

MISCELLANEOUS.

A Wisconsin live stock man recently testified before the Interstate Commerce Commission in Chicago that he shipped cattle to Chicago by the way of St. Paul, three hundred miles further than by a direct line because it was cheaper that way.

This is but one of the many paradoxes of freight rates which Ray Stannard Baker will explain in his series of papers entitled "The Railroads on Trial," the first number of which, "The Railroad Rate," will be begun in the November McClure's.

On sale at all news stands next Wednesday. Price 10 cents.

S. S. McCLURE COMPANY 44-60 East 23d Street NEW YORK

VERDICT FOR \$1,000,000 HAS BEEN REVERSED.

Appellate Division Upsets Decision of Lower Court in Menges Case.

40-PAGE OPINION HANDED DOWN

Suit Was Brought by Morris C. Menges Against Louis Fitzgerald, President of Mercantile Trust Co.

The Appellate Division of the Supreme Court this afternoon handed down a decision that almost blazes the hopes of Morris C. Menges and his attorneys, as it upsets a verdict in his favor of \$1,000,000, the largest ever given in a law suit in this country, and, perhaps, in the United States.

The Appellate Division reverses the verdict of the jury and sends the case back for a new trial. An opinion of 40 pages long was handed down by Justice Miller in support of the majority opinion, and Justice Rich dissents in a thirty-page opinion in which Justice Hirschberg concurred.

The verdict was secured by Mr. Menges in June, 1904, before Justice Spencer and a jury, after a trial that lasted many days, and in which many eminent financiers appeared as witnesses.

The claim of Mr. Menges, in brief, was that he had performed certain services for General Fitzgerald in connection with the purchase by a syndicate of the Western Maryland Railroad from the Government. Mr. Menges claimed that, acting under the pressure of General Fitzgerald, he was made to pay Mr. Menges the sum of \$1,000,000.

An appeal from the jury's verdict was taken by the defendant and the case was argued in May last. Since that time it has been awaiting a decision. The lawyers for Mr. Menges are two young Brooklynites, William H. Stryker and William F. Haggerty. The total amount of the judgment against the plaintiff amounted to \$1,212,000.

Lawyer Haggerty, when seen by an Eagle reporter this afternoon, said that his client had the right to appeal to the Court of Appeals, but that he would probably go to trial again. Mr. Haggerty had not yet had time to read the opinion of Justice Miller.

Justice Miller, in his decision, says in part: "I am unable to agree with the conclusion that the verdict is amply supported by the evidence, and that the record presents no errors prejudicial to the defendant."

The verdict of the jury does tend to establish a confidential nature with respect to the payment of a million dollars, conditioned off his becoming in any manner interested in the purchase of the road or the securities, but a confidential nature with such an agreement from the testimony. According to the testimony the defendant furnished the papers, and to look into the thing with the plaintiff, to have nothing further to do with it.

In their efforts to have Justice Burr's name on the Municipal Ownership ticket in Brooklyn and Queens, former Assistant Corporation Counsel Luke D. Stapleton and former Assistant District Attorney Kapper, who acted as the general committee, intend to say "stiffness" on the fact that in many instances the same names are attached to the Brooklyn and Queens petitions.

It is very likely that the protest of the Democratic General Committee of Kings County against the placing of Justice Burr's name on the municipal ownership ticket, will be heard by the Board of Elections tomorrow. It is the intention of the General Committee to take the matter to the Municipal court in the state if necessary to secure an adjudication of the questions involved.

The Republican leaders in Brooklyn, many of whose names are attached to the Municipal Ownership ticket in Brooklyn and Queens, were greatly alarmed after they read the disclosures contained in the general committee, with the attempt to have Justice Burr nominated on the ticket on "fake" petitions.

The Democratic General Committee does not intend, it was announced today, to contest with the mere protest to the Board of Elections, but to bring the matter to the Municipal court in the state if necessary to secure an adjudication of the questions involved.

Indictments Threatened. The Democratic managers in Brooklyn, it was learned today, have evidence that many of the names which appear on the Brooklyn and Queens municipal ownership petitions were written in the same handwriting. They are going to pursue their investigation to ascertain whether these names were signed by the petitioner or by some other person who has been permitted to sign the petition.

