

ASKS COURT TO SEPARATE ISSUE IN FARE MATTER

Early Decision on Validity of Annexation Wanted.

EQUITY QUESTION INVOLVED

Attorney for Rochester Railways Stockholder Says Trial of City's Equity Right to Enforce Low Fare to Lake May Take Years

Decision will be announced this morning by Supreme Court Justice Adolph T. Rabeck on the motion of Joseph Taylor, representing Henry Willis, a stockholder of the Rochester Electric Railway Company, for a division of the cases in the action brought by Willis against the city of Rochester to test the constitutionality of a single fare to the lake. The matter came up yesterday morning before Justice Rabeck, who heard argument by Corporation Counsel C. W. ...

Equity Trial Long One

It is contended, as the first issue, that the act annexing Charlotte to the city is unconstitutional in that by a subsequent act it contains a provision for a single fare. Mr. Taylor explained to Justice Rabeck that the trial of the question of constitutionality could be concluded in a few hours. He said that an immediate appeal then could be taken to the Appellate Division and the Court of Appeals and in a few months the question finally decided. Should the highest court determine that the act was unconstitutional the five-cent fare could not be enforced.

Were the issue questioning the right of the city to enforce the single fare as an equitable proposition tried at the same time as the question of constitutionality, Mr. Taylor said, the matter might drag in the courts for several years. He said that the trial of this question would involve the taking of much testimony and the preparation of a voluminous record on which to base an appeal.

Mr. Cunningham argued for an early trial of the issue. He said that should the constitutionality of the annexation act be established by the higher courts the single fare to the lake should be put in immediate operation.

"Damaged Goods" Again

The last echo of the suit for damages brought by the Genesee Recreation Company against Mayor Edgerton, R. Andrew Hamilton, commissioner of public safety, and Police Chief Quinlan for the closing of the Genesee Theater on Monday when the Constitutional Convention was in session, was heard yesterday. The plaintiff sued to recover \$20,000 damages. The theater was closed on the eve of the showing of "Damaged Goods." The Appellate Division sustained the action of the city officials in closing the theater.

Justice Thompson, in part two of Equity Term, granted an interlocutory decree of divorce to Katherine A. Austin from her husband, Seymour F. Austin, of Syracuse. No defense was made by the defendant. P. Cameron Shutt represented the plaintiff.

A decree of separation was given Daisy P. Rice, of No. 283, Seward street, from Walter J. Rice by Justice Thompson. The couple have been separated five years and in that time Rice has paid his wife \$750.00 in the way of a salary of \$15 a week. The attorneys stipulated that the alimony be \$75.00 a week. James Brewer represented the wife and Joseph Kirby the husband. No defense was put in by Rice.

Is Divorced from Wife

Louis Schaeffer was granted a divorce yesterday from his wife, Florence Schaeffer. No appearance was put in by the defendant. Albert Stearns represented the husband. The action is on the merits of a will, brought by Emma Goble Carey against William Goble and others, was tentatively settled yesterday afternoon and strikes from the trial-term calendar. Headley & McFarlane represented the plaintiff and Louis E. Fuller, and Clarence J. Browning the defendant.

Will Appraise Land in Irondequoit Wanted by City

A condemnation commission for the appraisal of property in Irondequoit was appointed yesterday by Special County Judge Barthelemy. The commission will be made up of Elmer M. Sheffer, James C. Dyer and A. Frank Warren. Assistant Corporation Counsel Shepard will represent the city at hearings which will begin next week.

The city officials made several efforts to purchase the land which lies between Durand-Eastman Park and the new sewage-disposal plant. The owners refused to accept the city's highest bid so the Board of Estimate and Apportionment ordered the condemnation proceedings.

Ladies' Club Party To-day

Ladies' Club No. 24 will hold a card party, the last of the season, this afternoon at the Elks' Club. Several prizes will be awarded. Members and friends are cordially invited.

Wedding Gifts Received

You can make your collection of gifts for the coming weddings and graduations now, in this Commemorative of location sale, and have the articles laid aside until you want them. The reductions on O'Connell silverware, glassware, stationery and card stock, are 25 per cent. Better come in and look over the sale values. Henry O'Connell Co., Triangle building.—Adv.

