

TRUST COMPANY DEFEATED

Other Creditors of the S. C. & I. Co. to Have Claims Paid.

JUDGE W. H. MOORE'S DECISION

Decree of Foreclosure in Case of the Manhattan Trust Company Against the Seattle Coal and Iron Company Set Aside by Superior Court—Claims Aggregating \$85,000 Will Now Have to Be Paid.

The Manhattan Trust Company of New York, after fighting the other creditors of the Seattle Coal and Iron Company in the courts for three years, was finally turned down yesterday, as far as the superior court is concerned, by Judge William H. Moore, who handed down a decision decidedly in favor of the other creditors. The fight that the trust company has been making since the Seattle Coal and Iron Company went into the hands of a receiver was to have its million-dollar mortgage, covering the property of the company, declared a first lien and preferred to the claims of the other creditors. The mortgage was given to the trust company to secure the holders of one thousand \$1,000 bonds.

When the coal company defaulted in the payment of interest and bonds the trust company began foreclosure proceedings, and on December 29, 1896, the superior court signed a decree of foreclosure. It was to have this decree set aside that other creditors of the coal company, representing claims to the amount of about \$85,000, came into court. As told in the Post-Intelligencer yesterday, the case came up before Judge Moore on the objection of these creditors. They claimed, among other things, that the identity of the stockholders and bondholders was the same, and that the manner in which the trust company had proceeded in the foreclosure case was a fraud on the general creditors in that it shut out their claims. It was further their contention that all general creditors who did not go to the supreme court with their claims for the purpose of establishing them as preferred should, as a matter of fact, receive the same recognition as five of the creditors who went before the higher court and established themselves as preferred creditors.

Following the Supreme Court.

The testimony in the case was heard by Judge Moore before he went East, and the arguments were commenced last Monday. Harold Preston spoke in behalf of the creditors. Yesterday E. C. Hughes and John B. Allen made the principal arguments in behalf of the trust company as trustees. The closing argument in behalf of the creditors was made by Judge Stratton.

Judge Moore handed down his decision as soon as the argument ended, although it had been generally supposed that he would take the case under advisement. Judge Moore stated that he understood that the case would be appealed whichever way he decided it, and that he had made the opinion and decree as definite as possible, so that there might be no chance of the case being sent back by the supreme court for a rehearing. He said he desired that the matter be definitely settled when taken before the supreme court on the appeal from his decision. The opinion he handed down is based, it is said, upon the supreme court's decision of June 4, 1897, which held that the five creditors who appealed from the superior court's decision in favor of the trust company, held claims which were to be settled before the trust company's claims. These creditors were Schwabacher Bros. & Co., Schwabacher Hardware Company, Boston National bank, Ditteneheffer, Hoss & Co. and Murphy, Grant & Co. Judge Moore's decision is against the Manhattan Trust Company in every particular, while the other creditors are placed in the same class as the five who went before the supreme court.

The Court's Remarks.

Judge Moore in deciding the well-known case said: "This is clearly a case in insolvency, a proceeding in rem. In such a proceeding a decision of the status of a party or a thing at one time is a decision for all time throughout the proceeding. This is substantially decided in the case of Thomson vs. Huron Lumber Company, in 4th Washington. Every party here has claimed an estoppel of every kind against every other party. I am of the opinion that the decision of the supreme court in this case upon the appeal of the five petitioners, be-

ing a decision of the status of the plaintiff and of the plaintiff's mortgage, holds throughout the case as to all the creditors who are able to bring themselves in the same class as the five petitioning creditors. I am unable to see how the plaintiff could be allowed to try out the question of the standing of the trust deed in a trial against the five creditors, and not be bound at all times in the same case by the resulting decision. The plaintiff proceeds in its proceeding in rem upon the question of the rank of its mortgage as to the general creditors of the defendant corporation. The decision of the supreme court on the facts and on the law upon the appeal above referred to holds throughout the case and establishes the fact and law as so decided throughout the case. The decree of December 29, 1896, taken by the plaintiff pending that appeal, was taken at its peril, and it taken at its peril as to the five creditors. I am unable to see why it was not taken at its peril as to all the creditors. All the bondholders joined with the creditors in this proceeding, and the supreme court in said decision has once fixed their status, has determined that the bondholders are identical with the stockholders and that the stock is not paid. The decree will follow, that all creditors who were before the court at the time of the entry of the decree of June 4, 1897, (excepting the Manhattan Trust Company in its own right, and except J. D. Smith, if he was a stockholder, which is yet to be determined) are of equal rank with the five petitioners. Have valid claims against the defendant and a first lien upon the whole property of the defendant.

