FATAL SHOOTING AFFRAY OCCURS IN ANGELS CAMP

Mitchell Magud Fires a Bullet Into the Body of C. Ocosonich.

Culmination of a Bitter Feud That Has Existed Between the Two Men for a Number of Years.

Special Dispatch to The Call.

ANGELS CAMP, Nov. 6.—Chris Ocosonich was shot and probably fatally wounded by Mitchell Magud on a street of Angels Camp this afternoon. Magud is under arrest, charged with carrying concealed weapons, attempt to kill and threatening an officer.

The trouble which led to the shooting dates back some years. Several houses in Angels were blown up by dynamite, among them one owned by Magud. He accused Ocosonich of having touched off the dynamite under his house, and whenever they have met since then he has renewed the charge.

The two men met on the street this afternoon, and this time it was Ocosonich who renewed the quarrel. Magud said he was not looking for trouble and advised Ocosonich to let him alone. Ocosonich invited him to step into the middle of the street and settle their differences. Magud followed him off the sidewalk, and as Ocosonich came at him drew a revolver and opened fire. Three shots were fired and a bullet pierced his enemy's side. Ocosonich staggered to the sidewalk and there fell. He was removed to a hospital and is in a precarious condition.

When Constable Foats sought to arrest Magud the latter attempted to shoot the officer, but was overpowered after a sharp struggle and landed in jail.

WILL LISTEN TO THE PROTESTS OF SHIPPERS

Interstate Commerce Commission Names Places and Dates for Hearing of Cases.

WASHINGTON, Nov. 6.—The Interstate Commerce Commission has fixed hearings in cases involving violations of the interstate commerce law as follows:

Business Men's League of St. Louis vs. the Santa Fe and other railroads, at Washington, December 10; Palmer's Dock, Hay and Produce Board of Trade vs. the Pennsylvania and other railroads, at New York City, November 14; Milton Flory vs. the Central Railroad of New Jersey, New York, November 14; the Proprietary Association of America vs. the New York Central et al., at Chicago, November 19; Proctor & Gamble Company vs. Cincinnati, Hamilton and Dayton Railroad, Washington, November 26; Kineon Coal Company vs. the Chesapeake and Ohio Railroad Company, Washington, December 4; five cases, Charles G. Freeman vs. various railroads, Chicago, November 19; Charles H. Johnson of Norfolk, Neb., vs. the Chicago, Milwaukee and St. Paul Railroad, Chicago, November 29.

The most important of these is that of the St. Louis Business Men's League, which complains to the commission that the carload and less than carload rates from St. Louis to the Pacific Coast are relatively unjust and bear unduly on the shipper of less than carloads.

WOULD AUCTION THE TRANSVAAL

Object of Paul Kruger in Making the Trip to the Continent.

LONDON, Nov. 6.—Lord Roberts has cabled to the War Office that former President Steyn in a dispatch to Delarey's burghers, October 22, said Mr. Kruger had gone to Europe to get "interviewed," and that if he failed the Transvaal "will be auctioned off to the highest bidder."

Lord Roberts in a dispatch dated Johannesburg, November 5, reports to the War Office as follows:

"Smith-Dorrien states that Major Saunders and Captain Chalmers of the Canadian Mounted Rifles have been decorated. Saunders rode out under a heavy fire to bring in a horseless non-commissioned officer. Saunders was wounded and his horse was killed and Chalmers went to his assistance. Saunders implored him to leave, but was refused, and the gallant Chalmers was, I grieve to say, killed."

RAS JIBUTIL, Nov. 6.—The Dutch cruiser Gelderland, with ex-President Kruger on board, has arrived here. She has been directed to await instructions from The Hague at Port Said with regard to Mr. Kruger's landing in Europe. The Gelderland will stop here three days.

Mr. Kruger, who is in excellent health, rejoiced greatly at the news of the recent Boer successes.

"May they fight without remission," he exclaimed energetically. "That is what we ask."

Throughout the voyage Mr. Kruger's health, except for some trouble with his eyes, was excellent. He will travel incognito and will not land until he reaches Europe.

Big Loss by Fire.

ALBANY, N. Y., Nov. 6.—Fire broke out to-night at Kricher's large candy factory and communicated to the Press Knickerbocker building. Both buildings were destroyed. At this hour it is estimated that the loss will probably be half a million dollars.

Fever Among Russian Troops.

ST. PETERSBURG, Nov. 6.—According to private dispatches received here typhus and other fevers are beginning to abate in the Russian army in Manchuria.

GRAPE-NUTS.

Grape Sugar is one of the most Delicate Sweets in food

TRY Grape-Nuts for breakfast

Grocers sell it.

"AFTERNOON TEAS."

St. Louis, Mo., Ladies Serve the New Food Delicacy.

At some select afternoon "teas" in St. Louis, Mo., the ladies have been serving the new food delicacy, Grape-Nuts, and it has become very popular, owing to its novel and never-to-be-forgotten flavor as well as the fact that it is ready to be served without any preparation whatever, a most desirable feature for hurry breakfast and luncheon.

