

ESTABLISHED 1861.

EXPRESS COMPANY NOT TO CARRY C.O.D. LIQUOR

TAFT VISITS TWIN CITIES AND GREAT CROWDS CHEER

Spends the Day on the Swing Inspecting Places of Interest.

TO SPEAK TONIGHT

At a Big Banquet to Be Tendered in Honor of the President.

MINNEAPOLIS, Sept. 18.—The twin cities of Minneapolis and St. Paul paid homage to President Taft today, the President visiting both cities. Both cities were elaborately decorated, and big crowds cheered the chief executive.

The President's train arrived at Minneapolis shortly before 8 o'clock this morning. He entered the first of three automobiles which a reception committee had provided, and the party was driven to the Minneapolis Club rooms, where Mr. Taft was given breakfast by fifty prominent men of Minneapolis.

Later an automobile trip was taken about the city parks and boulevards to Minnehaha Falls, the State Soldiers' Home, and Fort Snelling. At Fort Snelling the President reviewed troops.

At noon the Presidential party boarded automobiles for a five mile run to St. Paul, and luncheon was had at the St. Paul auditorium. After luncheon the program included a visit to the state capitol for inspection of that imposing building. From the capitol the route on the return trip to Minneapolis took in the boulevard and park system.

The President will make the principal address of the day before a banquet at the Minneapolis auditorium tonight.

LOCAL ARTIST

Wins a Number of Prizes at the Fairmont Fair This Week.

Albert Haubrich, whose studio is in the Oak Hall building, had a fine display of paintings at the Fairmont fair. The artistic influence of this studio has been felt very much in this city. A large painting in oil "The Death of the First Horn," after Drake, took first premium. With six entries in water colors three first and three seconds were taken. One entry in design and one in crayon each took a blue tag.

Mr. Haubrich has just finished the large Catholic in East Pike street and it is one of the most beautiful interiors in the city. The school for water color and drawing which was such a success last year, will again open soon.

A large number of the beautiful homes in this city have been decorated by Mr. Haubrich which speaks well for his ability to please particular people.

BOXING SHOW

Is Attended and Enjoyed by a Fair-Sized Crowd.

A fair-sized crowd attended the boxing show, directed by Al W. Martin, last night. The three-round contest between Thurl Brooks and Wilbur Swiger ended in a draw. A young man named Graham and Okey Hopkins provided the second number with a similar result. George Jenkins and Joe Lover, midgets, engaged in the third event, with Lover having the better of it all through the contest. The final match was between Clarence Vannort and Joe Anzini. It was declared a draw. Mr. Martin acted as referee. Another show will be given next Thursday night.

CAR MEN STRIKE

OMAHA, Sept. 18.—Employees of the Omaha and Council Bluffs Street Railway Companies voted last night to walk out and this morning all the lines in both cities were dead.

WELCOME IS WIRED FROM BED OF PAIN

BIRD'S RETURN IS ASKED FOR

Unanimously by the Conference at the Methodist Church Here.

Unanimous approval and appreciation of the pastoral work of the Rev. J. E. Bird were voiced by the congregation of Goff Methodist Episcopal church Friday night at the fourth and last quarterly meeting of the year held in the church when resolutions were passed asking the West Virginia Conference to return him to the pastorate of the local church. Indorsement of the aims work of the Rev. William Anderson, Ph. D., as district superintendent was also given and his return to the same district was asked.

A committee of five members of the congregation was appointed to attend the conference for the purpose of obtaining the reappointment of the pastor and district superintendent. The committee comprises W. Frank Stout, Charles W. Lynch, H. W. Harmer, J. F. Dye and S. H. White.

Rev. Mr. Bird is closing his second year's tenure as pastor of the Goff church. Much success has attended his untiring efforts to build up the church and to extend the Christian faith among the people. During his stay here there have been more than one hundred accessions to the church's membership. In addition to his routine pastoral duties he has manifested much zeal and done a great deal of work in striving to clear the debt upon the handsome new brown-stone church edifice at Second and West Pike streets which the congregation will occupy in the near future. Rev. Mr. Bird is a preacher of strong mentality and his sermons are always listened to with deep interest by large and constantly growing audiences. Clarksburgers outside of his church as well as those within would be immensely pleased to have him and his estimable family remain in the city another year.

CONVERSIONS

Professed by Several at Campmeet in Services on Fair Grounds.