Order Moorbach Early

It is suggested that orders for Moorbach be placed early. This week the families which wish to order from the brewery will close on Saturday in keeping with the spirit of Preparation day. Orders should be gotten in so that deliveries may be made on Friday.—Adv.

GALBO OUT OF PRISON, MAY BE FREE TO-DAY

Man Convicted of Murder Winner of Long Fight.

Domenico Galbo probably will be a free man today. Yesterday afternoon Louis E. Fuller, his attorney, got an order directing Sheriff Owen to send to Auburn and bring Galbo to the Monroe County Jail. Deputy Sheriff Stalmecher returned to the city with Galbo last night. Today Mr. Fuller will appear before Supreme Court Justice Rabeck and ask for the committal of the indictment against Domenico and Joseph Galbo. The Galbos were indicted for murder in the first degree after the discovery of the dismembered body of Frank Manuella, in a gutter east of Flat Bridge on the Webster highway. Domenico was convicted of murder in the second degree on circumstantial evidence. His conviction was affirmed by the Appellate Division by a vote of three to two, but the Court of Appeals on May 24th reversed the lower courts and ordered a new trial.

Mr. Barrett will not oppose the motion for dismissal of the indictment, so apparently nothing stands between Galbo and liberty. The Galbo reversal was the first in District Attorney Barrett's experience since he assumed office nearly six years ago. Joseph Galbo, who was indicted with his brother, Domenico, was never tried. The case against Joseph was weaker than that against Domenico. Joseph was released on \$25,000 bail pending the determination of his brother's appeal. He accompanied Mr. Fuller to the sheriff's office yesterday afternoon. He said he is now in the fruit business in Haverhill.

Train's Speed an Issue

The \$20,000 negligence action brought by Teresa Pile, an administratrix, against the Lehigh Valley Railroad is on trial before Supreme Court Justice Benton and a jury. Teresa Pile, husband of the plaintiff, was killed by a Lehigh Valley train at Honeoye Falls on January 30th last.

Pile was pastor of the Catholic Church at Honeoye Falls. On the day of the accident he was returning from a funeral. At the crossing in Main street the automobile, which was driven by Father Cloney, was struck by a train and carried about five hundred feet along the tracks. Father Cloney was thrown clear of the machine at the first impact and escaped injury. Pile was instantly killed.

At the coroner's inquest it appeared that the automatic bell on the locomotive failed to ring. One of the issues in the suit is the rate of speed at which the train was traveling. The railroad company practically concedes that the speed was between 10 and 15 miles an hour; the plaintiff claims that it was 25 miles an hour, and Matthew O'Brien, father of the child, claims that it was 30 miles an hour. The jury will hear testimony from the witnesses at the trial.

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COURT DISMISSES SUIT TO RECOVER STOCK PREMIUM

Decides Against Plaintiff in \$21,500 Action.

HONEOYE FALLS ACTION UP

Widow of Man Killed When Train Struck Funeral Procession Seeks \$90,000 Damages—Judgment Against Man for Wife's Care

After dragging in the courts for several years the action to recover \$21,500 for alleged fraud brought by Frederick A. Brotsch against Charles Bergeron was dismissed yesterday afternoon by Supreme Court Justice George A. Benton on motion of Edward Leary, representing the defendant. Brotsch claimed that Bergeron in 1912 induced him to purchase 325 shares of stock in the C. T. Ham Lumber Company at \$20 a share. He claimed that the stock was worth only \$300 a share and sued to recover \$21,500, which represented the \$90 overcharge on each share of stock and interest.

At the time of the purchase of the stock Bergeron was general manager and director of the C. T. Ham Company. Brotsch's purchase involved only an equity in the 325 shares, which belonged to George W. Ham and had been pledged to the Lincoln National Bank as collateral for a \$80,000 loan.

The defendant, through Mr. Leary, alleged that Brotsch did not intend anything in purchasing the stock but simply assumed Mr. Ham's liability. The C. T. Ham Company has been taken over by the Dietz Lantern Company of New York.

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MAKER OF MOVABLE HOUSES TO LECTURE

Professor VanHecke, of Belgium, to Speak To-night.