OPPOSITION TO ANY CLEMENCY

Sentiment of the German Press on the Chinese Question.

Russia's Reply to Anglo-German Agreement Emphasizes Her Intentions as to Integrity of China.

BERLIN, Nov. 6.—Discussing the efforts of Li Hung Chang to get diplomatic representatives to intercede with Field Marshal Count von Waldersee with a view of delaying the execution of the Paoting-Fu officials responsible for the massacre there, even the liberal papers, Vossische Zeitung, National Zeitung and Boersen Zeitung, call for their execution without delay, the Vossische Zeitung remarking that "clemency can accomplish nothing with these barbarians."

Letters from German soldiers in China continue to find their way into the press. The Hamburg Courier, National Liberal, prints a letter from Peking describing the operations of the battalion to which the writer belongs, and mentioning a case where from 300 to 400 Chinese were "partly killed and partly executed." The writer adds: "All Boxers who are caught in Peking are shot. Each one must dig a hole and kneel behind it, so as to fall directly into it when shot.

"The city of Liangchang Chung was captured yesterday. Our company halted before one of the gates, and the Chinese who were driven from the other side through the gate perished upon our bayonets. It was horrible. We have men in the company who have already shot ten Chinamen."

The Courier says: "Such statements as these make an official explanation regarding the manner of carrying on the war more urgent than ever."

The Freisinnige Zeitung says: "Persistent silence in official quarters unfortunately justifies the conclusion that such a description of the conduct of the German troops is true. The Government will be compelled to express itself in the Reichstag."

ST. PETERSBURG, Nov. 6.—The text of the Russian reply to the Anglo-German agreement note is published.

The first point, providing for open ports on the rivers of China is favorably received, as it does not alter existing treaties.

The second point is all the more in harmony with Russia's intentions, as the integrity of the Celestial Empire is the fundamental principle of the Russian policy.

As regards the possibility of a violation of this principle, in the third article, Russia refers to her note of May 28 and repeats her declaration that such violation would compel Russia to modify, as circumstances might require, the attitude she has taken.

LONDON, Nov. 6.—The Gazette to-night prints General Gazelee's dispatches to the Secretary of State for India, referring to the operations for the relief of Peking, and General Dorward's report of the operations about Tientsin. General Gazelee mentions two Americans who "gallantly supported our fighting line, viz.: Major Quinton and Captain J. R. M. Talor," both of the Fourteenth United States Infantry.

General Dorward's report contains little that is new, but relating to the withdrawal of the Ninth United States Infantry after it had suffered so heavily in the attack upon Tientsin, says: "I would specially bring to notice the conduct of Major Jesse Lee during retirement. In him the regiment possesses an officer of exceptional merit. Among many instances of personal bravery during the action I would specially bring to notice the conduct of Captain Smedley D. Butler, United States marines, in bringing a wounded man in from the front under a heavy and accurate fire. Butler was wounded while so doing and was himself carried out of the firing line by Adjutant Leonard, who, I regret to say, was dangerously wounded in so doing.

"Captain Lawton of the Ninth United States Regiment brought me the news of their condition under a heavy fire. When returning and guiding the reinforcements of his regiment he was severely wounded."

TROOPS ARE RETURNING FROM YOSEMITE PARK

Report That Conditions in the Nation's Preserve Are Excellent and Game Increasing.

WAWONA, Nov. 6.—Troop F, Sixth Cavalry, under command of Major Rucker, Captain Wilcox and Lieutenant Parker, left here this morning. The troop arrived here June 3, with troops from Sequoia Park, under command of Captain Cole, and will meet Troop F at Madera.

Only about 1800 sheep have been ejected from the park the present season, against many thousands during all previous seasons. Many guns have been taken from parties entering the park this year, as stricter regulations have been enforced this year than heretofore. The weapons are returned to the owners at the close of the season.

The troops are to march to San Francisco, which will consume about fourteen days. Bridges have been constructed over two of the most dangerous streams in the park, which are impassable at high water in the spring.

Only one small fire was reported in the park this year, while last year at least three large fire were raging in the park at the same time.

Quite a number of improvements have been made at Camp A. E. Wood in the way of shelter for horses and forage. Game in the park is increasing rapidly, especially deer. Fish are also very much more abundant. All the lakes in this vicinity have been stocked from the Wawona Fish Hatchery. Trails in the park are in very bad condition and are in much need of repair, as in some places they are utterly impassable. The boundary lines of the park have never been surveyed or marked in any manner, so that it is utterly impossible for stockmen as well as officers to know the exact lines.

WILL NOT INTERFERE WITH GERMANY'S POLICY

Russian Diplomat Says No Notice Will Be Taken of Ultra Agrarian Movement.

