

DECIDE PAVING CASE MONDAY; ARGUMENT IN

Andrew Miller Suggests That Politics Is at Bottom of Opposition.

DEFENDANTS DECLARE ACTION IS IMMATURE

Judge Ellsworth of Jamestown Is Brought Into Case at Eleventh Hour.

Judge Nussle will announce his decision upon the application of certain property owners for a temporary injunction to restrain the city commission from letting the paving contracts in District No. 2 Monday at 10 a. m. He disposed of the contention that the statute is unconstitutional, under which the city commissioners proceeded by stating that it would not be considered in this litigation. The chief issue to be determined is the suggested contract to be entered into with the city engineer relative to the increasing amount of work to be done under the paving contract.

Batter's Affidavit.
In this connection, Commissioner Batter, chairman of the city commission paving committee, has made an affidavit in which he alleges: "that the city commission has never authorized the city engineer to increase or decrease the amount of the work which shall be performed under the paving contract; that no formal action at any time has been taken giving him the right to do so; that the provisions referred to is a paraphrase in a suggested form of contract."

Miller Suggests Motive.
All day was spent in the arguments yesterday. At times they waxed slightly acrimonious. Andrew Miller of counsel for the city suggested to the court that political considerations had entered into the opposition to paving from certain parties who were shielding behind the litigants at bar. Their only interest, he continued, was to delay the paving project, thus throwing it into the city election next spring. "Much of the opposition," he contended, "came from those who had been unable to 'horn in.'"

Want to Fish.
"If this project is delayed they will go fishing for the next two or three months," he said, "in order to catch something."

He rebuked R. N. Stevens, attorney for applicants, for certain personalities indulged in during the morning session.

Morning Session.
Andrew Miller, former attorney general, made the chief argument in defense of the commission's action. Associated with him are C. L. Young and F. E. McCurdy, city attorneys. His argument was in reply to the contentions of the paving protesters represented by R. N. Stevens, F. H. Register and Judge Ellsworth of Jamestown.

Before arguments were presented, Mr. Miller filed with the court a demurrer to the complaint together with an affidavit from P. C. Batter, chairman of the paving committee, of the city commission, stating that the city has entered into no contract with any paving concern, selected no kind of pavement or in any way obligated itself.

This laid the foundation for the attack upon the complainants' position by Mr. Miller and his associates that the action was premature and the complaint drawn irrelevant.

Legislative Function.
"The necessity or propriety for this improvement," said Mr. Miller, "is not a question for the court. It is purely a legislative matter vested solely with the city commission. The city commission has absolute power to determine the propriety of the improvement and it is not reviewable by this court."

"There can be but two objections raised, first, whether the city commission proceeded without authority, or second, whether fraudulently."

Conformed to Law.
Mr. Miller showed that the authority was vested in the commission to proceed with paving when, in the opinion of the members, such an improvement was deemed necessary. He took up the various steps in the procedure showing that in each instance the actions of the commission were in conformance with the laws of the state.

"No one knows," he said, "what the cost of this improvement will be. The complainants have arbitrarily taken two or three kinds of pavements and figured out their confessions. We believe that they have shown considerable nerve to come before the court with such a flimsy contention. No one knows but that a cheaper paving will be used than any of those upon which the complainants base their contentions that the improvement will be confiscatory."

When Tax Is Levied.
"The time for these complainants to come into court is when the tax is levied. Then if the assessment is greater than the benefits, it is the duty of

MAY WIN GREECE TO SIDE OF ALLIES



SIR FRANCIS EDMUND ELLIOT

If Greece enters the war on the side of the allies, credit will be given Sir Elliot, British ambassador to Greece, for rare diplomatic ability.

ELECTION IN MAINE WILL BE INDICATION

Vigorous Campaign to Capture First State Voting Completed.

1400 NATIONAL GUARD SEND IN BALLOTS

Portland, Me., Sept. 9.—The state campaign closed tonight, after a total of 292 set speeches had been crowded into the final 24 hours. One hundred meetings were addressed by men whose national prominence assured a packed house. Supplementing this unprecedented volume of oratory, were brass bands, red fire, organized cheering and a revival of old-time torch light parading.

