

WIN BATTLE OF WITNESS IN PORTAGE

Corporations Get Better of Counties in Courts.

Street Railroad Companies Escape Municipal Taxation.

State Board of Equalization Must Make Assessments on All Inter-County Traction Lines.

The street railway corporations of California won a great victory in the Supreme Court yesterday. It was decided on a test case that the traction companies, when operating in two or more counties, must be assessed by the State Board of Equalization and not by the local authorities.

Theoretically the railroads will now have to pay as much in taxes as heretofore, but the notorious tendency with which the State Board of Equalization has been afflicted will be a great help to the street railway corporations in the future.

Joseph H. Scott, as the collector of San Francisco, attempted to secure the property of the San Francisco and San Mateo Street Railway Company. The corporation refused to settle and instituted a suit to compel Scott to desist. The case was in the Superior Court for a long time, but was finally decided in favor of the municipal official. An appeal was then taken to the Supreme Court in order that the legal rights of the companies might be finally determined.

The one question involved was whether under the state constitution the franchise, rails, machinery and rolling stock of street railways operated in two or more counties should be assessed by the State Board of Equalization or by the local officials. On all other points of the dispute the contestants waived argument and submitted the case on the matter of jurisdiction to the court.

CITIES CONSTITUTION.

The attorneys for the corporation cited section 10, article XIII of the constitution as authority for their stand in the matter. This provision declares that all railroads operating in more than one county shall be assessed by the State Board of Equalization. It is contended that the counties shall receive taxes in proportion to the number of miles of track in their respective territories. The purpose of the provision was to make the work of assessment simpler and more accurate in the case of the big steam railroads. It all happened before the long-distance electric railways were constructed or even contemplated.

The attorneys for the San Francisco and San Mateo line contended that the law was nevertheless applicable to their case. The officials of the municipalities differed. The Supreme Court had to decide then what "railroads" means in the constitutional provision cited.

To do this the record of the debates in the Legislature over the passage of the measure were called for and considered. It was shown that the kind of railroads at which the legislation was aimed was not specified and hence the term is deemed general in its application by the Supreme Court. It is held that the motive power makes no difference in any case. Even if the electric railways were unknown, that does not alter the effect of the law. Accordingly the judgment of the trial court is reversed and a new hearing is ordered.

The opinion was written by Justice Henshaw, with whom Justices McFarland, Shaw, Loring, Van Dyke and Angellotti directly concurred. The case has been watched with absorbing interest by the stockholders of electric railways and the officials of many of the State's counties. Lines of railroads are constantly being extended from county to county and consequently the importance of this decision may easily be discerned.

COURT DISAGREES.

Chief Justice Beatty differs materially from the views of his associates and writes a strong dissenting opinion that he may not see secondarily with the corporations in this dispute. He intimates forcibly that the decision of a majority of the court is ridiculous and irresponsible. He says that Los Angeles is a city of 100,000 people, while Orange County, where there would be thirty miles of street railway worth \$10,000,000. The State Board of Equalization would assess the whole for \$11,000,000, and according to the law, Orange County would receive as much in taxes as Los Angeles.

The Chief Justice says further that he has no doubt whatever that corporations will in the future make haste to avail themselves of this decision in order that

CARMEN RELAX FROM THEIR DUTIES, SPENDING MERRY TIME AT CHUTES

Many Amusing Contests Are Held, Including a Conductors' Exhibition of Collecting Fifty Fares in the Minimum of Time. Mayor Schmitz Acts as Judge of the Interesting Baby Show



THE local union of carmen, officially the Amalgamated Association of Street Railway Employees of America No. 205, held its second annual picnic yesterday at the Chutes. It was a favorable day and crowds thronged the grounds during both afternoon and evening.

There were many special features, among them a conductor's competition. In an impromptu car fifty supposed passengers were seated. The competing conductors had to collect a fare from each person and hand him a transfer. The first prize—a uniform and \$40 presented by Joseph S. Tolin—was won by J. McNary, G. B. Winslow, E. Cooper and G. Fletcher, Robinson acting as conductor on the McAllister-street line. He has been employed by the United Railroads only six months, but had had similar experience at Portland, Or.

In a tug of war contest between teams from carmen of the United Railroads and men from the California, Union and Geary street lines, the former won. The United Railroads team was composed of P. Schiavo, A. W. Degrade, W. McKinley, G. B. Winslow, E. Cooper and G. Fletcher, Robinson acting as captain. The men of the other roads were W. J. Jackson, G. J. Gamble, A. Arata, N. P. Barron, G. J. Cummings and P. McNally. J. Cummings was the captain of this team.

There was also an interesting baby contest, of which Mayor Schmitz acted as judge. This created much amusement for the crowd.

They may escape municipal taxation. He thinks that it may prove enough of an incentive for street railways to build over county lines in order to avail themselves of the provisions of the law, even though they may have no use for the extensions. San Mateo and San Francisco will now share alike, mile for mile, in the taxes on the street railway which runs in both counties. Various localities in other parts of the State, particularly in the south, will be likewise affected.

Jan Lee in Trouble Again.

Jan Lee got out of jail a few days ago, having served six months' imprisonment for selling unstamped cigars. He was taken into custody yesterday by Special Internal Revenue Agent Bert M. Thomas, who charged that Jan had offered to sell unstamped cigars to Special Policeman J. E. Holmes. The cigars were found in Jan's possession. Being unable to show a certificate of residence, as required of Chinese laborers, proceedings will be taken to deport him.

INCIDENTS OF THE SECOND ANNUAL OUTING OF THE AMALGAMATED ASSOCIATION OF STREET RAILWAY EMPLOYEES OF AMERICA, NO. 205, WHICH WAS HELD YESTERDAY AT THE CHUTES.