ST. PETERSBURG, Nov. 6.—Referring to the report that Russia and America had agreed to warn Germany against fulfilling the ultra Agrarian demands regarding the grain tariff, the proper authority in the Finance Ministry here declared today that Russia does not intend to interfere with Germany in the conduct of her domestic affairs. Russia, he added, will not notice the tariff legislation officially until it is enacted and commercial treaty negotiations are begun. It is possible Germany will establish maximum and minimum rates. The discussion of this point has hitherto been academic. In any case Russia will calmly wait, as she is not afraid of a tariff war with Germany.

Strike Is Spreading.

SPRINGFIELD, Mass., Nov. 6.—The strike of the boiler makers at the Boston and Albany shops in West Springfield threatens to spread to both ends of the line. Within twenty-four hours it is expected that the boiler makers in the company's shops in Boston and Albany will be called out as a consequence of the refusal of the railroad officials to hold a conference with President John McNeill of the Brotherhood of Boiler Makers and Iron Ship Builders of America.

Duelist Sentenced.

ST. PETERSBURG, Nov. 6.—A student at the university at Dorpat has been sentenced to imprisonment for a term of two years for having killed a fellow student in a duel a year ago. The Government has virtually broken up the German dueling association at the university.

Consuls Exchange Portfolios.

WASHINGTON, Nov. 6.—Horace Lee Washington, at present Consul at Valencia, Spain, has been appointed Consul at Geneva, Switzerland, exchanging places with Richard M. Bartleman.

HUNDREDS OF NATIVES DYING OF STARVATION

Mrs. Fred Smith Appeals for Aid for Alaska Indians.

Urges Charitable Societies to Send Food and Clothing to Famished Tribes on Cooks Inlet.

Special Dispatch to The Call.

TACOMA, Nov. 6.—Mrs. Fred Smith, who arrived last night from Cooks Inlet, Alaska, says that fully 400 out of the 1000 or more Indians inhabiting that section are now dying of cold and starvation. Mrs. Smith's words are entitled to more than usual credence, from the fact that she has received a gold medal from Congress for swimming into the surf and rescuing three drowning seamen from the British bark Ferndale off the coast of Grays Harbor in January, 1892. She was then Mrs. Martha White. In the following year she and her husband went to Cooks Inlet. She was the first white woman in that country and to them was born the first white child there. Later Mr. White died and two years ago she married Fred Smith, the owner of rich placer claims on Lynch Creek. After spending the winter with her daughter in California, Mrs. Smith will return to Cooks Inlet.

"I wish I could tell you all I know regarding the terrible condition of the Cooks Inlet Indians," she said to-day. "There are several tribes in that district, numbering over 1000 persons. Of this number there are more than 400, including young children and old women, who are starving and freezing to death for want of food and clothing. In former years they have made a living by hunting. Since the advent of the white man their condition has been growing worse. The miners with their campfires have set the forests aflame. The young fox and other fur animals that are reared in the hollow roots of trees have been destroyed until to-day in that section there is practically nothing at all. These natives have, therefore, no furs from which to make their clothing. They have no furs with which to do any trading or to buy food, and their condition as I describe it is the result. It is true that in the summer time they put up a considerable quantity of fish, but as many were not provided there is not enough to go around.

"All of these tribes are under the Russian church, but this body has done little or nothing to help them. If the charitable societies on the coast would take the matter up some of the suffering might be alleviated. What they want most is clothing and flour. If these things could be got to them they could survive during the winter. The country that was once theirs is now ours and there is no reason why we should allow the present condition to exist in a land that belongs to the United States. I have given them a share of what I have, and when I left I realized that many of them would be dead before my return. I was powerless to prevent it. The Cooks Inlet Indians are in worse condition than the other Alaskan tribes, and if something is not done it will only be a short time until they become extinct."

REOPENING OF FRENCH SENATE

After Brief Session Adjournment Until Thursday Is Taken.

PARIS, Nov. 6.—The Senate reopened its session this afternoon with M. Falliéres presiding. After a very brief and uninteresting session adjournment until Thursday was taken.

In the Chamber of Deputies there was a lively scene previous to the formal opening. On all sides were groups of Deputies discussing the probable programme of the Government concerning many interpellations. The President of the Chamber, M. Deschanel, presided. The galleries were crowded.

After the preliminary business M. Waldeck-Rosseau explained that the Government would not delay action on the various interpellations, but he warned the Chamber that if the Deputies did not select important interpellations, dismissing the others, the entire session would be occupied with interpellations, to the detriment of necessary important legislation.

The Chamber then voted to proceed with the interpellation of M. Albert Vazille, Radical Socialist, representing the Montagris district of Loiret, on the general policy of the Government.

The Premier explained that the Government desired the discussion of a few reform measures of immediate interest, simultaneously with the budget discussion. These reforms, he explained, were a law to reduce the tax on alcohol, old age pensions, official arbitrators for labor disputes and the reform of courts-martial, and the law of associations, which, he said, ought to be one of the first acts of the Republican party, to avert the peril which menaced the public fortune and moral unity of the country.