Portland, Me., Sept. 9.—Political conditions have created a widespread interest in the general election in Maine, the earliest to be held in the country and always regarded by politicians as a possible forecast of the national vote for president. The voters will go to the polls on Monday next to ballot for two United States senators, four members of congress, governor, state auditor and members of the legislature. In addition, they will decide by referendum whether to endorse the bills passed by the legislature to limit the labor of women and children to 54 hours a week and to provide for state aid in the building of bridges.

Key to Situation.
The destination of the Progressive party vote, released by the decision of the party leaders not to maintain a separate ticket, is the key to the situation. Although the Republicans are confident that practically all of the Progressives will return to their former affiliation, the Democrats dispute the contention and have made vigorous efforts to attract the Progressives. In the last presidential year the Progressives cast 48,495 votes for Roosevelt, while Taft received 26,545 and Wilson carried the state with 51,113. In the state campaign for 1914 the Democrats again were victorious, electing Oakley C. Curtis as governor, with a vote of 62,076, to 55,887 for the Republican candidate and 18,224 for the Progressive nominee. The Republicans in each year elected three members of congress and the Democrats one.

In recognition of the unusual situation state issues were almost entirely subordinated in the campaign this year. National leaders of the Democratic and Republican parties bombarded the state with their heaviest artillery, mobilized to an extent unequalled in this state since the memorable year when James G. Blaine of Maine was a candidate for president. President Wilson did not come, but his campaign addresses were made by several members of his cabinet, Democratic senators and members of the house and others prominent in the party. The Republicans sent many of their strongest speakers, and arranged as a climax addresses by Theodore Roosevelt last week and by their national standard-bearer, Charles E. Hughes, in the final week of the contest. On both sides the record of the Wilson administration formed the central topic of nearly every speech. The Democrats dwelt chiefly on the fact that the country had been kept out of war and on the prevailing prosperity. The Republicans directed their heaviest attacks against the Democratic tariff policy and the president's conduct of Mexican and European problems.

Many Local Contests.
In opposition to Governor Curtis, who seeks re-election, the Republicans nominated Carl E. Milliken of Island Falls, former president of the state senate and known as a "Roosevelt Republican." For senator the Democrats renominated Senator Chas. F. Johnson for the full term and named C. M. Sills, dean of Bowdoin college.

(Continued on Page Two)

SUMMON EXPERT MILITARY MEN TO CONFERENCE

Members of Joint Commission in Difficulty and Ask for Help.

LONG SESSIONS ARE EXPECTED NEXT WEEK

Subject of Possible Loans to the Carranza Government Has Not Been Discussed.

New London, Conn., Sept. 9.—American members of the joint commission, considering the relations between the United States and Mexico, are finding some difficulty in devising satisfactory plans to insure peace along the international boundary. The full commission was not in session tonight, but Secretary Lane and Judge Gray of the American commission, after an all day struggle with the various plans suggested for policing the border, decided to summon expert military judgment to their assistance. For that purpose they asked that Major General Kaspar J. Ellis, assistant chief of staff of the army, be sent to New London to confer with them. He is expected to arrive Monday.

It was stated authoritatively today that the subject of possible loans to the Carranza government had not been mentioned by either commission and there was nothing to indicate such a project would come up. For the present, at least, the border situation is the only one being considered with the idea of bringing immediate concrete results.

It is expected long sessions will be held every day next week, and that a border plan will have been virtually completed in that time, ready for submission to the Washington and Mexico City governments for ratification.

WILL PUT UP GREAT FIGHT FOR BIG PLANT

Prater and Others Go to Fargo to Boost for Mandan Before Equity Committee

Mandan will be represented today at the meeting of the Equity committee at Fargo, when it will go over again the site proposed for the million-dollar packing plant, which will be built either at Fargo or the Morton county city.

W. J. Prater, county treasurer and chairman of the Republican Central committee, strong in Non-partisan and Equity circles, left last night on No. 2 to attend the meeting as the representative of the Bismarck Commercial club. With him went C. A. Swanson of Driscoll, one of the directors of the state branch of the American Society of Equity. They will do their best to secure the plant for Mandan.

Ray McKelg, secretary of the Republican State Central committee, and President Newton of the Mandan Commercial club left on the same train.

