

GAMBLING CASES UP

BRIEFS ARE FILED IN THE NICKEL-IN-THE-SLOT MACHINE CASES TODAY.

COURT HEARS THE ARGUMENTS

Contented That the Gambling Law Passed Last Winter is Ambiguous and Repugnant to the Constitution.

(Special to Inter Mountain.)

Helena, Jan. 21.—A case that is of interest to every cigar dealer and saloon-keeper in Montana is being argued in the supreme court today. The case involves the constitutionality of the section of the gambling law prohibiting the use of slot machines for the sale of cigars.

C. E. Nolan and Albert I. Loeb are the attorneys for the defendant, E. E. Woodman, a Helena cigar dealer who is being backed in the defense of the test case before the supreme court by many of the cigar dealers of the state.

Attorney General Donovan represents the state.

E. E. Woodman was arrested for violating the law and was found guilty. The case was then carried to the supreme court upon an agreed statement of facts.

Nolan Quotes the Law.

General Nolan in arguing the case before the court this morning declared that the law was unconstitutional inasmuch as it was class legislation. Section 1 of the gambling act under consideration makes it an offense to "deal, play, carry on, open or cause to be opened, or conduct or cause to be conducted, either as owner or employe, any game of monte, lasquent, roulette, dodo, tan, percentage, stud horse poker, craps, seven and a half, twenty-one, or any banking or percentage game, or any game commonly known as a sure thing game for money."

Section 2 of the act makes it an offense "to carry on, open, cause to be opened, or conduct, or cause to be conducted any game of faro, roulette, draw poker, stud horse poker, or what is commonly called around the table poker, or solo, or any game of chance played with cards, dice or any device whatever, or who runs or conducts any nickel-in-the-slot machine, or permits the same to be run or conducted, other than the games commonly known as sure thing games for money, checks, credits, or any representative of value, for any property or thing whatever."

"It will not be disputed," said Mr. Nolan, "that it is within the exercise of the police power of the state to prohibit gambling; it will be conceded likewise that the scale of punishment is entirely a matter of legislation. The legislation under consideration has in contemplation the suppression of gambling."

Can Play Faro.

"Under the law under consideration a person can play and deal the games designated in section 2, while he is prohibited from dealing and playing the games mentioned in section 1.

"It would be, presumably, within the power of the legislature to permit faro playing and permit tan-fan, and if this were done there would be no legitimate ground for complaint. The purpose of the bill under consideration is to suppress both classes of games.

"Indeed the law is effective in their suppression so far as conducting the games goes, but as to the playing of them—a person is prohibited from playing the games mentioned in section 1, while no prohibition exists against playing the games mentioned in section 2.

"In granting such immunity in one case in the light of the prohibition that exists in the other, constitutional restrictions against special legislation are ignored.

"Surely no rational explanation can be offered why one person should play faro with impunity, while another is restricted from playing all games mentioned in section 1.

"This distinction we insist is discriminative in its character and in conflict with constitutional provisions prohibiting special legislation.

"Assuming, however, that the constitutional objection urged is not well taken, we insist that under well-settled rules of statutory construction the use of the nickel-in-the-slot machines for the distribution of merchandise, or cigars, is not prohibited by the law under consideration.

"If it were the intention of the legislature to suppress nickel-in-the-slot machines, used for selling goods, generally in this law, it would be the simplest matter, by apt language, to carry out this purpose, and instead of having the language now confronting us, the legislature would provide that these machines should not be used for money, checks, credits, goods, wares or merchandise.

"It is likewise well to bear in mind that at the time of the passage of this law nickel-in-the-slot machines were in use that were generally used for money, and, undoubtedly, it was upon such machines that the law placed the ban of prohibition."

Nationalists Short of Money.

(By Associated Press.)
Dublin, Jan. 21.—The recent and prospective retirements of nationalist members of the house of commons are attributed in some quarters to the depleted condition of the nationalist treasury. It is said that the parliamentary funds for 1902, thus far totals only £1000, over half of which amount came from the United States.

CHINESE EXCLUSION

SENATE COMMITTEE ON IMMIGRATION HEAR BOTH SIDES THIS MORNING.

FOARD WANTS BILL DELAYED

Others Wanted the Present Law Recommended Back Until After Expiration of Chinese Treaty in 1904.

(By Associated Press.)

Washington, Jan. 21.—The senate committee on immigration gave a hearing today to representatives of various interests on the question of Chinese immigration.

Among those present were D. S. Tompkins of the industrial commission; Silas B. Webb, president of the China and Japan Trading company, New York; Hon. Charles S. Hamilton, Boston chamber of commerce; Samuel Gompers, of the Federation of Labor; S. C. Mende, assistant secretary Merchants Association, New York; Hon. John W. Foster, Theophilus Parsons of the Arkwright club, Boston; Edward J. Lovernash, San Francisco; John Ford of the Asiatic association; H. R. Fuller, representing the railroad employes of the United States, and a number of representatives of southern industries.