M. Ribot, Republican, former Premier, called attention to the differences in the statements on social matters between M. Millerand and M. Waldeck-Rousseau. In so doing, M. Ribot said he was surprised that M. Millerand could continue in the Cabinet in view of M. Waldeck-Rousseau's declaration against Socialism.

M. Millerand replied warmly to M. Ribot. He declared he maintained his opinions, but he explained, the members of the Ministry had joined together on a platform to which they could all adhere, setting aside opinions of a secondary nature which might create discord. M. Millerand added that they would find, when the Government's bill to arbitrate strikes was fully explained, that its provisions were such as to win the support of the entire Republican majority. The Chamber adjourned until Thursday.

AT RISK OF LIFE HE STOPPED A RUNAWAY

Nervy Act of Police Sergeant Blank, Who Caught a Frightened Horse.

By trying to save the lives of several little children who were in imminent danger of being run over by a runaway horse Sergeant Chris Blank of the Seventeenth-street police station was badly hurt yesterday at the crossing of Twenty-second and Mission streets. At 12 o'clock, just as several children were crossing the streets mentioned on their way from the Horace Mann School, a horse attached to a cart came tearing up Mission street and was in the act of turning into Twenty-second when Sergeant Blank, who was coming up Twenty-second, saw the impending danger, and jumping into the street he grabbed the lines, which were trailing beside the cart, and succeeded in checking the animal just as it was about to run over some children.

Blank was dragged about twenty yards over the rough cobblestones before he succeeded in stopping the runaway. As soon as he was extricated from his hazardous position he found himself badly bruised and with several lacerated wounds of the head and face and a maimed hand. He reported off duty and went to his home. The horse that did the damage belonged to the Contra Costa dairy and had run away from Eighteenth street, where it was left standing on the street by its driver, a man named Crabb.

PRISON REFORM IN HAWAII

Petty Prisoners No Longer to Be Treated Like Felons.

Harsh Treatment That Was Accorded Editor Marshall, Recently Convicted of Libel, Called Attention to Many Imperfections.

BY HORACE WRIGHT.

Special Correspondence of The Call.

HONOLULU, Oct. 30.—The imprisonment of W. H. Marshall, former editor of the Volcano, now suspended, upon the charge of libel, has directed attention to the imperfections in the penal system of the islands. When Marshall was first incarcerated he was paraded with the chain gang and was treated like a felon. The indignities heaped upon him created a good deal of comment, and Jailer Henry explained that, according to the law, no other course was permitted toward the prisoner. The matter has been taken up by the Attorney General at the instance of Governor Dole. In the meantime Marshall is receiving better treatment and is not compelled to wear the same garb nor work with the chain gang. In the future the same distinction will be made between felons and petty offenders.

A long standing feud in the Honolulu Police Department, growing out of differences between Senior Captain Parker, a native, and Officer Hanrahan, a white man who had been rapidly promoted, was ended last Sunday by the resignation of the white man, after a last row with Parker. High Sheriff Brown held that both men could not remain on the force and Hanrahan had to go. There is a large proportion of natives in the rank and file of the Honolulu force and a general strike of policemen was threatened when it was thought that the head of the department might sustain Hanrahan against the native captain. Hanrahan came here about a year ago. He is an ex-policeman of New York and was formerly in the army.

The numbering of houses has been begun in Honolulu, with a view to establishing free postal delivery. This is something the city has never had before. At present there is practically no numbering system, and the postoffice has never attempted to deliver letters. This has been the cause of much crowding at the postoffice, where all people had to call for their mail.

Samuel Jacobsohn, a baker, and Polish interpreter in the Police Court, was instantly killed early this morning by being electrocuted at his place of business. He was using a movable incandescent light when the current passed through a place where the insulation had worn off, and he dropped dead on the spot. One of the Hawaiian Electric Company's wires is said to have been grounded or crossed with a line from the Government power house, and this made a current of about a thousand volts at the time when the deceased took his lamp in hand. The men in different parts of the city were badly shocked, and the police telephoned to the Government station and had the power shut off.

A good deal of excitement was caused by the unusual conditions, and the engineer in charge at the Hawaiian Electric Company's power house had a dangerous post for a time, as the current took hold of one of his engines and he feared to approach and stop it.

The polls will not be closed in Hawaii promptly at 5 o'clock next Tuesday. Secretary of Territory Cooper has decided that in cases where there are eligible voters at the polls waiting at 5 o'clock they shall be given a chance to vote. Owing to the faulty divisions of the precincts it was feared that some voters would have no chance to cast their ballots, there not being time enough for all, but the rule now established will give every citizen an opportunity to cast a ballot.

The transport Conemaugh arrived here yesterday evening, eleven days from San Francisco. Her long passage was due to an accident to her auxiliary machinery, compelling her to slow down for two days. She lost three animals on the way here.

The sugar crop of all the islands for the year ending with September 30 last amounted to 289,544 tons, representing a value of over $23,000,000. This is an increase of about 7000 tons over last year's figures. The large island of Hawaii leads, as usual, in the amount of its crop, having produced 115,224 tons. Kauai is next with 63,348, Oahu had 53,625 tons and Maui 57,347. The largest from any single plantation was from Ewa, on Oahu, which produced 21,573 tons, or nearly $2,000,000 worth.