Mr. Kapper said today that the argument for the Democratic General Committee will be on the section of the election law which forbids any one from taking part in the nomination of two men for the same office.

MC KANE SAYS HE'S BANKRUPT. Brother of Late Politician in Petition Schedules Assets at \$150; Liabilities, \$85,000.

Announcement was made today that James McKane, a well known business man in the Gravesend section, and a brother of the late John V. McKane, had filed a petition in bankruptcy in the United States District Court in this borough. The petition asserts that the debts amount to about \$85,000, according to the petition, amount to \$150.

BELLIGERENT SYRIANS DISPERSED BY POLICE

Gathered in and Around Butler Street Court This Morning.

RIOT AVERTED BY CAPTAIN.

Bishop Hawaweeny Was the Center of the Excitement and Was Rushed Out of Harm's Way.

A riot was only averted by the forethought of Captain Zimmerman of the Butler street station, when a hundred Syrians, who had been to the Butler street court as spectators and witnesses in the assault case in which the Syrian Bishop Raphael Hawaweeny figured as one of the alleged assailants, were coming out of the court room about noon today.

It was confidently expected by the Syrians of both warring factions, that the case would certainly come to a hearing to-day. Yesterday, when the Bishop and his followers failed to appear, Magistrate Dooley forfeited the bonds of the six men charged with attempted assault. This expectation drew a large crowd to the court room.

The names of John Jacob Astor and Cornelius Vanderbilt were dragged to-day into the case of William B. Franklin and George E. Scott, composing the firm of Franklin, Scott & Co., who are suing Joseph H. Hooley, the president of the International Power Company; Joseph Leiter of Chicago and Cyrus Field Judson to recover \$68,500, which the plaintiffs allege they lost in operating in international power stock for a pool consisting of the three defendants, on April 30, 1902, which has been on trial before Justice Astor and a jury in the Supreme Court, Manhattan, for the last fifteen days.

Joseph H. Hooley's cross-examination by Lawyer Edward Louis Mooney, counsel for the defendants, began this morning, and he told of how the stock which Judson had charge of on a trust account from him and Leiter vanished.

At what price? asked Mr. Mooney. "At the price the stock had reached at that time—\$140 a share." "When was that?" "When I can say, it was about April 16, 1902. If that was not the date, it was whatever day the stock touched \$140 a share."

Headley was then asked by Lawyer Mooney if Judson had authority to sell the 6,900 shares of stock which Hooley and Leiter had declared belonged to the three defendants of 2,300 each, to Astor and Vanderbilt.

"No," said Mr. Hooley. "My understanding was that arrangements had been made that I could sell all that stock to Mr. Astor and Mr. Vanderbilt."

Mr. Mooney inquired of Mr. Hooley if he had ever delivered to the three defendants that stock. "For a time, the witness said, Leiter did not respond to his request to take up his share of the stock, but when he got ready to do so, he was arrested by the police and they found out that Judson had stolen the stock."

PLENTY OF WATER TO BE HAD. New Owners of Kouwenhoven Basin Offer to Furnish 7,500,000 Gallons a Day to Brooklyn.

Following closely the widespread discussion of the water supply for the Borough of Brooklyn comes an offer, made public through the columns of the Eagle to-day, to supply the city with 7,500,000 gallons of water daily.

The offer is made by the McLaughlin Real Estate Company, who have just purchased the old Kouwenhoven farm, a tract of many acres, immediately north of Paerdegat basin, and embracing a territory far more than a hundred years for the purity of its well water.

The water is said to be driven on the property still exist after a period of nearly two centuries. In one spot is an excavation that was used to get water for General Howe's British troops during the Revolutionary War.

The purity of the water rivals that of the Catskill comes as an offer, made public through the columns of the Eagle to-day, to supply the city with 7,500,000 gallons of water daily.

LOCHINVAR WINS. Race Track, Jamaica, L. I., October 20—Chart, first race: Lochinvar, 10 (W. Buchanan), 20 to 1 and 19 to 1.

BOOK BUYERS

ESTABLISHED NEARLY HALF A CENTURY

A SMART tailor-made Light Overcoat, silk lined, of fine Cheviot or unfinished Worsted, will cost averagely \$65. Its equivalent at Brokaw's will cost averagely \$30. The cloth and the silk will be positively as good, probably better; the pattern an exclusive one; the fit perfect; the workmanship, without a flaw. Draw your own inference.