According to a report received from Fargo last night, practically the entire state has lined up with Mandan in the fight, save the territory immediately surrounding the Cass county city.

This attitude is due, it is said, not alone to the fact that Fargo has already made the Equity institutions, but that Mandan really has come forward with better offers and is better situated, being the natural point at which much of the cattle raised in the west would be sent for slaughter.

RETURNS FROM TRIP TO MINOT.
F. L. Conklin returned yesterday from a business trip to Minot. He reports business conditions good. No one seemed to be discouraged in the least by the light crop in some sections.

The opinion seems to prevail, he declares, that while buyers will show more conservatism, business will be good and substantial.

SELLS WHEAT FOR \$1.75 PER BUSHEL

Minneapolis, Sept. 9.—A local grain firm today sold to another local concern one car of No. 1 hard Marquis wheat for \$1.75 a bushel. This price is said to be the largest ever paid for wheat at the Minneapolis chamber of commerce.

The wheat, which came from Chester, Mont., probably will be used for seed. It brought 12c a bushel premium over the ruling quotations for September wheat.

INVESTIGATORS FIND FUNDS ARE SHORT \$62,000

Legality of Transaction in Village of Hibbing, Minn., Are Questioned.

ACTION IN MATTER RESTS WITH COUNTY

Officials Are Criticized Adversely for Lack of Proper Accountings.

St. Paul, Minn., Sept. 9.—Hibbing, Minn., famed as the "richest village in the world," has suffered shortages and overcharges of nearly \$62,000 during the past five years, according to a report filed with Governor J. A. A. Burnquist here, late today, by State Public Examiner Rue E. Fritz. The legality of other transactions involving \$48,250 additional village funds is questioned.

The report shows how the village receipts went up from \$333,950 in 1910 to more than \$900,000 in 1914, and the expenditures from \$303,000 in 1910, to \$1,233,700 in 1914.

Another comparison discloses that in March, 1915, 1,296 persons were on the village payroll and 1,710 voters cast ballots for mayoralty candidates in the village election.

Mayor Victor L. Power is mentioned but once in the report, and then as one of a number of officials criticized for accepting claims for collection against village employees. This is in connection with a statement that improper methods are permitted in endorsing payroll vouchers and orders, and leave nothing to indicate that the right parties receive the orders, according to the examiner.

Village officials are criticized adversely for various practices and for lack of proper accountings in some departments, but few are named in the report.

The largest single age item is that of \$4,838.43, repaid against Dennis Haley, who left the office of village treasurer, April 4, 1915, after two years' service.

MEXICANS WILL PURSUE VILLA AND HIS BANDITS

Chihuahua City, Mex., Sept. 9.—Mexican troops are preparing to take the field against Villa and his bandits, reported to be in the Santa Clara canyon. This announcement was made by General Jacinto Trevino today, following a conference with Generals Matias Ramos, Domingo Arieta and Eliesdondo.

General Trevino withheld details of the plans formulated, but said 15 pieces of artillery out of 75 and 80 millimeters calibre have been sent from Monterrey for the campaign.

Julio Avina, a Villa general, recently captured in Durango, was brought here today from Torreón for trial by courtmartial.

WILSON LAYING PLANS FOR "PORCH CAMPAIGN"

Long Branch, N. J., Sept. 9.—President Wilson began his first vacation of the year today by laying plans for the "porch campaign" he will conduct from Shadow Lawn. With Mrs. Wilson, he will arrive here at one o'clock this afternoon from Atlantic City, after a 100-mile ride along the ocean front. The president later visited his daughter, Mrs. William G. McAdoo, who is sick at Spring Lake.

Tonight he attended a theater performance here.

Appeals to Women to Aid Hughes

Atlantic City, N. J., Sept. 8.—A direct appeal to the woman suffragists of the country to support the Republican candidate for president in return for the service he has rendered the cause of equal rights was made by Herbert Parsons, Republican national committeeman from New York, at the night session of the National Woman's Suffrage convention.

When Mr. Parsons had concluded, Dr. Anna B. Shaw, who presided, rose and said:

"The one non-partisan thing I can say is that whichever party brings up success, that party will not be unkindful."