The contention that the Hawaiian language is a foreign language here has been made as a part of the pleadings in a case before the Circuit Court. A complaint in a suit to quiet title is demurred to by Attorney T. McCants Stewart because a part of it is in the native Hawaiian language. It is claimed that the complaint is unintelligible and is partly in a foreign language. In view of recent rulings by some of the Circuit Judges it is thought that the strange-sounding contention will hold.

Deputy Sheriff Chillingworth of Honolulu is the hero of an encounter with a desperate prisoner, in which the officer showed splendid nerve and succeeded in taking a man who had him covered at close quarters with a loaded revolver. The prisoner was Charles Heffernan, who was accused of passing a forged check. While driving with Chillingworth to the jail he succeeded in getting permission to leave the hack on a plea of sickness. Then he stood by the vehicle and pointed a revolver at the officer, demanding that the latter surrender the hack to him. The officer kept his seat and told the man to go ahead and shoot. After a parley Heffernan declared his intention to fire, saying he didn't like to do so. He held out his left hand to shake hands and say good-by to the man he was going to kill, still presenting the pistol. Chillingworth took the proffered hand, and jerked the man into the hack, seized the hand that held the revolver and overpowered his man. Heffernan had been arrested before and had managed to escape. He is now committed for trial on a charge of assault with a deadly weapon, in addition to the old charge. The deputy sheriff is being highly complimented for his remarkable nerve.

INTERESTS THE COAST.

List of Patents Issued and Pensions Granted at Washington.

WASHINGTON, Nov. 6.—Patents issued: George F. Andrews, Riverside, mortising machine; John S. Briggs, Los Angeles, air injecting device for lessening skin friction of vessels; Henry E. Brunner, Haywards, acetylene gas generator; Arthur Coffin, San Francisco, seal lock; Mark H. Hamm, Petaluma, and H. R. Taylor, Oakland, ore stamp mill; James T. Ludlow, San Francisco, ammonia compressor; Jesse C. and Jesse C. Jr. Martin, San Francisco, metallic flexible joint; Edward A. Rix, San Francisco, hydraulic brush; James M. Thorp, Alameda, apparatus for swelling staves of wooden tanks. Pensions granted: California—Original—Charles W. Olmstead (dead), Sacramento, $12; Edward Almazo, Bullio, San Francisco, $6. Additional—William H. Bell, San Jose, $8. Increase—Abram Shear, San Francisco, $8. Widows—Jessie A. Hewitt, Los Angeles, $8; Andrew Olmstead, Sacramento, $8.

Oregon—Original—Joel B. Bates, Troutdale, $6. Increase—David Beers, Hermann, $8. Widow—Lavernea Ulln, Union, $8.

Washington—Increase—James M. P. Allen, Kirkland, $8. Reissue and increase—William A. Lammey, South Tacoma, $10.

Population of Wyoming.

WASHINGTON, Nov. 6.—The population of the State of Wyoming, as officially announced to-day, is 92,531, against 60,705 in 1890. These figures show an increase in population since 1890 of 31,826, or 52.4 per cent. The population in 1880 was 20,786, showing an increase of 39,916, or 192 per cent, from 1880 to 1890.

Tobacco Factory Burned.

ST. LOUIS, Nov. 6.—Wiesert Bros.' tobacco factory was burned to the ground to-day, causing a loss of $80,000; fully insured.

BIG STEAMER PROBABLY LOST OFF THIS COAST

Wreckage Sighted by Captain of the Lillia Thurston.

Painted Upper Works, a Lifeboat Partly Submerged and an Air Tank Seen Floating Off Cape Flattery.

SEATTLE, Nov. 6.—Captain Johnson of the steamer Lillia Thurston, which returned to this port this afternoon, says he saw a lot of wreckage about 200 miles off Cape Flattery, and thinks a large steamer has foundered.

The sea was so high at the time that he was unable to make a close examination of the wreckage, but it consisted of lumber painted on both sides like the upper works of a steamer, also portions of rigging. He also saw a lifeboat about twenty-five feet long half submerged, but was not close enough to see any name. He also saw an air tank from a lifeboat floating several miles farther along. He passed through the wreckage on November 2, and gives it as his opinion that the disaster occurred probably in the twenty-four hours previous.

CATTLEMAN MURDERED FOR TRIVIAL CAUSE

Robert L. Hall Shot and Killed in Southeastern New Mexico by Fayette Seeley.

CARLSBAD, N. M., Nov. 6.—Robert L. Hall, one of the best known cattlemen in Southeastern New Mexico, was shot and killed at his ranch, sixty miles south of this place. His alleged murderer is Fayette Seeley, known as "Red" Seeley, who also shot and severely wounded in the arm Holl Herring.