Other Liens Established.

"The creditors who came in after June 4, 1897, (except White and Alexander) have the next lien for the full amount of their claims. That Alexander M. White has a valid claim against the defendant to the full extent claimed, but that the same be not paid till he pay whatever assessment on his stock may be necessary to pay prior claims in full. The claim of Alexander is disallowed for want of proofs. The claim next in order is that of the plaintiff, which shall be enforced as the lien next in order, for the full amount fixed by the decree of December 29, 1896, that the creditor next in order is the plaintiff in its own right, and that it have the lien next in order upon the property to secure the payment of it. It will be further decreed that the five petitioners be allowed \$2,000, which the court now adjudges a reasonable sum for their prior services in the case, and that that sum be paid pro rata out of the claims of a creditor whose liens are established ahead of the trust deed, as they shall realize upon their claims. The treasury department at Washington, through the good work of the Seattle Chamber of Commerce has taken the matter up and will shortly furnish an official statement which can be quoted, and which can be relied on to effect all kind of advertisements and outthroat misrepresentations. Erastus Brainerd, of the Chamber of Commerce, yesterday received the following telegram from Senator Turner: "WASHINGTON, D. C., Jan. 24.—Erastus Brainerd, Secretary, Committee Chamber of Commerce, Seattle, Wash. Treasury officials are sensible of the importance of the matters touched on in your letter of the 23d inst., and have almost completed a statement covering all points raised therein. This statement has been withheld until the arrival of the collector of customs at Sitka, who was sent for by the department. He reached Washington today. The statement will probably be issued within a week. GEORGE TURNER."

Deputy United States Marshals.

John Striner and H. W. Tyler were yesterday appointed deputy United States marshals to succeed Messrs. Van Houten and McLaughlin.

American Securities Abroad.

The sales of American securities have been, according to London advices, very large abroad of late. If this state of things holds, there will be an increasing influx of British capital into this market. This demonstrates the faith abroad in the stability of our credit. There is another point of faith for which the people not only of this but foreign countries have good grounds for credence, and that is the belief in the efficacy of Hostetter's Stomach Bitters for inorganic maladies which affect the stomach, liver, bowels, kidneys and nerves. Dyspepsia, biliousness, constipation, rheumatism, are conquered by it. It hastens convalescence, and diffuses a generous warmth and sensation of physical comfort through the system.

DR. RUSSELL—Diseases of women.

28 Roxwell.

A Specific for Colds and Croup.

For years we have used Chamberlain's Cough Remedy and always keep it in the house. It is regarded in our family as a specific for colds and croup.—R. E. ROBERT, Orest, Mo.

Advertisement for 'Cooks in a Minute.' Cream Breakfast Wheat. The Seattle Trading Co. Grocers, 110 Occidental Ave.

A CARLOAD OF BABY BUGGIES RECEIVED YESTERDAY AND NOW ON SALE.

FREDERICK, NELSON & MUNRO

Furniture, Carpets, Stoves and Household Goods. RIALTO BLOCK, SECOND AVE 'E.

THESE TWO USED AN AX.

Members of the City Chain Gang. One a Beggar, the Other a Fighter, Give Officers the Slip.