Mr. Parsons was one of several speakers, including Raymond Robins of Chicago, chairman of the last Progressive National convention, who strongly urged votes for women.

Expected Big Car Strike in New York Will Spread; One Strikebreaker Is Wounded

New York, Sept. 9.—The strike of unionized employees in the subway, on the elevated lines and on surface cars of the New York Railways company, which began three days ago, spread tonight to the surface lines of the Second Avenue Railway company and the Third Avenue company. These companies operate virtually all of the surface cars in Manhattan and the Bronx and the strike, if successful, it was said, will completely tie up surface car traffic in the two boroughs.

The first serious indication of violence occurred tonight, when Michael Gianni, 27 years old, a strikebreaker, employed by the Interborough Rapid Transit company, was shot and probably mortally wounded by an unidentified assailant. The police reported minor attempts at violence during the day and several arrests were made.

The police asserted at 7:30 p. m. that virtually all cars of the New York Railways company had been sent to the barns. Service in the subway and in the elevated railway lines of the Interborough Rapid Transit company, however, was about normal.

Samuel Gompers, president of the American Federation of Labor, is expected here tomorrow from Boston, to take charge of the strike.

DURANT OUT ON BONDS; SPIES DOES NOT GET BETTER

Bryan and Betz Furnish \$5,000 Bail; Farmer Who Shot Hunter Released.

AIMED AT TIRES SAYS ACCUSED MAN

F. J. Durant of Sibley Butte township, who shot J. P. Spies of 213 First street, while the latter was hunting, was released yesterday on \$5,000 bail.

W. E. Bryan of Bismarck and J. S. Eetz, a farmer, living near McKenzie, went on his bonds. Much of Mr. Durant's crop is still uncared for. He was in the county jail 48 hours before bail could be furnished.

Condition Serious.
Mr. Spies' condition is still serious. None of the doctors in attendance will give any statement as to the probable outcome of the case.

Mr. Durant, in giving his side of the shooting yesterday, said:

Was Pet Chicken.
"The chicken which was shot was a tame one that had been raised with our turkeys. The children fed it with bread crumbs. When the automobile went by the new up, passing over the road."

"The men were right in our doorway. My wife called to them and told them not to shoot. They paid no attention to her. Then I got within calling distance and I told them not to shoot. They paid no attention to me."

Tells Them to Leave It.
"When they went to get the chicken I told them to leave it. But they took it and gave me the laugh. I went to the house, got the gun and ordered them to stop, so that I could get the number."

"They speeded right on and I shot, aiming at the tires. I had no intention of hitting either of the men."

DR. R. H. TREACY IN CHARGE OF WORK

The following, from the Breder's Gazette, is of interest because the work was done under direction of the Bismarck office, in charge of Dr. R. H. Treacy, who is with the animal husbandry department of the federal government.

"A vigilant watch has been kept in this country against disease of horses. It was introduced into this country from Europe, but has fortunately been kept from spreading extensively. It is hardest to control in the range states, and there the precautions are most necessary. Testing is done by veterinarians in the complement-fixation method and the extent of their work is shown by the figures for this year up to July 1. In Montana the deputy state veterinarians tested 507 head and government men 7,790 head, a total of 8,297 in the state. In North Dakota the state men tested 481 and government men 2,372, a total of 2,853. In South Dakota the state veterinarians tested 1,834 and the government men 11,485, a total of 13,319. This makes a total of 24,399 horses in the three states subjected to the test first six months of this year."

WINNIPEG WINS THIRD GAME FROM F.M.'S

Fargo, N. D., Sept. 9.—The Winnipeg team defeated the Fargo-Moorhead nine again today, 4 to 1, making it three straight wins. The teams play here tomorrow. Should the Canadians win again, they will clinch the Northern league championship.

HERE FROM JAMESTOWN

Judge S. C. Ellsworth and son, Ronald, of Jamestown, are spending several days in the Capital City, transacting business and calling on friends.

HERE FROM ALASKA

Capt. Ferguson of Alaska is spending some time in the Capital City. Capt. Ferguson is spending some time with R. N. Stevens of Third street.

BRITISH ENGAGE GERMAN FORCES ALONG SOMME

Pierce Fighting Ensnues on the French Front; Kaiser's Losses Are Heavy.

