

should be twice vexed for the same cause, and also of the rule that there should be an end to litigation. Under these rules the court should refuse to hear this application.

Judge Merritt—I understand two appeals have been taken in the circuit courts?

Mr. Williams—There are two.

Judge Marshall—They are only as to the receiver's certificates.

Mr. Hall—The Oregon Short Line has appealed from the whole order.

Judge Marshall—I know of no such appeal being allowed. I would like to ask who allowed the appeal to the appointment of a receiver?

Mr. Hall—I believe Judge Bellinger is the one.

Judge Marshall—I understand Judge Bellinger vacated the appeal except as to the certificates. The appointment of receiver still remains. This court has jurisdiction here, and has not followed the other judges. Such an appeal cannot affect this court exercising its judgment as it did before. It is now apparent that nothing can be done under the present order, because it is impossible for us to pay a large amount of money to remain under the same management as before. We are met with an obstacle that makes it impossible to follow the order of court. May we not ask the court to modify this order?

Senator Thurston—If your client cannot take the road you will not have the court take it?

Judge Marshall—That suggestion has been made to and thrown out by other judges. This court does not pretend, of its own motion, to take hold of and operate railways. The court selects a railway man to operate the road; it does not do it itself. This and other courts have said the Short Line should have a separate receivership. Mr. Bancroft's appointment will not allow a separate receivership.

Gen. Cowan, government attorney, said he was instructed by the attorney general to strenuously oppose the application on the part of the government. The receivers formerly appointed were satisfactory to the government as its interest ran along with the property. The Loan company had asked for an independent receiver, to which it has a right when the accrued interest on the mortgages is paid. On behalf of the government he thought the separation should not be made; that in the interest of the people of the West, no segregation should be made. Judge Banborn had said that Mr. Storey gave him to understand that the money would be raised in the usual way, and had not said anything of receiver's certificates. The proposition now was to make a new accommodation on the property. It was an unusual proceeding for a junior mortgagee to proceed as proposed here.

Mr. Hall followed, saying he had expected a new showing, but was disappointed in finding none. There had been appeals from Judges Gilbert and Banborn, the main feature being the objection to receiver's certificates. Mr. Hall urged the Loan company had shown lack of good faith.

Mr. LeGrand Young opposed the obsequy of the receiver, or the dismissal of Mr. Bancroft until the accrued interest is paid off. The proposition to do so was absurd; it was an outrage to

segregate these roads. He insisted that prior liens should be satisfied before the Loan company took the road.

Judge Marshall—Do you oppose the issue of certificates?

Mr. Young—I have nothing to say on that. I only say that our lien should be satisfied.

Judge Marshall—The court did not forbid certificates, and we presumed that it was not necessary to bring new matter on this subject.

Mr. Marshall then pointed out that the prosecution of the foreclosure suit by the other side would segregate and dismember the road. The appeal was not a supersedeas, therefore the orders are in force.

Judge Merritt—I understood it was a supersedeas bonu?

Senator Thurston—No supersedeas bond was given.

Judge Marshall—For the first time, we see the government represented here. It has no interest in this road. Its lien is on the Union Pacific. I am surprised that the attorney general of the United States sends a man here to urge the interests of the people of this intermountain region. The attorney general does not represent them. He has no interest here. As to segregation, there is no thought of it on our part. It would be against our interest to segregate it.

General Cowan said he did not wish to be misunderstood. He opposed the application on behalf of the pecuniary interests of the government. With respect to the link at the interest of the government in this region, he did not suppose the people were out of the government, but were trying to get in. The government had devoted millions in land to give the people here transportation. Yet the attorney general represented only the pecuniary interests of the government in this particular case.

Judge Marshall—I was surprised to hear the gentleman say the attorney general had instructed him to appear in the interest of the people. That officer is not interested in private litigation. The government has no interest here. It has not been allowed to intervene. Does it come here simply to give weight to the other side? We think it should be given no weight.

Judge Merritt—This case has given me great trouble and some annoyance. I made no order respecting receiver's certificates before, and shall not do so now. That matter is being considered in the appeals in other circuits. In the meantime I will let the order stand as before.

At this point the attorneys interested, the railway men, and the larger portion of the audience left the court room, where other business of minor interest to the public was taken up. There was a good deal of discussion of the order among business men when they learned of it, and disappointment was generally expressed.

NEWS NOTES.

A Tacoma, Wash., dispatch says: William Cheader, administrator of the estates of Emil Hermala and Thomas Sanderson, has brought suit to recover \$40,000 damages from the Carbon Hill Coal company. The cause is the accidental killing of these men in December, 1894. He recites that they were working in a mine which caved in,

owing to improper protection, killing them. Damages of \$20,000 are asked in each case. The Southern Pacific company owns the mine.

M. R. Shelton and party have returned from the Clear Water country, says a Post Falls, Idaho, dispatch. They report the drowning, six miles below the mouth of the North Fork, of Eugene Williams, of Post Falls. One of the boats was swamped and Williams was carried out to the confluence of the two currents and immediately sank from sight. The party visited the scene of Colgate's desertion by the Carlin party and found several articles that belonged to Colgate.

News has just been received from Corralitos, Mexico, says the Deming, N. M., *Headlight*, of reports having been brought there from Souera, that about three weeks ago, Yaqui Indians attacked a camp of eight Americans, engaged in placer mining on the Yaqui river and killed the entire company. The remains were found by natives a few days after the tragedy. One of the miners, supposed to have been the last one killed, was literally surrounded by empty shells and the whole slight only succumbed after a desperate resistance.

Mrs. John Flavan, a laundress from Aspen, and who was one of the excursionists from that city Sunday, says the Glenwood Springs, Colo., *Avalanche*, was suddenly seized with convulsions brought on by heart failure while bathing in the pool and died half an hour afterwards. She was accustomed to heart trouble and her death was the result of too much excitement. Before leaving Aspen she had to run very hard to catch the train, and this fact, together with various incidents that occurred after arriving in Glenwood and previous to her visit to the pool, are supposed to have occasioned her death. When seized with convulsions she was assisted from the pool house, and the company physician and Dr. Lewis were hastily summoned and worked with her for half an hour, but could do nothing for her.

A San Jose, Cal., dispatch says: Some boys playing in the bed of Guadalupe creek about three miles southwest of the city Sunday afternoon made a startling discovery. In a clump of bushes they found a coal oil box which contained the dissected remains of a human body. The sheriff's office was notified and a deputy in company with the coroner drove to the place and secured the ghastly find. There was every evidence that the body had been placed there recently, and that it came from the rooms of either medical student or a physician who desired a skeleton for anatomical purposes. The flesh had been stripped from the bones in large slices, the face and head being in one piece, the former badly disfigured by the knife. The flesh of the body was in four pieces. The arms with hands attached and the legs and lower part of the body are in separate bits. The work plainly showed the hand of a person skilled in dissection. As to where the body was obtained there is no clue. The man was probably about fifty years of age and very large in size. The coroner will have the find interred. The officers are at sea as to where to look for a clue that will lead to the detection of the guilty parties.