The trouble arose over some trivial matter. Seeley, who was the only one of the party armed, commenced shooting, it is said, with little or no provocation. Seeley escaped toward Old Mexico.

RACED THOUSANDS OF MILES, FINISHED HOURS APART

British Ship Baron Eldon Outsails the Baron Innerdale After a Contest Started in Java.

PHILADELPHIA, Nov. 6.—The British steamships Baron Eldon and Baron Innerdale have arrived at the Delaware breakwater from Java, finishing a race of 15,000 miles within four hours of each other. The vessels left Java September 1, their course being via the Suez canal, the Mediterranean Sea and North Atlantic Ocean. After leaving Port Said they did not sight each other until the Delaware breakwater was reached. The Baron Eldon arrived first, four hours in the lead.

Murdered by a Robber.

JOPLIN, Mo., Nov. 6.—James Watson, aged 50 years, who has lived in this section since 1882, was found on the St. Louis and San Francisco Railroad on the outskirts at midnight with a bullet wound through his head. He had been shot from behind, apparently by a robber.

MACARTHUR SENDS CASUALTY LIST

Lieutenant William D. Pasco Is Among the Slain.

WASHINGTON, Nov. 6.—General MacArthur cables from Manila to-day that Second Lieutenant William D. Pasco and Privates Lem Meadow and Addison Enix, Company K, Nineteenth Infantry, were killed Monday, October 29, near Cuartero.

Lieutenant Pasco was a son of ex-Senator Samuel Pasco of Florida, who is a member of the Nicaragua Canal Commission.

General MacArthur also reports the death to-day of Stanley M. Stuart, assistant surgeon Eleventh Volunteer Cavalry, at Santa Cruz, Luzon, of a fractured skull, he having been thrown from his horse. Surgeon Stuart was appointed from Washington.

General MacArthur also cables the following casualties:

Dysentery—October 31, Company E, Thirty-eighth Infantry, William Boling; October 29, Company M, Forty-first Infantry, John B. Bowers; October 7, Company A, Sixth Infantry, Charles M. Carroll; October 30, Company A, Twenty-sixth Infantry, Thomas Kane; Company B, Twenty-first Infantry, Michael W. Sullivan.

Tuberculosis—Company G, Thirty-fourth Infantry, Richard M. Burns; September 14, Company G, Forty-third Infantry, Corporal Patrick Maloney; October 28, Troop L, Third Cavalry, Joseph P. Murphy.

Malarial fever—October 11, Company M, Sixth Infantry, Henry Allison; October 20, Company K, Fourth Infantry, Charles Hobson; October 30, Company M, Forty-fifth Infantry, William Jacobs; October 31, Company H, Thirty-ninth Infantry, Andrew J. Taylor; October 19, Troop H, Eleventh Cavalry, F. S. Thomas.

All other causes—October 22, Company I, Forty-ninth Infantry, Walter Warren; October 30, Company L, Twenty-fifth Infantry, Patrick B. O'Connell; October 28, Troop F, Fourth Cavalry, Robert J. Lilley; October 18, Company G, Forty-ninth Infantry, Willie Johnson; October 25, Company C, Seventeenth Infantry, Sergeant Samuel M. Horn; October 23, Company A, Nineteenth Infantry, Edward Farrell; October 20, Company M, Sixth Infantry, Sergeant Frank Braunwork; September 8, Troop C, Ninth Cavalry, William Clayton; October 30, Company E, Twenty-eighth Infantry, William H. Moseback; Company H, Sixteenth Infantry, John L. Chambers; October 15, Company B, Sixth Infantry, Fred D. —; November 1, Company H, Thirtieth Infantry, Musician John Maloney.

Pioneers Elect Officers.

The annual meeting of the Pioneer Rowing Club was held at the clubhouse on Long Wharf on Sunday. The principal business was the nomination and election of officers to serve during the year 1901. The following named were elected: James E. Power, president; Fred O'Neill, vice president; Robert J. Espy, secretary; J. T. Sullivan, treasurer; Edward Murphy, captain; John O'Leary, vice captain; George Collopy, James Brennan and Frank Rafter, trustees; Thomas Sands, Louis Derre and Richard Collopy, delegates to the Pacific Association of the Amateur Athletic Union; George Lawson, sergeant-at-arms.

The question of new quarters for the club was discussed, and Thomas Sands was appointed chairman of a committee of the whole to look out for and report on a suitable site.

Cars Collide.

There was a collision between two cars yesterday morning, which, had not both been empty, might have caused serious disaster to life and limb. About 8 o'clock a car of the Powell street line going down Mason street hill ran with full force into one of the cars of the Jackson street line at Washington and Mason streets, knocking the latter completely off the track and tearing away part of the rear of the conveyance. It was claimed that the foggy weather was the cause of the mishap. Those who witnessed the accident say that had there been passengers aboard either car there would have been more serious damage than the breaking of a car.

THE CALL'S HOME STUDY CIRCLE

THE LIABILITY OF CORPORATIONS.