Two city prisoners, who have been working in the chain gang, took French leave yesterday afternoon and are probably now working their way to some of the small towns between Seattle and Tacoma. The escaped men are Thomas Kenney and George Miller. Kenney is one of the toughest characters the police have had on the chain gang in weeks. He was sentenced to ten days' work for the city, on the charge of fighting. Miller is a professional beggar and said to be a persistent law-breaker and a smooth thief. The men were in charge of Officer H. D. Thornton. They were at work erecting new poles on the telephone line that runs between the pumping station at Lake Washington and the reservoir on Beacon hill. It was in the vicinity of this spot where the Rainier avenue street car line crosses the telephone line. There is no underbrush to speak of in the vicinity. When the gang left the police station yesterday afternoon at the regular hour, it was in charge of Officers Thornton and Morris. After dinner Officer Morris took three of the men down to the pumping station, to do some work there for the evening. The other eight prisoners were left on the hill with the other eight prisoners. This was about 1 o'clock. The men went to work as usual, digging holes and putting in the

BACK TAXES ARE COMING IN RAPIDLY.

Practical Sign of Prosperity in City and County—Figures Tell an Interesting Story.

There is no better wind gauge of the currents that blow in the commercial atmosphere than the tax receipt book. When it shows a big delinquent list, one may know that things are not going well with property owners. But just the contrary is now true in this city. In fact, large numbers of delinquents are paying off the taxes which have been necessarily piling up against them during the years of financial depression.

The cash receipts in the city treasurer's office for Monday from the county treasurer were \$24,498, representing collections on delinquent taxes during the previous week. The delinquent taxes for four years prior to last year, thus paid up, were as follows:

Table with 2 columns: Year, Amount. 1893: \$3,783; 1894: 5,011; 1895: 5,011; 1896: 6,138.

This good showing has continued for several weeks past, and while they are above the average, the figures just given are not the highest. For the week preceding December 21 the receipts amounted to more than \$22,000.

valid claim against the defendant to the full extent claimed, but that the same be not paid till he pay whatever assessment on his stock may be necessary to pay prior claims in full. The claim of Alexander is disallowed for want of proofs. The claim next in order is that of the plaintiff, which shall be enforced as the lien next in order, for the full amount fixed by the decree of December 29, 1896, that the creditor next in order is the plaintiff in its own right, and that it have the lien next in order upon the property to secure the payment of it.

AMUSEMENTS.

People's Theater.

"Down in San Francisco," said a recent arrival from the California metropolis, while walking back to his hotel from the People's theater last evening, "we have long been of the opinion that our Orpheum was far ahead of any vaudeville house west of New York. Tonight, however, satisfies me that your Seattle variety theater is at least on a par with the best we can offer, and I can safely say that I do not ever remember enjoying a performance more."

Third Avenue Theater.

"Ole Olson" is attracting large houses nightly at the Third Avenue theater, and every night, for the company is excellent and the play is thoroughly up to date in every particular. The comedian who is usually good. In the auditorium last night Prof. Miller, the hypnotist, woke the subject that he put to sleep the preceding evening. "Ole Olson" will be the attraction at the Third Avenue all the week, and Prof. Miller will remain in the auditorium for the same length of time.

"In Gay Paris."

Clifford's gaiety company in "In Gay Paris" will be the next attraction at the Seattle theater, appearing there next Sunday and Monday. This is not a burlesque, but a farce-comedy extravaganza, replete with laughable lines, up-to-date specialties, marches and ballets, and clean and refined throughout. The company is a large one and is touring the country in its own palace car, carrying its own elegant scenery and rich costumes.

Pike Street Theater.

"The Child and the Burglar," a charming little curtain raiser, opened the performance at the Pike street theater last night and was thoroughly appreciated. "Wanted a Wife," a laughable comedy, followed, and was joyously received, as were the vaudeville acts introduced. The company is a capable one and good houses are the rule.

The Bella Union Theater.

The Frank Redick Dramatic company and Harry Leavitt's Vaudeville company continue to attract large audiences to the Bella Union theater, which is now established as one of the favorite amusement resorts of the city. The record in the brief career of the new place has been one of packed houses since its opening.

BUY your first and second class tickets on the City of Seattle, sailing Wednesday evening, the 26th.