Several conversions were professed at the campmeeting services held last night on the old fair grounds, which were attended by a large crowd. Another meeting with a sermon will be held there tonight at 7:30 o'clock and Sunday an all day meeting will be held. All are invited and those who wish to stay all day are asked to take their dinner baskets.

MR. BROOKS RECOVERING.

Richard C. Brooks, engineer at the tin plant pumping station at Industrial, who suffered blood poisoning from a nail wound in a foot several days ago and submitted to a surgical operation, is out of danger now and is convalescing, which news his many friends will be glad to know.

WINS FLYING PRIZE.

OSTEND, Sept. 18.—Louis Paulhan, flying in the Volsin biplane won a prize of \$5,000 today. He covered forty-five and one-third miles in an hour at an altitude ranging from 240 to 300 feet. In alighting he fell into the North Sea, but was rescued by spectators.

FAILS TO MAKE A CASE.

In Justice Gordon's court Friday night, Frank Czislinsky, of Pinnick innick, failed to make a case against Steven Preuh, of the same place, on the charge of stealing ten pigeons, valued at \$15, and the action was dismissed at the former's cost.

Judge Goff Refuses an Injunction to Thomas H. Burke Here.

COMPANY HAS RIGHT

To Make and Enforce the Rule and There is No Discrimination.

Judge Nathan Goff of the United States Circuit Court has refused the injunction asked for in the suit of Thomas H. Burke against Thomas C. Platt as president of the United States Express Company, in which Burke sought to compel the express company to ship liquor "collect on delivery." The suit had been pending some time.

Judge Goff's decision in full is as follows:

The complainant, a duly licensed retail liquor dealer whose place of business is at Clarksburg, West Virginia, alleges that the United States Express Company, a common carrier, doing business in this district, unreasonably and illegally fails and refuses to receive from him and to transport and deliver liquors ordered of him, when tendered to be shipped "collect on delivery," to any of his customers residing at any place where said company is engaged in business, greatly to his loss and injury.

Complainant asks the court to restrain said express company, its officers and agents from failing to perform its duty as a common carrier, and from refusing to receive, transport and deliver to complainant's consignees, upon the payment of the reasonable and customary express charges, packages of liquor ordered of, filed and tendered by him to that company for transportation and delivery, both collect on delivery and otherwise, in the same manner and under the same conditions as other goods, wares and merchandises are transported and delivered by defendant. Pending the making temporarily restraining order of the character was granted.

The answer of the complainant is that the defendant, United States Express Company, is engaged in business in West Virginia and elsewhere as set out in the bill; admits that the United States Express Company has refused to receive, transport and deliver liquors ordered of complainant, tendered by him to be shipped "collect on delivery." The answer also admits that the express company makes special contracts with shippers by which it undertakes to collect in certain instances from the consignee the purchase price of the shipment, for which a special charge is made, but insists that such service has never been offered to all who applied for it, the company having reserved the right to make the "collect on delivery" contract with certain shippers, and to refuse to make it with others. That while intoxicating liquors have been received and forwarded, it has always been done subject to reasonable rules and regulations found necessary to protect the interest of the company, and its patrons, which rules have been changed from time to time as the situation required, until April 14th, 1908, when all liquor shipments "C. O. D." were discontinued.

When the motion for a restraining order was submitted for my consideration, in connection with the bill and affidavits filed with it, as also the affidavits submitted by the defendant, I refused the decree asked for, and directed that the proofs be taken for use on the final hearing. Important questions of law and practice, raised by the demurrer to the bill—which was overruled—would be further alluded to were it not that the conclusion I now reach renders their consideration unimportant. The case of Crescent Liquor Company vs. Platt, 148 Fed. 896, heretofore decided by this court, has some points similar to those now involved, but the defense in that case was chiefly based upon a statute which the court found itself compelled to disregard because of its unconstitutionality. In that case the express company refused to accept from the complainant any shipments of intoxicating liquors to be delivered at certain points in the state of West Virginia, whether "C. O. D." or not, while at the same time it was receiving and transporting such packages for other liquor dealers.