Mr. Gompers, the first speaker, outlined the efforts which the Federation of Labor had made in connection with the Pacific coast delegation in congress to perfect a bill which would secure a continuance of Chinese exclusion and this had been accomplished in what is known as the Mitchell bill.

Wait Till Treaty Expires.

Mr. Foard spoke in opposition to the bill, and presented statistics of trade between China and the United States. He urged a postponement of any action by congress looking to Chinese exclusion until the expiration of the present treaty in 1904.

"We are all interested in being on good terms with China," he said, "and should treat her with some degree of consideration and some decent regard for international facts."

He said that the Chinese student, Chinese traveler and Chinese merchant have been unfairly dealt with. He said that the hope of imbuing American ideas today in the Chinese student and the law is hurtful particularly to this class of students of Chinese extraction.

Mr. Hamilton presented resolutions of the Boston chamber of commerce advocating the Proctor bill continuing in force the present Chinese exclusion law until the expiration of the existing treaty with China in 1904, and urged that no bill be adopted inconsistent with that treaty because, he said, "that treaty involves the honor and faith of the United States government."

PATROLMAN SHOT

BURGLARS CAUGHT IN THE ACT—SHOOT TO KILL.

ONLY ONE WAS CAPTURED.

Policeman Robinson Wounds One After Receiving His Own Death Wound—Were Seen Breaking Into Store.

(By Associated Press.)

San Francisco, Jan. 2.—At an early hour this morning Patrolman Eugene C. Robinson of the southern station was mortally wounded by three burglars, whom he surprised in the act of breaking into a hardware store on Valencia street, near Sixteenth.

He died soon after being taken to the hospital.

One of the trio of safe-crackers, supposed to be F. Daly, was badly wounded by a shot from the policeman's pistol and captured.

Robinson discovered the burglars just as they were entering the store and immediately crossed the street to arrest them, calling upon them to surrender.

Instead of obeying, they opened fire upon him simultaneously and three bullets struck the policeman in the abdomen.

As he fell he opened fire with his revolver and struck one of the burglars, who ran for a short distance into the arms of another policeman, attracted to the scene by the shooting. The other two men escaped meanwhile, although a posse of policemen soon too up the scent they managed to elude their pursuers.

Daly refused to tell the identity of his companions.

Smith Argues Dotson Case. (Special to Inter Mountain.)
Helena, Jan. 21.—Joseph C. Smith of Deer Lodge this morning argued before the supreme court his motion for a new trial in the case of Clinton Dotson, who is charged with murder in the first degree for the killing of Capt. Oliver Dotson, his father.

Visits His Son.

(By Associated Press.)
Nice, France, Jan. 21.—Don Carlos, the Spanish pretender, by special permission of the French government has arrived here on a visit to his son, Don Jaime, who is recovering from an attack of typhoid.

PROGRAM ARRANGED

WALLACE DOWNEY SAYS THAT EVERYTHING IN READINESS FOR LAUNCHING.

OVER TWO THOUSAND INVITED

Police to Keep Away the Objectionable Characters and Everyone Will Have Good View—An Over-Supply of Music.

(By Associated Press.)

New York, Jan. 21.—Wallace Downey, the ship builder, has returned from Washington, where he has been arranging the details for the launching of Emperor William's new yacht.

"I called on President Roosevelt," said Mr. Downey, "and found him enthusiastically interested in the propositions to receive the Kaiser's representative."

"The president was at first in favor of February 17 for the launching, but when I explained to him that the tide conditions on the 25th would be more favorable to the purpose he decided that he could arrange his engagements to suit that date.

"At his suggestion, I went over to the state department, where I consulted with Assistant Secretary Hill, who has the program in charge. While we were talking, Rear Admirals Evans and Crowninshield came in.

Plenty of Music Offered.

"I explained to them my reasons for desiring to launch the yacht on February 25, and after consulting with the German ambassador that date was fixed upon. The state department is now considering the program.

"Our company will issue about 2000 invitations for the launching, and will probably run a boat from the Battery to the island to carry its invited guests.

"We will ask the city to give us the necessary police protection to insure against any objectionable characters interfering with the official visitors, and we will so arrange everything that all our guests will have an unobstructed view of the ceremonies.

President Eliot Coming.

Distinguished Educator Is to Visit Helena Next March. (Special to Inter Mountain.)

Helena, Jan. 21.—Plans for the reception of President Eliot, of Harvard college, who is to visit Helena accompanied by Mrs. Eliot, are developing in the hands of the University club of Montana, of which Judge George R. Milburn is the president.

