and rail route from Callao on the Pacific through Lima and Araya to the Atlantic via the river. The distance from Goyllarisquiza to Puca Alpa is from 220 to 230 miles, according to different surveys. Mr. McCune will remain in Salt Lake until June, when he returns to Peru, to begin active construction operations.

The condemnation of property asked for Monday in the district court by Senator Bamberger is desired for new roads from Third West to the Salt Lake & Ogden yards. The round house is to be removed to Stockton, north of this city, and the general track layout in the city yards remodeled. The company is proposing to erect in the fall a brick freight and express depot on the site of the present frame building and both freight and express facilities are to be extended.

The annual outing of railroad employees in this city and vicinity is set for the evening of May 6 next, at Saltair. The management is in the hands of a committee from the O. S. L. offices though the patronage is by means confined to that road. The last outing was a success, notwithstanding the weather was not what it might have been, and the character of the attendance was all that could be desired. The committee has matters so arranged that none of the disturbing element is able to get in there.

The electrical construction department of the Utah Light & Railway company has erected overhead plant for two miles south of Loveland's Junction where that tracklaying can be resumed. The company has just completed cleaning up the street through Murray, and will take up the extension further south at the last of the week. Work is necessarily somewhat slow on account of the long haul of sand and gravel hauled from the North side, the gravel trains each making but three trips in one day. There is sand at the south terminus, but the farmers want no load. This makes it cheaper to bring ballast clear from North Salt Lake. The company has just put in a double curve at the northeast section of the intersection of State and Fourth South street, and is making a fine boulevard of State road southward. It will require some months yet to complete this valuable improvement, but when it is done, the road between Salt Lake and Murray will be one of the finest in the west.

Postal Road to Build—Judge Powers, counsel for the Postal Telegraph company, has returned from California where he went on legal business for the company. He said that the Postal Telegraph company's case in the right of way from Salt Lake to the California state line had been settled and the compensation paid to the Southern Pacific company had been \$1,000,000. The Postal Telegraph company is now ready to commence construction of the line. The judge says the Southern Pacific never offered any real objection to the Postal Telegraph's right of way. The Postal Telegraph has built to Reno, there will be direct connection over this line between New York and San Francisco via Salt Lake.

Pleasing Piano Recital—Mrs. Alberta Derham's piano pupil, Miss Mary Warburton gave a recital Tuesday evening that filled Utah. The fair performer was ably assisted by A. J. Kisselberg, the baritone, and Mrs. A. A. Kiska, the soprano. Miss Warburton is a finished player, a promising artist. She is of that musical temperament that finds its expression in graceful, easy, inspiring performance without conscious effort. That Miss Warburton is capable of reaching into the higher spheres of musical art is evinced by her recital, which was repeatedly recalled. Mr. Kisselberg fully sustained his reputation as a pleasing singer. Mrs. Adams' dramatic recitations were deservedly well received.

Class Initiation Tonight—At 8 o'clock this evening at the I. O. O. F. building there will be a class initiation of Maccabees, where 40 young women will be instructed in the new ritual of the order. The class was inaugurated by Miss Rina M. West of Port Huron, Mich., supreme record keeper. Assisting Miss West are Mrs. Alice B. Locke of Denver, district commander of the Ladies of the Maccabees of Utah, Colorado, Wyoming and Montana, and Mrs. Bella M. Hedge, deputy district commander.

Woo Joe is Gully—Woo Joe, a Chinaman arrested on the charge of selling liquor to miners, and charged with recovering rapidly now after Tuesday afternoon and found guilty as charged. The liquor was sold at the Empire cafe in State street to a number of boys and girls.

Boy Operated On—Orvin Morgan, age 13 years, son of the late W. O. P. Miller of the presiding bishopric, was operated on at the Groves L. D. S. hospital, Tuesday for appendicitis, and recovering rapidly now after the successful treatment by Drs. Joseph S. and Ralph T. Richards. Two months ago the lad was operated on, and an account of an abscess found on the appendix it could not be removed at that time.

Men and material are being rushed through from Los Angeles to the Meadow valley wash to push the reconstruction. Trains are now able to reach a point 18 miles north of Morgan, and work is being done both ways out of Caliente. South from the latter point the contractors have reached 10 miles, while to the north they are working up Clover Valley canyon.

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OLD FOLKS TO SEE

Play at the Grand

MOTHER SEKS SON.

Chief of Police Barlow is in receipt of a letter written to Mayor Bradford by Mrs. Martha McCreary of Indianapolis, asking that the authorities of this city make an effort to locate her son John, aged 15 years, who ran away from home on April 7. Mrs. McCreary states that she is prostrated with grief over the disappearance of the boy and begs the authorities here to make every effort to locate him.

Mr. and Mrs. O. C. Kleinman, 1822 Ninth East, entertained in honor of Miss Lydia E. Willis, Monday evening, April 18. A very enjoyable evening was spent in music and parlor games, and light refreshments were served. The home was artistically decorated with roses and carnations. The guests present were Mr. and Mrs. Sylvester Q. Cannon, Mr. and Mrs. Dyke Walton, Mr. and Mrs. John Wells, Mr. and Mrs. John L. Nebeker, Mr. and Mrs. Robert Higbee, Mr. and Mrs. James Anderson, Mr. and Mrs. Carl A. Carlson, Mrs. Maggie Bassett, Mrs. Laura Corey, and Misses Lydia E. Willis, Josephine Willis, Barbara Willis, May Willis, Gina Smith, Jessie Nichols, Lucile Evans, Lilla Davis, Nell Summison and Messrs. Curtis Paskett, George W. Willis and Frank Anderson.

A. C. Nelson, state superintendent of schools, is visiting the schools at Brigham city today.

W. E. Smedley, another leading social and business light in this city, is living quietly in Bourbon county, Kentucky. Mrs. Smedley is living with relatives in Baltimore.

Mrs. Mary Taylor, matron of the girls' cottage at the state industrial school at Ogden, was a caller at the city office this morning. Mrs. Taylor says the girls in the institution are doing well, under the direction of Superintendent E. G. Gowen.

General Supt. J. C. Dailey of the Rio Grande lines in Utah, returned this morning from an official trip to Denver.

Harry Burton, chief clerk of the Moxium hotel, has resigned. His place at present is being held down very satisfactorily by Miss Irene B. Coorod.

George Albert Smith is reported regaining his health down in the Dixie country.

J. S. Cameron, president of the old Rapid Transit company, is at the Alta club from southern California, where he has been spending the winter for his health. He is now on his way to his home in New York. His two sons, juvenile court officers, are doing well in business in Washington state.

J. E. Cozright has gone to Chicago on wool warehouse business.

R. E. Evans, florist, 11 S. Main St. Floral designs a specialty. Phone 161.

Funeral of Hugh B. Smith, aged 70 years, who was killed by accident at Bingham canyon April 18, 1909, was held from the funeral chapel of 2287 Third St., at 11 a. m.