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LAW LESSONS: EMPLOYERS AND EMPLOYES.

BY ALBERT S. BOLLES, LL. D.

IV.

Corporations have the same duty as individuals in selecting proper employes for the service required of them, safe places wherein to work and proper appliances. The fact that this duty must be done by an agent—a president, manager, superintendent or other official—in no wise changes the duty or liability of the corporation itself. The rule has been well stated by Mr. Justice Gray of the Supreme Court of Massachusetts. "A corporation must, and a master who has an extensive business often does, perform this duty through officers or superintendents; but the duty is his and not merely theirs, and for negligence of his duty in this respect he is responsible. To hold otherwise would be to exempt a master who selected all his machinery and servants through agents or superintendents from all liability whatever to their fellow servants, although he had been grossly negligent in the selection or keeping of proper persons and means for conducting his business. In the case of a corporation the president and directors, at least, cannot be deemed mere servants, but must be considered as representing the corporation itself."

Competency of Employes Is a Question of Fact.

Whether an employe is competent or not is a question of fact. Only in cases, therefore, when an injury has happened to a servant through the act of another can the question be answered whether the injured servant or the one who injured him was competent. Thus in one of the cases a servant on a street railway, who was injured by the negligence of the motorman, tried to show that the company had not exercised ordinary care in selecting him. Evidence was taken concerning his fitness and the court declared that the company had not been remiss in its duty.

A Corporation Cannot Shift Its Responsibility.

Though this duty of selecting fit employes may be delegated or done by another for the employer, he cannot shift or escape his responsibility. If he could, the rule would soon cease to be of any worth. The agent, therefore, who thus acts for a corporation in selecting employes is not regarded as a fellow servant of the employes. In one sense all are agents, acting for a common master; in another sense they do not thus act. The hiring agent, so to speak, is not related to those who hired him as one of their own number, though in truth he is hired and paid, it may be, in the same manner as the others. Thus in Ford vs. Railroad, the Supreme Court of Massachusetts has remarked that "the agents who are charged with the duty of supplying safe machinery are not, in a true sense of the rule, to be regarded as fellow servants of those who are engaged in operating it. They are charged with a master's duty to his servant. They are employed in distinct and separate departments of service, and there is no difficulty in distinguishing them, even when the same person renders service by turns in each, as the convenience of the employer may require."

Consequently when a servant is employed by a corporation who proves to be unfit for the use made of him and injures another the corporation cannot escape liability by saying that the act of hiring was not its own, but that of another. A corporation must, indeed, act through another, but in the hiring of servants, furnishing them with appliances, safe places for work, etc., the corporation is regarded in law as acting directly, and therefore is responsible for the results. Such is the rule stated at an early day and has been often applied.

Its Responsibility for Repairs.

The rule had been in existence only a few years before the courts began to pare it down. While still clinging to the first part and holding corporations for the selection of fit employes, etc., they declared that they could relieve themselves from responsibility for keeping appliances in repair by appointing competent persons to do this for them. Massachusetts led off in this departure. In the case of Johnson vs. Boston Towboat Company the court said: "One employed in the care, supervision and keeping in ordinary repair of the means and appliances used in a business is engaged in a common service. Thus a person charged with the duty of keeping the track of a railway in repair; the chief engineer on a steam vessel, whose duty it was to see that the machinery was kept in order; an 'underlooker' in a mine, whose duty it was to examine the rock of the mine and prop it when dangerous; the general foreman and manager of extensive builders and contractors." Again, in the case of King vs. Boston and Worcester Railroad, Justice Fletcher said: "If a corporation itself should be held responsible to its servants that the road, when first used, was safe and sufficient, yet keeping the road in proper repair afterward would seem to be the work of servants and laborers as much as any other part of the business of the corporation." In harmony with this rule the persons in charge of a train upon a railroad were held to be fellow servants with a laborer employed in repairing the roadbed.

Although this point is of great practical importance the reasoning of the court is not always clear; and expressions are added from time to time which leave the reader in doubt concerning what the rule is. Thus in the towboat case just mentioned the court remarked in its opinion that the company was under an obligation to its servants to use reasonable diligence to maintain in a suitable condition the appliances furnished for their use: "If the company exercised that diligence and provided suitable means for keeping its apparatus in proper condition and employed proper servants to see that the means were properly used, it had fulfilled its duty." The duty to provide suitable appliances, however, is a personal one, and liability for any neglect in performing it, as we have seen, cannot be evaded; and one might think from reading the above language that the same duty applied to the maintaining, repairing and renewal of appliances, when, in truth, in that State it does not.

The Courts Differ on This Question.

At this point, then, there is a parting of ways among the courts, some holding, like that of Massachusetts, that the duty to repair may be fulfilled by appointing competent servants and proper appliances, material, etc., for this purpose; other courts that this duty cannot be turned over to another and liability therefor be evaded any more than for furnishing suitable appliances, etc., in the first instance.

Opinion of the Supreme Court of Maine.