The distinguished visitor will be in Helena March 7 on his way to the coast. At all the important points from New York to San Francisco to the coast President Eliot will be dined and entertained by Harvard men and in several cities where Harvard clubs are located his visit will be a memorable occasion.

A reception will be given President Eliot and his wife on the evening of March 7 which will in a way be a notable society event. He will doubtless deliver the dedicatory address in connection with the dedication of the First Unitarian church of this city.

President Eliot is a strong Unitarian and his son is the president of the Unitarian association of North America.

MORE RICH FINDS

GOOD PAY HAS BEEN FOUND ON SECOND BEDROCK.

STAMPEDE TO NEW DIGGINGS

Prospectors Who Secure \$10,000 in Dust as Result of Two Weeks' Work—Good Pasture Creek the New Eldorado.

(By Associated Press.)

Victoria, B. C., Jan. 21.—The steamer Amur arrived this morning from Skagway. She brought news that rich pay has been found, running from 4 to 7 cents to the pan on Good Pasture creek.

A stampede has taken place. Circle City is deserted. Good Pasture creek is a tributary of the Chino, which flows into the Tanana.

Another rich strike has been made on No. 27 claim, Eldorado, where the second bedrock has been reached. Pans ranging in value from \$1 to \$5 have been taken out.

Two prospectors have arrived at Haines' mission with \$10,000, as a result of two weeks' work on Musk creek. These miners, A. Bronson and J. E. Miller, would not give the location of their find.

Schley in Washington.

Washington, Jan. 21.—Rear Admiral and Mrs. Schley arrived in Washington today, after a 10 days' visit at Savannah. The date of filing of the admiral's appeal from the recent decision of the court of inquiry, which the president has consented to consider, has not yet been determined upon. Messrs. Rayner and Teague, counsel for Admiral Schley, have completed the draft of the appeal and are expected from Baltimore today to submit it to the admiral for his approval.

BROODING OVER BROTHER DEAD ALVIN BOYCE SEEKS OBLIVION



ALVIN BOYCE. Who Killed Himself on Dead Brother's Birthday.

Puts End to Existence on Anniversary of Wilbur Boyce's Birth.

MOURNED LOSS OF HIS HERO

Young Boyce Had Never Recovered From Tragic Death of Brother Several Years Ago—Swallowed Quantity of Poison This Morning and Was Beyond Recovery When His Condition Was Discovered—Inquest Is in Progress.

Brooding over the suicide of his brother, Wilbur, whom he idolized, and since whose death three years ago, he has had periodical attacks of despondency, Alvin Boyce this morning, on the anniversary of the birthday of his dead brother, took his own life.

Young, athletic and handsome, he had everything to look forward to, nothing in life's battle to dismay him, no business cares to worry him; he mourned only the loss of his hero, his big football brother, his Napoleon in the athletic world, for the dead boy was passionately fond of sports and belonged to the football teams of both the Butte high school and Business college.

The grief which tore his heart finally overcame him and in a moment of despondency he gave way and chose the sudden and awful death by which he lost his beloved brother.

On Manhood's Threshold.

The dead boy, for he was not yet 18 years old, was born in Butte within a stone's throw of the house where this morning he lies cold in the embrace of death self-sought.

Young Boyce, who was rooming with John Congor, in the Jeffries block, came home about 1:30 this morning and after locking the door on the inside, put the key in his trousers' pocket and went to bed, where Congor was already sleeping.

Congor woke up and, detecting the odor of laudanum, asked Boyce if he had taken it, to which Boyce answered evasively.

Medical Aid Summoned.

Congor then got up and, finding the door locked, knew there was something wrong. He found the key in Boyce's pocket and ran over to Dr. Hall's office. The doctor was on hand in a few minutes and worked on the young man, using every effort to resuscitate him but without effect.

The boy died at 7 o'clock this morning.

The body was then taken to the Curtis home, at the corner of Porphyry and Washington streets, where it lies in the care of his grief-stricken mother and sorrowing brothers.

"Alvin had been working out at the Farrell properties on the flat," said one of the boys this morning, "and he quit Saturday."

"He often spoke of Wilbur's death, and when Wilbur played on the big football team here six years ago, he used to go out and watch the games and when Wilbur made a good play he had no more enthusiastic shouter than Alvin."

Changed Since Brother's Death.

"He has never been the same since Wilbur's death; he thought the world of him; everything he did was right and his death was an awful shock to Alvin, from which he never recovered."

"Of course we are not satisfied yet that Alvin intended to take the laudanum to kill himself; he used to take it for neuralgia and toothache with which he was often troubled."

And then the boy broke into a fresh paroxysm of sobs at the sudden and awful taking away of the brother, whom he had seen only yesterday in all the vigor and strength of his youth.