In the case of Davis Hotel Company v. Platt, in denying the motion for a temporary injunction this court said: "It is quite evident in the present case that discrimination against the complainant exists, but it does not necessarily follow that the rules and regulations now relied on, by virtue of which such discrimination is shown, are unreasonable." Similar language was used by the court when the restraining order was refused in the case now to be disposed of, and it

was then plainly indicated that if the facts relied upon by defendant—as then presented in answer and affidavits—were substantiated by testimony normally taken, that the refusal of the express company to accept and deliver "C. O. D." packages of liquor would not be held to be unreasonable. It is that matter only that I have now to decide.

It is well to notice the fact that the express company does not decline to receive, transport and deliver "C. O. D." packages of ordinary merchandise but in effect concedes the right of shippers to resort to that method of shipment under special arrangements reasonable in character, the insistence being that in view of the unusual situation shown to exist in connection with the carriage and disposition of liquor shipments, the company is compelled having due regard to its duty to the public, and to its stockholders, to refuse such "C. O. D." shipments, with receives, carries and delivers liquors of all kinds when offered under its regulations applicable to general shipments other than "C. O. D."

It is clearly shown by the testimony that the expense, difficulties and results attending the "C. O. D." liquor contracts are entirely different from those connected with "C. O. D." shipments of other kinds of traffic. The proofs offered on this subject justify the claim made by the defendant that they have resulted in undesirable conditions, and in financial loss to the company. Under such circumstances it would be unreasonable and inequitable for the courts to compel the company to perform such service, to require it to undertake to collect from consignees of intoxicating liquor the purchase price thereof.

It may be conceded that complainant's business is legitimate, and that the commodities in which he deals have the same status under the law as have other commercial articles, but in this connection it is well to recall that common carriers have the right to make and enforce reasonable regulations fixing the manner in and by which they will receive and transport the articles of commerce they undertake to carry. Presumably such regulations are proper and reasonable, and it is incumbent on those who maintain the contrary to prove their contention. In my judgment the evidence offered by the complainant falls to show that the regulations complained of are unreasonable or unjust.

The complainant insists that it is the duty of the express company, under the common law as well as the statutory law, to receive and transport all articles of lawful commerce tendered to it for that purpose. In my judgment this insistence cannot be sustained, as all such shipments offered by the patrons of the company are subject to the reasonable and lawful rules duly promulgated by it. The complainant is not discriminated against, as the rule applies to all engaged in his business; nor are the articles of commerce peculiar to that business refused shipment, but the manner of shipment is regulated, and "C. O. D." packages of liquor are declined. This refusal applies to all shippers, and to all localities, not only in West Virginia, but in all the states where the United States Express Company is engaged in business.

The defendant has shown by the testimony of many intelligent witnesses, residing in this and other states, men of great experience, who have been for years employed in the discharge of duties connected with the express business that the "C. O. D." liquor shipments tend to demoralize the employees of the express companies; and to diminish their efficiency; that as a result thereof the express companies have been retarded in their efforts to render prompt and satisfactory service to the public; that the express companies have been frequently subjected to vexatious and expensive litigation, to prosecutions by county and municipal officials, and to seizures of property and searches of their places of business by officers of the law because of such shipments; that such places of business to which "C. O. D." packages of liquor have been consigned, were thereby made unpleasant for the public, and that the patrons of the company, on that account have been inconvenienced and prevented from transacting their business with its agents; that such companies have been compelled to secure additional storage room at considerable expense at various points, in order to provide for the care and protection of such packages, which are frequently not called for by the consignees promptly, and which are often returned to the consignee after having been held for some time by the companies; and also that in certain localities the business of the company has been lost or impaired because of hostility engendered in such communities on account of such shipments.

A rule founded on these facts, on conditions producing such results—facts and conditions not controverted by complainant, and concerning which no testimony has been offered by him—cannot be held to be unreasonable, will not be adjudged unjust. The injunction asked for is refused. The bill will be dismissed.

RESORT LICENSE STANDS REVOKED

STAKE RACES GIVEN NAMES

In Honor of the Clarksburg Newspapers and the Big Waldo Hotel.

Owing to the unusual interest directed toward the big stake races that will be raced every afternoon of the Big State Fair in Clarksburg, September 21, 22, 23 and 24, the directors decided to name the stakes in honor of the Clarksburg newspapers and the city's magnificent hotel, the Waldo. One race will be known as the Morning News Stake Race, another as the Evening Herald Stake Race, another as the Evening Telegram Stake Race, and the fourth as the Waldo Stake. These stake events are for purses of one thousand dollars each.