FRENCH FORCE ATTACKS IN THE VERDUN SECTOR

Roumanians Deal Heavy Blows to the Armies of the Central Powers.

London, Sept. 9.—British troops have been engaged in the heaviest kind of fighting along a three and one-half mile front, on the Somme, extending from High wood to Leuze wood, and have captured Ghinchy, which lies almost directly north of Bomes, and all the ground between Ghinchy and Leuze. On a front of more than a quarter of a mile, the British gained 300 yards, east of High wood and northeast of Pozieres, and captured 600 yards of German trenches. In these engagements the German casualties, according to the British official statement, were extremely heavy.

Likewise, the French, forcing the attack in the Verdun sector, captured a whole section of German trenches east of Fleury, the assault being characterized by the French war office as a brilliant action.

Roumanians Fighting Strong.
Fighting on three fronts, the Roumanians have dealt hard blows at the armies of the Central Powers. In Dobruja, or southeastern Roumania, Roumanian troops, aided by Russians, have driven the Bulgarians from the fortified town of Bazardjik, or Dobrie, which was captured by Bulgarians on September 4. The Bulgarians also were forced to evacuate another town in Dobruja.

In northern Transylvania the Roumanians continuing their offensive in the region of Calk Szereda, have occupied Olah Toplitza, an important town of other towns. Bucharest records the repulse of an Austro-Hungarian attack south of Mehadia, north of Orsova, on the Danube.

Fall of Halicz Imminent.
The fall of Halicz, southeast of Lemberg in Galicia, appears imminent, according to unofficial dispatches from Petrograd. The Austrians are reported to be blowing up the forts in Halicz and the Russians are said to have occupied others. It is further unofficially reported that the Russians on the left bank of the Dniester are bombarding the retreating Austrians.

ENGINEER ARRESTED ON LAMOUR ROBBERY CHARGE

Jamestown, N. D., Sept. 9.—John Milley, for 20 years an engineer on the Northern Pacific and for several years on the Fargo local, was arrested by Officer Hartman of LaMoure Thursday, following the robbery of the Finch Lumber Yards company store room. Milley waived examination before the police magistrate of that city, and was housed over the LaMoure term of district court on \$500 bail bonds.

"Stop, or I'll shoot you full of lead!" was the ejaculation from Officer Hartman as some one passed out of the office of the lumber yard late that night. The man only hastened his flight. A shot was fired, then the stranger gaspingly replied that he thought it was time to stop when a fellow started to shooting.

Hartman claims that Milley was the first man he saw leaving the building and is responsible for the robbery. Milley declares he is not guilty of the theft and says he's a victim of circumstances. Several cans of paint were found along the railroad track this morning following the robbery.

CLAIMS WILSON WILL CARRY MINNESOTA

Chicago, Sept. 8.—Daniel W. Lawler, Democratic candidate for United States senator in Minnesota, brought encouraging reports today of the political situation in his state to Senator Thomas J. Walsh, manager of the Western Democratic headquarters.

"President Wilson is very strong in Minnesota and it is my opinion, he will carry the state this fall," said Mr. Lawler. "Since 1896, we have had ten state elections in Minnesota, and at five of these the Democrats have won. Congressman Van Dyke, Democrat, of St. Paul, will be re-elected by at least 10,000. Two Democratic members of congress will be elected from the Minneapolis district, and one from the First, and one from the Sixth district. We have a good fighting chance to elect Democrats in two other congressional districts. I also believe we will elect T. P. Dwyer, of Minneapolis, our candidate for governor."

MINOT NEWSPAPER MAN VISITS CAPITAL CITY

W. M. Smart, one of the publishers of the Minot Optic-Reporter, visited Bismarck yesterday.

Mr. Smart is a former Twin City newspaper man. He is one of the leading journalists of the state and a strong man in Ward county.

HERE FROM JAMESTOWN

Judge S. C. Ellsworth and son, Ronald, of Jamestown, are spending several days in the Capital City, transacting business and calling on friends.

HERE FROM ALASKA

Capt. Ferguson of Alaska is spending some time in the Capital City. Capt. Ferguson is spending some time with R. N. Stevens of Third street.

(Continued on Page Three)

(Continued on Page Two)