DRS WILLIARD & SLOAN removed fourth floor Collins building, corner James and Second avenue.

THE best assortment of Klondike fur outfits for ladies and gentlemen at Wingmiller, the furrier, 529 Second avenue.

"BOROSIS," the new shoe for women, Simson Bros., 76 Second avenue, sole agents.

HOLD THE WINNING CARDS.

Anti-Office Holding Populists Control the City Committee.

JORDAN'S FINE ITALIAN HAND.

His Friends Fight a Strong Effort to Rescind the Action of the Committee Harming Office Holders From the Convention—A Lively Fight Over Credentials—Referred to the Committee for Settlement.

If the temper displayed at the secret caucus of the People's party city central committee last night is to be taken as a valuable criterion, the affairs of the party may be considered to be dominated by men who are opposed to the dictation which, it is alleged, has been assumed by certain politicians and office holders. At the last meeting of the committee a resolution was passed making any state, city or county office holder or employe ineligible as a delegate to the approaching municipal convention. This move was taken as a direct blow at an influence which was being asserted in the party and which, it is stated on high authority, emanated from well-known men who occupy comfortable offices or positions in the county court house. A motion made last night to reconsider this resolution was defeated by the decisive vote of 25 to 12.

ANNIVERSARY IS CELEBRATED BY SCOTCH-AMERICANS.

ADDRESS BY GOV. ROGERS.

The One Hundred and Thirty-ninth Return of the Ploverman Poet's Birthday Observed With a Belligerent Programme and a Grand Ball—Selections All From the Songs That Have Made Burns Immortal.

Several hundred of the Scotch-American citizens of Seattle assembled in Armory hall last night to celebrate the 139th anniversary of the birth of the ploverman poet of Scotland, Robbie Burns. One of the chief features of the evening was the address of Gov. J. R. Rogers. Judge John C. McGilvra presided, and in his opening address said: "I am not a native son of Scotland, but my ancestors were Scotch. There is Scotch blood in my veins, and I am proud to acknowledge. They are a race whose progress, integrity and honor are known throughout the world." He then introduced Mr. R. Merryweather, who gave a few selections on the national instrument of music, the bagpipe, which were well received by the audience.

BOARD OF PUBLIC WORKS.

Bids Opened for Lighting City Jail for the Year.

The board of public works yesterday opened bids for lighting the city jail from February 1, 1897, to February 1, 1898. All the bids were referred to Superintendent Young to report back to the board.

The board, on motion, and under civil service rules, elected William Lock stable boss.

The board granted the following applications for triangular street lights: Swanton & Lawrence, 39 Second avenue south; Kneferle & Co., 112 First avenue south; E. Meadowcroft, 116 West Main street; and John Nichols, 217 First avenue south.

The Seattle Steam Heat and Power Company was granted permission to open First avenue south so as to extend steam pipes into Cooper & Levy's store and the Birch saloon.

After a personal inspection of the work of repairing Occidental avenue and Taylor way, and of laying a sewer on Howell street, between Ninth and Terry avenues, the board approved the work on all three thoroughfares.

Advertisement for ROYAL BAKING POWDER. Absolutely Pure. ROYAL BAKING POWDER CO., NEW YORK.

NIGHT WITH ROBBIE BURNS.

Anniversary Is Celebrated by Scotch-Americans.

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The programme was in every respect a success and the artists who took part acquitted themselves with honor. Special mention may be made of Prof. McLaren, who gave a well-remembered selection of how "Watty," an honest Scotchman who was troubled with a scolding wife, but a step to her "incompatibility of temper" and "lived happy ever after."

The crowning event of the evening was the address of Gov. J. R. Rogers. The chairman introduced the governor, extending to him a hearty welcome in the name of the Scotch society of Seattle. The governor spoke in substance as follows: "Ladies and Gentlemen: I come here this evening to speak to you of a great Scotchman and poet, Robert Burns. I am not Scotch nor of Scotch descent. My ancestors came from the north of Ireland; but they, like Burns, hated tyranny and sympathized with the misery of the people. The keynote of Burns' life was his love of the people. The dominant rule of his life was to stand for the people on every occasion. So far as the charge is concerned that Burns' life was a failure, I am here to prove the contrary. He had his failures, it is true, but they did not mar his success. The greatest thinkers of the day with whom he associated proved conclusively the falsity of such a statement.