In addition to the state events, the program includes eight races for which purses of \$400 each will be given. They embrace trots and paces in different classes, namely, 2:15, 2:19 and 2:25 trots and 2:11, 2:15, 2:20, 2:27 and free-for-all paces. There are two trots and two paces in the stake racing. The trots are in the 2:16 and 2:23 classes and the paces in the 2:14 and 2:25 classes.

TELEPHONE WAR

Starts Among Residents and People's Company in Tenth District.

A warrant has been issued for the arrest of William G. Stonestreet, a prominent citizen of Tenth district, charging him with malicious defacing of public property. The complaint against Mr. Stonestreet grows out of a war that has started in the camp of the owners and operators of the co-operative telephone lines in that neighborhood. For some time the wires leading from the Jarvisville section to Mr. Stonestreet's private line near the Coplin church have been mysteriously cut down. James R. Riddle, district manager of the People's Company in Tenth, claims he has proof enough to connect Stonestreet with the cutting of the wires, hence the warrant for his arrest.

PRIZE WINNERS

Will Be Shown Among Fox Hound Pack at the Big State Fair.

At the spring show of the Masters' National Association at Lincoln, Mass., this year, "Searcher", of the famous Harkaway Hunt Club's pack of fox hounds, which will be seen at the Big State Fair in Clarksburg Sept. 21, 22, 23 and 24, won the stud hound championship. "Falcon" and "Rascal", a pair of promising young hounds, won the blue ribbon in the novice class and the unentered class was won by "Dorcas" and "Namesake", a very creditable showing for the Harkaway pack in such high classed competition.

NEW RECORD BY WRIGHT.

BERLIN, Sept. 18.—Orville Wright made a new record today at the Templehof field for sustained airplane flight with a passenger. He remained in the air one hour and thirty-five minutes.

NEW MINISTER.

TOKIO, Sept. 18.—Official announcement was made today of the appointment of Y. Uchida, former minister of foreign affairs, to succeed Baron Takahira, Japanese minister to Washington.

E. W. Jordan, of Mannington, is a visitor in the city.

Because of the Place Being Used for Storage of Sunday Whiskey.

ROUTINE BUSINESS

And Election Returns Occupy Most of the Time of the Session.

Friday night's session of the city council consisted mostly of routine work. The main feature was the revocation of the license of a Greek restaurateur in the Jamison building in which the Diamond saloon is but which saloon is not connected in any way with the business of the restaurant.

The roll call showed a quorum present. No reports were made, except that of the finance committee, which recommended the payment of the following bills, which was directed: Street pay roll \$127.00 Election pay roll \$77.00 Morning Herald \$6.77 Telegram \$10.95 News \$14.98 Thomas Burke \$3.50 Requests of the Methodist Episcopal, Central Christian and Baptist churches for cement pavements were referred to the street committee. Building permits were granted as follows:

Rock Bell one one and a half story building on Seventh street to cost \$1,400.

Rock Bell, similar building at similar cost on Bluff Lane.

Harvey F. Smith, four houses on Phillip street, to cost in the aggregate \$6,500.

Thirty residents petitioned for a crossing at Park and Jackson, which was referred to the street committee.

The Greek restaurateur's license was next revoked on information by the mayor that it was used as a drinking resort Sundays. He stated his investigation showed the whiskey was stored there Saturday nights. He did not think it was purchased at the Diamond saloon, which is located in the same building.

Michael Judge asked that he be paid \$225 damage owing to the change of street grade. The matter was referred to the street committee.

The street committee was authorized to act on the petition of the Slavish church for street grade on East Pike street, where a \$14,000 church is to be built at once.

Deeds dedicating the streets, avenues and alleys of the Broadus addition, after being offered, were referred to the city attorney.

The Consolidated telephone filed a petition asking for a franchise.

ENROLLMENT

Of the City Schools for the First Week Totals Large Number.

Following is a summary of the public school enrollment for the first week:

High school	207
Central school	241
Carlie school	322
Pierpoint school	322
West End school	409
Alta Vista school	173
Monticello school	59
Northcott avenue school	45
Patton building	33
Nutter school (opens Monday)	
Colored school	165
	1663

STORM IN CUBA.

HAVANA, Cuba, Sept. 18.—A severe storm passed over Pinar Del Rio province yesterday. Wires are down and the extent of the damage is not known.

NOTARY COMMISSIONED.

Governor Glasgow has issued a notary public commission to Fleming Holden of this city.