Our Light Overcoat range is \$16 to \$40. Subway Station at Our Door.

ASTOR-PLACE AND FOURTH AVENUE NEW YORK.

SAYS JUDSON STOLE STOCK.

John Jacob Astor and Cornelius Vanderbilt figure in International Power Muddle.

The names of John Jacob Astor and Cornelius Vanderbilt were dragged to-day into the case of William B. Franklin and George E. Scott, composing the firm of Franklin, Scott & Co., who are suing Joseph H. Hooley, the president of the International Power Company; Joseph Leiter of Chicago and Cyrus Field Judson to recover \$68,500, which the plaintiffs allege they lost in operating in international power stock for a pool consisting of the three defendants, on April 30, 1902, which has been on trial before Justice Astor and a jury in the Supreme Court, Manhattan, for the last fifteen days.

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BOY DYING IN HOSPITAL. One of Party of L. I. City Schoolboys Probably Fatally Hurt by Fall.

Joseph Sullivan, 13 years old, a Long Island City schoolboy, is believed to be dying in St. John's Hospital there, as the result of injuries received while playing a game with campaign buttons. It was stated at the hospital this morning that Sullivan's condition was serious.

Italian Accused of Murder, Set Free, Says He Will Pray for Judge Aspinall.

Antonio Gambino, at whose trial for the murder of Nicola Savona on March 2, 1905, the jury disagreed, was released by Judge Aspinall in Part II of the County Court this morning, on motion of the District Attorney to have the indictment dismissed.

Are You Looking for a Servant? We can furnish you with a servant that will not leave you a week without notice—will work night and day without complaining, will do your shopping, order supplies, call the doctor, police or firemen in fact attend to all your wants. Can furnish references from thousands of delighted employers and will work for less than ten cents a day. For further particulars apply to The New York and New Jersey Telephone Company 31 William Street Telephone 5000 Main

VICTIM OF GOVERNMENT HABIT

ROBBED HOTEL ST. REGIS.

Hilda Austin Took Silverware and Cut Glass White Employed as Nurse.

WENT INTO HYSTERICS IN COURT

Detective Found Stolen Goods Packed in Barrels in a Storage Warehouse.

Declaring that she had been a victim of the "souvenir habit" and had intended to return to the United States, Hilda Austin was arraigned in the Yorkville police court, Manhattan, this morning on a charge of stealing silver and glassware to the value of \$31 from the Hotel St. Regis. So impressed was the hotel detective, who caught the girl's arrest, with the truth of her story, that at his suggestion Proprietor Hahn sent word to court that he would be glad to let the prisoner be discharged. As the offense was grand larceny, however, Magistrate Walsh had no alternative but to hold Miss Austin in \$1,000 bail for General Sessions, examination having been waived.

There is some reason, according to a statement made in court, for believing that the prisoner was irresponsible when she stole the articles. Mark Altier, her lawyer, said that she was with lighter than last year and that, the disease had left her in such a weakened condition that she had been forced to resort to the use of drugs to continue her work. When she entered court to-day her nerves were all unstrung and before she was called to the bar she went into hysterics. Then, too, the articles she stole were of small value compared with what she made just as easily by her work as a nurse, and that she was driven to such a desperate resort by the ordinary motives of a thief.

Miss Austin is a remarkably handsome young woman, about 33 years old. She was born and brought up in Ireland, where her family was wealthy and highly respected. Fifteen years ago her father, who was a merchant, failed in business, and it became necessary for the daughter to support herself. She chose the occupation of a waitress, and after graduating at a training school in London she came to this city and went to live with a Mrs. Hoagland, at 231 West One Hundred and Twenty-sixth street, Manhattan. Mrs. Hoagland had known her when she was a little girl in Ireland.

Miss Austin registered at the Mount Sinai Hotel as a nurse, and soon came to have a considerable practice among guests of the large hotel. It was in this way that she met Mrs. George Blumenthal, wife of the well-known banker, when she was taken ill at the St. Regis, early in September. Soon after she was installed at the hotel, the management began to receive articles of silverware and glass from the floor on which Mrs. Blumenthal had her rooms. An investigation was made, but without success. It was then that Mrs. Blumenthal began to suspect the demure little nurse, who was so faithful in her attendance on the patient, and who had a frank, cheerful word for all who came to her.