"Man's greatest duty is to secure an adequate expression of himself. Burns really accomplished this, and thus made his name immortal. His knowledge of himself gave him the knowledge of others, and inspired him with the divinest of all feelings—the sentiment of love.

"In the highest sense of the term Burns was a great man. His greatness surpassed that of Napoleon, and his name will be handed down from generation to generation as a true lover of humanity, and whose return will make his name and fame everlasting."

The programme in full was as follows: Opening address—Chairman McGilvra. Baggie selection—Mr. Merryweather. Song—"There Was a Lad Was Born in Kyle"—Mr. R. Haddow. Song—"Ye Banks and Braes o' Bonnie Doon"—Miss Emma Allen. Song—"Scots Wha Hae"—Mr. M. G. Haddow. Song—"Bonnie Dundee"—Mr. J. H. Whittlesley. Recitation—Selection, Prof. F. R. McLaren. Song—"O' the Airts the Wind Can Blaw"—Mr. Bert Williams. Song—"My Love Is Like a Red, Red Rose"—Mr. W. W. Williams. Song—"Bonnie Dundee"—Mr. W. W. Williams. Song—"The Rose Tree"—Miss Clara Schulze. Address—"Robert Burns"—Gov. J. R. Rogers. Song—"A Highland Lad My Love Was"—Born—Mrs. G. A. C. Rochester. Song—"The Blue-eyed Lassie"—Mr. M. G. Haddow. Song—"Green Grow the Rushes O'—Mr. W. Williams. Song—"I Can Wed an Auld Man"—Miss Clara Schulze. Song—"A Man's a Man for a' That"—Mr. R. Haddow. Song—"O, Whistle I'll Come to You, My Lad"—Miss Emma Allen. Address—"Auld Lang Syne."

"I see amid the fields of Air A plowman, who in foul or fair, Sings at his task. I know not whether 'tis The laverock's song I hear, or his, Nor care to ask."

At the conclusion of the literary and musical programme there was a ball, the grand march being led by Mr. Matthew

Large advertisement for J. S. GRAHAM'S High Quality JACKETS. Less Than We Paid for Them. WE ARE DETERMINED THAT EVERY JACKET AND CAPE STOCK MUST GO, NO MATTER HOW GREAT THE LOSS, WE OFFERING YOU CHOICE OF THESE FINE GOODS. J. S. GRAHAM No. 716 Second Avenue.

Advertisement for CASTORIA. The healthful signature of Dr. J. C. Ayer.

Advertisement for COFFIN BRGS. 210 Occidental Ave. We are a little hard to find, but we will save you money.

Advertisement for THE CREAMERY INC. Oyster and Grill Room. The only one in the city where prompt service and unexcelled cuisine are combined with moderate charges.

Advertisement for THE ROYAL RESTAURANT. No. 818 First Av. Serves the Best Meals. LUNCH From 11 to 3 P. M. 25 Cents. FRENCH DINNER From 4 to 8 P. M. 50 Cents.

Advertisement for TIDE LANDS. 214 Pioneer Building. CHADSEY & TOWN.

Advertisement for CANADIAN PACIFIC. 800-PACIFIC LINE. New Tourist Car Service to the East.

Advertisement for ROYAL Restaurant. 110 Occidental Ave.

Advertisement for CHOICE EASTERN EGGS. 240,000 Dozen in Lots to Suit. Also EXTRA FANCY WASHINGTON NAVEL ORANGES. For Sale by CHAS. I. BATTLE, Rooms 620 and 621 Bailey Building.

Advertisement for THE SEATTLE POST-INTELLIGENCER. WEDNESDAY, JANUARY 26, 1898.