The opposite view has been expressed by the Supreme Court of Maine. Says Mr. Justice Danforth: "The same care requisite in hiring a servant in the first instance must still be exercised in continuing him in the service; otherwise the employer will become responsible for his want of care and skill. The employer will be equally liable for the acts of an incompetent or careless servant whom he continues in his employment after a knowledge of such incompetency or carelessness or when in the exercise of due care he should have known it, as if he had been wanting the same care in hiring." The court then adds that the same thing may be said of machinery. A servant has no more control of the repairs than of the machine, no more responsibility for one than for the other. He uses it and in so doing assumes the risk whatever it may be. This is implied in his contract of hiring. On the other hand his employer provides the means of carrying on the business and as a matter of course assumes the responsibility that his work shall be done with due care, and as the responsibility continues so long as the means are used, so must the same care be exercised in keeping the required means in the same safe condition as at first.

Such in effect is the reasoning of the Supreme Court of Maine, and very likely it will accord more perfectly with the opinion of our readers than the other view. As a corporation or other master must furnish competent servants, appliances, etc., in the beginning and is still responsible through whatever agent he may act, it would seem that the duty ought to be equally great to keep them in repair and to be holden for the conduct of those who act for him in this regard.

Opinion of the Supreme Court of Michigan.

In a more recent case in Michigan the Supreme Court remarked: "The rule may now be considered as settled in this State, as well as in most of the States, not only that a master is bound to use reasonable care in providing safe tools and appliances for the use of workmen in his employ, but that this is a duty which cannot be delegated to another, so as to relieve him from personal responsibility. * * * The rule adopted by the Federal courts and in most of the States and which seems to us most in consonance with reason and humanity, is that those employed by the master to provide or to keep in repair the place or to supply the machinery and tools for labor, are engaged in a different employment from those who are to use the place or appliances, when provided, and they are not therefore as to each other fellow servants." As they are not, of course the employer is liable in all cases of negligence in making repairs.

It will be seen, therefore, that the parting of the ways by the courts, the setting up of two rules, is made to turn on the question, whether those who are engaged in repairs are agents of the employer or co-servants or fellow-servants with the others. If they are agents then the master is liable; if they are fellow-servants then the rules applying to fellow service apply to him and he escapes. It may be added that in the larger number of cases and States they are held to be agents and not fellow-servants and the master is held liable for what they do.

The case of Davis vs. Central Vermont Railroad Company is one of more than ordinary interest. A fireman was killed by the washing out of a culvert. It was in an improper condition and this resulted from the negligence of the bridge builder and roadmaster. The company contended that the bridge builder, roadmaster and section boss were fellow servants of the fireman and that their negligence could not be imputed to the road. In answering this defense the court asserted that if the master personally attempted to do that part of the work which he could not delegate to another and was negligent in doing it and injured its employes the company was liable therefor. "The question is naturally suggested why should he not also be liable for the negligence of the agent or servant whom he has appointed to discharge the same duty in his stead although he has exercised due care to select a person competent and skillful. Is such an agent or servant while performing the duty cast by the relation upon the master a fellow workman with the master's servant in the employment in such a sense that the latter cannot and ought not to recover of the master for the injuries sustained through the negligence of the former? If so the master who performs his part of the duty as all corporations must, by agents and servants, secures an immunity from liability which the master who personally enters the service to manage and direct the performance of the work does not enjoy." The court held that the company could not thus shield itself behind others. The bridge builder and roadmaster were the agents of the company and not fellow servants with the fireman, and consequently their conduct was that of the company and it was responsible therefor. The opinion is one of the best judicial utterances on this subject that we have seen and has been often cited in later cases.

University of Pennsylvania.

HOME STUDY CIRCLE QUERIES.

47. What noted American said, "Where liberty is not, there is my country"?
48. Who said "An honest man is the noblest work of God"?
49. What Emperor said "Oh, that all Rome had but one head, that I might strike it off at a blow"?
50. What Emperor said "Circumstances! I make circumstances"?
51. What admiral's battle signal was "England expects every man to do his duty"?
52. What English general said to his soldiers, "Put your trust in God, but keep your powder dry"?
53. Who said "Put not your trust in money, but your money in trust"?
54. What author said:

As yet a child, nor yet a fool to fame,
I lisp'd in numbers, for the numbers came?

55. Who said "We will fight it out on this line if it takes all summer"?
56. Who said "Beware of a man of one book"?
57. What President of the United States said, "All that I am or ever hope to be, I owe to my mother"?
58. What great preacher said "The world is my parish"?

Answers.

32. The Queen of Greece. 33. Voltaire. 34. Cato. 35. Rebecca Gratz. 36. Venice. 37. Charles V. 38. Alexander the Great. 39. Augustus Caesar. 40. Beatrice Cenci. 41. Louis XV. 42. Dauphin, Louis XVIII. 43. Murat. 44. Charlotte Corday. 45. Beethoven. 46. Florence Nightingale.

Native Daughters.

La Estrella Parlor received an