Two weeks ago to-day Mrs. Blumenthal had so far recovered as to require the services of a nurse no longer. When Hilda Austin left the hotel she stopped at a market and they found out that Judson had stolen the stock.

PLATHIC SCENE IN COURT. Italian Accused of Murder, Set Free, Says He Will Pray for Judge Aspinall.

Antonio Gambino, at whose trial for the murder of Nicola Savona on March 2, 1905, the jury disagreed, was released by Judge Aspinall in Part II of the County Court this morning, on motion of the District Attorney to have the indictment dismissed.

There was a pathetic scene when the judge told the Italian that he was free to go. He was dazed by the good news. He threw his arms in the air and burst into crying. In broken English he told the judge that he would pray for him. Aspinall made the man promise to go back to Italy.

WEED SAYS HE'S A DEMOCRAT. It was learned to-day that William S. Weed, candidate for Alderman on the Democratic ticket from the Eighteenth Assembly District, is a member of the Union League Club, which is a distinctly Republican organization. Several members of the club have called attention to the fact that Weed has asked the question whether the well known "reformer" was such in politics as well as in character.

When asked to-day if he was a bona fide Democrat, Mr. Weed said that he was regularly enrolled, and had been a Democrat all his life. He was in some doubt about his attitude during the free trade controversy, but in local politics said that he had never wavered.

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Next Tuesday morning at 10 o'clock the committee from the Parkway Driving Club, Pleasure Drivers Association and Bay Ridge Driving Club will meet Park Commissioner Michael J. Kennedy at the Litchfield mansion in Prospect Park, to discuss the proposed macadamizing of the roadway on Ocean Parkway, and to request the use of the said roadway for light harness horses.

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ITALIAN THEATER HELPS

KEEP KEENE'S DISORDER

No Reason Why Its Proprietor Should Be Punished for Running Sunday Shows.

Clearly a Violation of the Law, but Tightly Will Consider Pulverizer's Case.

Assistant Corporation Counsel Wilson was half-hearted in his prosecution of Carlo Pulverizer, in the Adams street court this morning, for Signor Pulverizer, he says to believe, was promoted to manager of the Italian club, when he gave Sunday performances in his little theater on Union street. He did not see, and he said so to Magistrate Tighe, why the police singled out Pulverizer and arrested him for running a Sunday show when the Orpheum, Hydo & Behman's and other places of amusement which were paying more than that of the Italian and not giving a more moral show were permitted to go un molested. The indications were that the prosecution against Pulverizer came from local police headquarters and that Detective Vachris and Meall went to Pulverizer's place at 101 Union street to close the show. And while they were with a most innocuous show the band was playing in the Orpheum and Hydo & Behman's and other theaters in the town and there were no policemen about. That was on the 3d of September.

The detectives told in the Adams street court this morning, just what they said in Pulverizer's case. The price of admission, they explained, varied from 5, 10 and 15 cents, just a half rate as compared with the "ten, twenty and thirty" houses. They described the show in detail, and told how there was a little, well behaved marionette army to show the daring doings of Charlemagne, mainly abroad, and a Charlemagne in wood with a Helike way, Charlemagne and his daughter took 90 minutes of the performance, and then a graceful little Spanish woman, robed in the costume of Carmen, and who spoke Italian like a Neapolitan, sang three dainty little songs. That was followed by a one act comedy, "The Lovers of Loretto," which was a very witty and amusing comedy. The performance was given on Sunday, and that was clearly a violation of the law, and a distinct menace to the peace and order of the city, and a violation of the law. There was nothing immoral about the performance, the detectives declared, although they went without saying when Charlemagne and such a trim little Castilian was concerned, and the officers intimated that there was something about the show that was not to be seen in the audience, were happy in their temporary innocence.

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Magistrate Tighe, who was not present at the hearing, was questioned by the magistrate and said that the place was perfectly orderly and was really an agency for good order in the Italian settlement, where people were turbulent and if they stayed on they would be a nuisance to the city. "The show," said the captain, "is a violation of the law, but it is not different in general effect from that at the Orpheum and Hydo & Behman's, and it is a violation of the law. There was no fear of their filling up with cheap wine and plotting to shoot and stab, as is their nature."