The committees who helped to make the outing a success follow: Honor committee—Floor manager, George Howard; Doorkeepers—J. Sandran and T. Croxman; Quizzes—C. P. O'Hanlon, champion ring thrower of Australia; James Morris, champion ring thrower of the Pacific Coast; Managers collecting donations—C. P. O'Hanlon, R. E. Peterson and W. J. Chapman; Tug-of-war—W. S. Cronk, J. E. Towers and James Rowe; Music—W. S. Cronk, E. J. Towers and James Rowe; Printing—W. S. Cronk, E. J. Towers and James Rowe.

ASKS A NICKEL, GETS A BULLET

Trouble Among Peddlers Leads to Shooting Affray. As a result of a dispute between peddlers as to the loan of a nickel Patrick Shea and Michael Shea, brothers and both former convicts, are in the City Prison charged with an assault to commit murder, and Samuel Burke is at the Central Emergency Hospital with a bullet through his back and left lung.

THE FOURTH IN THE MOUNTAINS.

To accommodate those desirous of spending the Fourth at Santa Cruz, or in the Santa Cruz Mountains, the Southern Pacific 435 p. m. narrow-gauge train, leaving San Francisco ferry landing July 3, will be run through to Santa Cruz.

CHICAGO, July 1.—The Grand Jury to-day voted true bills against Alderman J. Brennan, Herbert E. Kent, Charles A. McCarie, Hiram B. Sherman, Harry O'Donovan and J. Kelly, in connection with the Eighteenth ward election frauds. They are charged with conspiracy to induce persons unqualified to vote and conspiracy to hinder voters.

WONG JOE JUN VERY NOT LAND

Attorney General Knox Renders an Opinion of Interest.

Immigration Laws Apply to Chinese as Well as Others.

An important opinion was received from Attorney General Knox yesterday by United States Immigration Commissioner Hart H. North in the matter of the denial of the landing of Wong Joe Jun, who arrived on the steamship Siberia on May 15. Wong claimed to be the son of a merchant domiciled in the United States and on that ground claimed the right to enter. The Immigration Bureau, finding that he was afflicted with a contagious disease, took the matter out of the hands of the Chinese Bureau and denied him admission under the act providing for the exclusion of all aliens having such diseases. Alfred Worley, attorney for Wong, appealed to the Secretary of the Treasury and contended that the general immigration laws did not apply to Chinese, and that their admission or rejection was to be determined solely upon the provisions of the exclusion act.

The following is a quotation from the opinion: One of the classes of persons intended to be excluded from the United States by this act is composed of "aliens afflicted with a loathsome or with a dangerous contagious disease." There is nothing in the laws specifically relating to the immigration of Chinese persons providing for the exclusion of a merchant or member of any other class of persons, although he may be suffering from a loathsome or dangerous contagious disease; and unless the act now under consideration is applicable to him, such person may enter the United States with impunity and the public must suffer the consequences. I can see no valid reason for concluding that the Congress intended by the proviso in question to imperil the public safety by allowing a diseased person, because of his Chinese descent, to enter, when the very law in which this proviso appears has, as one of its special purposes, the further and more effective protection of the public from the evil consequences to be expected as a result of the presence of one so afflicted and to forbid the conclusion that the coming of any persons of that nation into the United States was regarded as more to be desired than that of other aliens, or that special favors were intended to be shown them.

To admit a Chinaman known to be suffering from a contagious disease, when another alien not so diseased would be excluded because afflicted with the same disease, would, to that extent, defeat the legislative intent made clear by the terms of the act, and apparently to induce a misinterpretation of the act. Nothing is better settled than that statutes should receive a sensible construction, such as will effectuate the legislative intention and, if possible, so as to avoid an unjust and absurd conclusion. (Lat. Or. Ben vs. United States, 144 U. S.)

I am unable to conclude that the proviso in section 39 was intended to entirely prohibit the application of said act to persons of Chinese descent. The object of this proviso, I think, was to prevent misinterpretation of the repealing clause in the same section, and to forestall any attempt to secure the admission of Chinese theretofore prohibited from entering the United States under a claim that this act alone was intended to contain all provisions regulating the immigration of all aliens and expressly repealed all laws in conflict therewith. The Chinese exclusion laws among them. The language of this proviso is radically different from that which is not applicable to Chinese persons. The terms used in the act of March 3, 1903, and this change in language is indicative of a like change of purpose.

I therefore advise you that Wong Joe Jun, the applicant for admission, is suffering from a dangerous contagious disease in the way specified in the act, belongs to one of the classes of persons who would be excluded from the United States under the terms and provisions of the act of March 3, 1903, regulating immigration.

Where to Go for the Fourth of July Holidays.

The cheapest and best way to spend the Fourth of July holidays is to take an outing to some place along the CALIFORNIA NORTHWESTERN RAILWAY. Special rates will govern, so that every one can spend the Fourth away from the noise and confusion of the city. Contains all provisions regulating the advertisement of this company, giving the special rates.

New Board Meets.

The new Board of Bank Commissioners had its first meeting yesterday. After each had finished congratulating the others Guy Barham was chosen temporary president and Charles Drummond temporary secretary. The banks of the State were notified to render a report on their respective status at the end of June.

Framing Materials.

The new styles and colors in picture frames, matboards and binding paper which who visit our store. Sanborn, Vail & Co., 741 Market street.

Rescues Eight Children.

Secretary White of the Society for the Prevention of Cruelty to Children claims that he has just broken up a baby farm which he alleges Mary Foley was conducting at 1113 Golden Gate avenue. He found nine children in the house and restored three to their parents. Five were sent to various orphan asylums and one yet remains to be taken care of.

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