Nothing could be sadder than the grief of the afflicted family.

The dead boy leaves a mother, three brothers, Lynn, Orion and Tom, and a sister, all residing in Butte.

Mrs. Boyce is completely broken down from the shock and her condition is considered extremely serious by her friends.

Friends Suspect Intentions.

About 11 o'clock last evening young Boyce was in the Fountain saloon and showed a two-ounce bottle of laudanum to Emil Ornsteln. Whether he told Ornsteln that he intended to take it or not, is not yet known.

The fact is that Ornsteln suspected something and on his way to Center-ville disclosed his suspicions to "Baltimore" Worthington, who suggested that they return and go to Boyce's room.

When they got back to town they sent a messenger boy to the room in the Jeffries block and at that time Congor had discovered the laudanum and was about to go for a physician.

Elder Brother Tragic Death.

Wilbur Boyce, the elder brother, was well known as a football player and a member of the big team of 1895-96. When the Spanish war broke out he joined Captain Stivers' company.

After the war was over he became interested in a mining property a few miles from Butte, and was working at the property, when, on the 14th of the month, his family and friends were shocked to hear that he took his own life in his room at the hotel in the city. Had he lived he would be 28 years old.

READY FOR BATTLE WAS DULL DEBATE

PENNSYLVANIA CASE COMES UP IN THE SUPREME COURT.

WILL BE ARGUED TOMORROW

Montana Ore Purchasing Company Is Already Fully Represented—Opposing Attorneys Will Reach the Capital Today.

(Special to Inter Mountain.)

Helena, Jan. 21.—When the supreme court convenes tomorrow morning it will hear the opening arguments in the famous Pennsylvania mine case. The litigation over the Pennsylvania case has extended over several years and has to date cost the litigants thousands of dollars.

The printed transcript in the case which the state's highest tribunal will have for its perusal after it has heard the arguments, consists of 6000 printed pages, comprising an edition of 10 volumes—the largest printed transcript ever filed in a civil suit in the United States.

The death of Judge De Witt takes from the defense in the case an important figure. The Boston & Montana company will be represented by Forbis & Evans and A. J. Shores.

The Montana Ore Purchasing company will be represented by Judge Cullen, J. J. McHatten and E. Warren Toole.

Claims of Each.

The Boston & Montana company claims a vein in the Pennsylvania ground which the Montana Ore Purchasing company claims runs through the Johnstown, Rarus and Snowbird claims into the Pennsylvania ground.

The Heinze company claim the right to the vein, as they assert that they have followed it from its apex, which they declare is in the Johnstown, to the Pennsylvania ground.

The Boston & Montana claim the vein as theirs. The lower court sustained the contentions of the plaintiffs (the Montana Ore Purchasing company) and the Boston & Montana company appealed from the order making the injunction against it permanent.

It will require a day or two to argue the case. The vein in controversy is one of the most valuable in Butte.

F. Augustus Heinze is in the city with a corps of lieutenants.

The attorneys for the Boston & Montana company will arrive this evening.

SAD DEATH AT STOCKETT.

Daughter of the Deputy Sheriff Is Poisoned. (Special to Inter Mountain.)

Great Falls, Jan. 21.—The two-year-old daughter of Deputy Sheriff Joseph Tompson of Stockett, died from poisoning early this morning.

A bottle of liniment was thoughtlessly placed within the child's reach and she drank some of it with the result as stated.

Bozeman Court ases.

(Special to Inter Mountain.)
Bozeman, Jan. 21.—The jury in the state vs. Boomer, assault in the second degree, brought in a verdict of guilty this morning and at 2 o'clock today the jury in the state vs. Bishop, malicious mischief, found the defendant guilty and he was fined \$30 by Judge Holloway.

Seven Are Dead.

Wheeling, W. Va., Jan. 21.—The town of Shinston, 60 miles down the state, is burning and from last accounts seems doomed.

Seven bodies are reported to have been taken out.

ENGLISH PARLIAMENTARY PROCEEDINGS OF IMPORTANCE.

CHAMBERLAIN WAS CAREFUL

Morning Post Characterizes His Utterances as Like Lincoln in His Second Term—Debate Resumed Today.

(By Associated Press.)

London, Jan. 21.—The rather dull debate in the house of commons last night had two noticeable points.

The first was the hopelessness of the real unity of the opposition, as shown by the result of the vote on the amendment proposed by John Dillon, on which a considerable body of the radicals voted with the nationalists against the policy of supporting the war.

The second point was the delivery by Mr. Chamberlain of what was called "the turning the corner for peace speech," which, except in the extreme pro-Bertrams quarters represented by the Daily News, seemed to be upon all sides approved as a dignified and statesmanlike utterance. