

# LONG FIGHT ENDED ON SANITARY LEVY

## Refusal of Supreme Court to Hear Appeal Closes Maryland Suit.

The final chapter in the unsuccessful fight against an act passed at the last session of the Maryland Legislature ratifying the Washington Suburban Sanitary Commission assessments was written by the Supreme Court of the United States yesterday when the Supreme Court dismissed an appeal from a decision of the Court of Appeals of Maryland in the case of Robert Noel and others vs. Washington Suburban Sanitary Commission.

This litigation has been in the Maryland courts for several years. It was initiated when F. Regis Noel and William L. Townsend, both of Kensington, brought a suit in the Circuit Court of Montgomery County challenging the validity of the front foot benefit charges levied by the commission as benefits against abutting property. Upon appeal the decision of the Circuit Court of Montgomery County was affirmed by the Court of Appeals of Maryland in April, 1927, on the ground that the enabling act creating the Washington Suburban Sanitary Commission did not authorize any change in the amounts of benefit assessments.

After this decision by the Court of Appeals of Maryland, the Maryland Legislature at its last session granted the power to the sanitary commission which the Court of Appeals of Maryland had found wanting in the original act, and also ratified and confirmed the benefit assessments which formed the subject of the original suit.

In leaving the benefit charges the commission was actuated by the fact that it had but two courses open, either to increase the front foot benefit charge, which was declared too low, or to add to the general tax rate throughout the entire Washington Suburban Sanitary district.

The members of the commission felt that the former course was more equitable, inasmuch as a general increase in the tax rate would have fallen most heavily upon the home owners and, in a large degree, would have exempted unimproved property held for speculative purposes.

Upon being given the needed authority to levy equitable front foot benefit charges proportionate to the benefits actually involved, the commission proceeded to follow this course, and the suit which has just been dismissed involved an attack upon the constitutionality of the act of the Legislature granting to the commission this necessary power.

Judge Robert B. Peter of the Circuit Court of Montgomery County declared the act unconstitutional, rendering an opinion setting aside and enjoining the collection of increases specifically authorized by the General Assembly of Maryland.

On appeal, however, to the Circuit Court of Appeals from Judge Peter's decision, Judge Peter was reversed and the constitutionality of the act granting the additional authority to the commission was sustained by the highest court of Maryland.

Thereupon, Noel, who, in addition to being attorney in the litigation, was the husband of the owner of certain property affected, filed in the Supreme Court of the United States an application for a writ of certiorari seeking to reverse the decision of the Court of Appeals of Maryland. The refusal of the Supreme Court of the United States to grant the writ is in effect an affirmation by the highest court of the land of the action of the Court of Appeals of Maryland, and disposes of any possible question which could remain after the decision of the Court of Appeals of Maryland.

Mrs. Noel's principal contentions before the Court of Appeals of Maryland were that the Legislature, in granting the authority which the Court of Appeals had stated was missing in the original act, had usurped the functions of the court because of the fact that the Court of Appeals in the original case had declared the increase invalid.

There were also many minor questions raised in the litigation in the Maryland courts relating to claimed impairment of the obligation of contracts, alleged violation of the equal protection clause of the Federal Constitution, and because it was claimed that private property was being taken without compensation and due process in law.

The appeal from the decision of the Maryland Court of Appeals was dismissed by the United States Supreme Court for want of a substantial Federal question.

T. Howard Duckett and Charles W. Cram represented the Washington Suburban Sanitary Commission throughout the litigation.

**Plead Guilty to Fraud.**  
ASHEVILLE, N. C., December 4.—Arthur Guy Russell and H. Way Russell, officials of the defunct Wonder Furniture Co. of Asheville and Thomasville, N. C., entered pleas of guilty to all charges when the trial, alleging conspiracy, use of the mails to defraud and fraudulent bankruptcy, got under way in Federal Court here yesterday afternoon.

**FIRST BILL IS PASSED.**  
District Measure Amends Code Affecting Beneficial Associations.  
The first bill to be passed at the present session of Congress and sent to the President for his signature is a District bill amending the code as affecting fraternal beneficial associations.

This measure, authored by Representative Underhill, Republican, of Massachusetts, passed the House February 27 of this year and was passed by the Senate on the closing day of the first session. However, in the Senate Senator Blaine, Republican, of Wisconsin, inserted language to include the Knights of Columbus or subordinate councils. This amendment was accepted by the House today.

**BILL WOULD REVAMP CORPORATION CODE**  
Measure Provides for Incorporated Companies Securing Right to "Treasury Stock."  
Chairman Zihlman of the House District committee, at the request of the recorder of deeds, today introduced a bill to enable stock companies that may hereafter be incorporated in the District to have what is known as "treasury stock."

Arthur G. Froe, the recorder of deeds, explains that as the code now reads no such company can be incorporated in the District of Columbia until three things have been proven to the satisfaction of the recorder of deeds.

First, that every share of capital stock has been subscribed for in good faith; second, that not less than 10 per cent of the capital has been paid for in cash; and third, that not less than that amount of cash is in the possession of the trustees of the proposed company at the time of presenting the certificate of incorporation for record.

"As will be seen," Mr. Froe says, "the present law requiring that every share of stock shall be subscribed for in good faith prevents the holding of treasury stock, the result being that in very many instances persons desiring to incorporate in the District of Columbia have been forced to incorporate elsewhere, the District of Columbia being thereby deprived of no little revenue it would otherwise have acquired.

Therefore, should the bill introduced today be enacted into law, it would mean not only a material increase in the revenues of this office, which revenues form, of course, a part of the revenues of the District of Columbia, but it would repeal what has been termed on many occasions as a really harsh restriction on those desiring to incorporate in the District of Columbia."

**U. S. EMPLOYMENT SERVICE SUGGESTED**  
Pennsylvania Democrat Proposes Bill to Solve Economic Situation.  
To solve the unemployment situation through the country, establishment of a Government employment service as a bureau of the Department of Labor to co-operate on an equal basis with the States in the same way as for road-building, vocational training and other phases of Federal aid, is proposed in a bill introduced today by Representative Casey, the only Democratic Representative from Pennsylvania.

He proposes that a director general be appointed by the President who would fix rules and regulations under which the States would operate. An appropriation of \$4,000,000 to be immediately available for the rest of the fiscal year would be authorized. The distribution of this fund to the States would be on the basis of population with a minimum contribution of \$5,000 from any one State.

Men, women and children come within the scope of the proposed employment service.

**REINDEER MARKET BETTERMENT ASKED**  
Government Aid Is Sought at Conference of Ranchers and Secretary West.  
Secretary Jardine will be requested to appoint experts of the Department of Agriculture to confer with Interior Department officials on control of an obnoxious fly that punctures reindeer skins suitable for gloves and reduces their market value, as the result of a conference yesterday in the office of Secretary West.

The conference, attended by Carl J. Lowen, president of the Alaskan Reindeer Corporation, and Leonard and Arthur Baldwin of New York, bankers of the venture to the extent of more than \$1,000,000, considered the possibilities of extended co-operation between the Government-owned Alaska Railroad and the reindeer interests in opening up a market for some 10,000 reindeer carcasses annually.

Further consideration will be given to a plan to drive groups of reindeer from a herd of 150,000 some 250 miles to near Summit or Cantwell on the Alaska Railroad, from the Nome district to facilitate marketing. At present, it is explained, reindeer in the Nome district can be killed only in November and December, and the meat must be kept for several months under refrigeration before marketing as the Northern Alaska port is iceblocked for many months. By quartering the reindeer in the broad pass section, with suitable inclosures, officials pointed out that an extensive outlet would be available on the Alaska Railroad for shipment by rail to Seward, thence by steamer to the United States.

**GEM MERCHANT ENDS LIFE**  
Shoots Self as Friends Wait to Lunch With Him.  
NEW YORK, December 4 (AP)—While two friends waited to go to lunch with him, Frank Schaller, 54, a diamond merchant, yesterday shot himself to death in a washroom on the fifteenth floor of the French Building, a Fifth avenue skyscraper. The friends were unable to account for the shooting, beyond saying that Schaller had been depressed since he was injured in a recent automobile accident.

**G. O. NEWMAN IS DEAD; CALLED OLDEST SIGMA CHI**  
George Ott Newman, 92 years old, believed the oldest member of the Sigma Chi Fraternity, died at the home of his daughter, Mrs. E. H. Shaw, in the Woodward Apartments, 2311 Connecticut avenue, yesterday after a short illness. Mr. Newman was graduated from Ohio Wesleyan College in 1857 and shortly afterward began the practice of law in Portsmouth, Ohio. He continued to practice there until he was 80 years old, when he retired and went to live with his daughter, Mrs. Kate M. Alger, at Huntington, W. Va. He resided there until a few years ago, when he came to this city. He was a native of Virginia. Besides his daughters, Mr. Newman is survived by a son, Russell C. Newman of Lundale, W. Va.; six grandchildren and four great-grandchildren. The funeral will be conducted in Portsmouth, Ohio.

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