Albert G. Van Hecke, professor of civil engineering and technical department of the University of Louvain, Belgium, will lecture this evening at 8:15 o'clock at the Powers Hotel. Professor Van Hecke will be the guest of Rev. Alphonse Norbert, Rector of Our Lady of Victory Church.

Mr. Van Hecke now is attracting the attention of men and women interested in Belgian suffering who have had their homes destroyed through the war. He has of late applied his engineering skill to the construction of movable houses, schools and workshops for the refugees which after the war will be placed in Belgium. He has been charged by the Dutch Central Relief Committee, professional schools and workshops in Holland, where there are half a million Belgian refugees.

Professor Van Hecke paid weekly visits to the camps in which the refugees are living, which gave him an opportunity to see how an original and novel country life had developed among a people brought together by their misfortune and generously provided for by their Dutch neighbors. He took going pictures of the camps, in order to bring with him to this country a complete representation of the life there, and to show how the money and clothes are used.

Professor and Mrs. Van Hecke, after the sack of Louvain, left for England. Two months later he became a delegate of the Belgian government in order to take care of the professional training of his countrymen being in Holland as refugees and as prisoners.

TEACHERS' RECITAL PLEAS

Instructors at Musical Institute in Selections for Two Pianos.

Selections from old and modern composers formed the program of a joint recital last night by Alf Klingenberg, of No. 14 College avenue, and John Adams Warner, of No. 6 Prince street, held at the Institute of Musical Art, No. 47 Prince street. Mr. Warner was a pupil of Godowsky. Mr. Klingenberg is a director and teacher at the institute, and Mr. Warner is a teacher at the same.

Two pianos were used. Mozart's Sonata in D major, in three movements, opened the program. Perhaps the favorite selection was Debussy's Petite Suite, with its four descriptive movements—on bateau, cortège, menuet and ballet.

Bachmanow's second suite, opus 17, proved a delightful number. The fourth number, a romance and a rhapsody by Aronnik, also was liked. Decidedly pleasing was the last number, variations from opus 2, by Strindberg, who died recently. The program was closed by Debussy who wrote "Falling and Mollands," was a happy one, for it afforded an excellent opportunity for light and shade. All the number were for two pianos.

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Arthur W. Oster 166-168 Clinton Avenue South New R. B. J. Building.

GOING OUT OF UPRIGHTS

We are about to make a new departure in our business—one that involves a considerable temporary loss to ourselves, with a corresponding gain to others. Having decided to specialize on Player-Pianos, and in order to make room for the different models we propose to carry, we must dispose of our entire stock of Upright Pianos at once.

LAUTER logo and piano image.

A Little Down, a Little Each Month SOME SPECIMEN BARGAINS

- LAUTER \$500 Sale Price \$350
ILLUSTRA MODEL. A beautiful example of the piano maker's art, both in tone and case design.
LAUTER \$400 Sale Price \$310
ELITE MODEL. In Art finish mahogany. Has been the most popular model of all the Lauter line.
LAUTER \$375 Sale Price \$295
ARCADIA MODEL. Polished mahogany. A substantial, tastefully finished model.
LAUTER \$350 Sale Price \$275
COLONIAL MODEL. Polished mahogany. A beautiful quality model, small in size but with a wonderful tone.
LAUTER \$400 Sale Price \$250
ELITE MODEL. Polished mahogany. This piano has been used for five months.
PACKARD \$800 Sale Price \$325
PACKARD \$400 Sale Price \$310
WERNER \$300 Sale Price \$195
WERNER \$300 Sale Price \$195
WERNER \$300 Sale Price \$180
WERNER \$300 Sale Price \$165

USED PIANOS FROM \$75 to \$125

We believe this to be the first time in the history of the piano business that the public has been offered the opportunity of choosing from a dealer's entire stock of new and used upright pianos at such remarkable reductions in price.

ARTHUR W. OSTER NEW LOCATION 166-168 Clinton Avenue South

Final Exams are the dread of every student. They necessitate long hours of study and close application, and the eyes are woefully strained. Common sense advises the use of Glasses, for the proper lenses will relieve the strain. Our Eye Examination and Prescribed Glasses will increase your efficiency as a student. TWO STORES E. E. BAUSCH & SON CO. 6 MAIN ST. EAST and 15 EAST AVE. OPTICIANS—OPTOMETRISTS