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Keep the baby's stomach strong healthy and colic proof by feeding it

SWEET CLOVER BRAND CONDENSED MILK

Absolutely pure and sterilized. For the sick chamber and household use generally. It is guaranteed to keep sweet in any temperature or climate. The trademarks are valuable; save them and write for list of free premiums.

MOHAWK CONDENSED MILK CO., 100 Westchester, N. Y. At all Grocers.

CASHIER CLARK CONFESSED.

Befores Suicide, Wrote Paper Supposed to Involve Pennsylvania Politicians and Business Men.

Pittsburg, October 20—There were very few depositors around the Enterprise National Bank to-day. A meeting of the board of directors was held to consider the statement of National Bank Examiner John D. Cunningham that it would be some time before anything definite could be learned, necessitated a postponement until some time next week.

As the investigation proceeds it shows that Cashier Clark, who committed suicide, and the interested in many corporations and that the associates were prominent men. Startling revelations are being made as to the manner in which the dead cashier managed the money of the bank. Some of the directors, on the strength of what has been discovered, intimate that Clark was a defaulter to a large amount.

It is believed that President Frederick Guilford and the board of directors of the bank's directorate will make some effort to get control of the Santa Fe Central Railway and the Pennsylvania Development Company, which concerns are so much involved in the bank's affairs. By doing this as individuals the directors may hope to save themselves, but they are completely unable to do so. It is further believed that the depositors will lose nothing.

Personal services over the body of the late cashier were held this afternoon at the family residence, Bellevue. Only the immediate relatives were in attendance. Among the private papers of T. Lee Clark, the dead cashier of the Enterprise National Bank, is a complete report of the mortgage pool, which brought about his ruin and the closing of the bank. This confession, it is said, narrates minutely all the steps in the proceedings attending the mortgage pool, and together with the loans were made, together with the names of the politicians concerned.

The paper is said to have been found in the vault of the bank and is now in the hands of Bank Examiner Cunningham, temporary receiver, but so far as known the directors of the bank are not in a position to do anything to communicate with Mr. Cunningham regarding the alleged confession, but without success. It is expected to-day or at the latest on the Federal Building.

Body of William Present Found in Prospect Park. Long Meadow in Prospect Park.

William Present, an old time policy dealer, driven out of the business and facing indictment by the Grand Jury, shot himself some time during the night on the Long Meadow in Prospect Park. His body was found there this morning, by a policeman of the park precinct. The pistol which was used in the shooting was lying near his hand and a wound in the abdomen had evidently caused instant death.

The police report of the matter to the station and the body was taken there, while a message was sent for an ambulance in order to have the testimony of a medical expert secured. It was found that Present was a man of the name of the man had papers in his pocket which indicated that he was William Present, of 83 South street. The remains were taken to the morgue pending their being claimed by friends. Present had a number of acquaintances and the funeral will be provided for and a decent interment will be given.

Three weeks ago Present was held for the Grand Jury for selling policy and that preceded on the Long Meadow. For years he had been known from punishment, and though arrested again and again he managed to escape imprisonment. But about a year ago he got his first conviction for selling policy. He was twenty-nine days and after that he was more or less in the hands of the Grand Jury. He had been in the hands of the Grand Jury for years and was known to most people in the neighborhood of the new local police headquarters which is not a stone's throw from the shop.

HEARST, 825 OUT OF 832. Straw Vote Reported From Hollis Shops of L. I. R. R.

One of the most extraordinary test votes ever taken in this city was that made yesterday at the repair shops and factory of the Long Island Railroad Company at Hollis. With a view of determining the favorability of the vote among the employees for mayor, some of the men rigged up a ballot box and word was sent around to all men who had registered and were entitled to vote. It was expected to result in a preference in the majority race. The vote was by secret ballot. There are about nine hundred men in the shops. It is said that three of them were 825 out of 832 throughout the city. The counting of the ballots resulted as follows: Hearst, 825; McClellan, 5; Evans, 2.

YOUR LIVER may be torpid from excessive coffee drinking. Drink Postum and note the change. "There's a Reason."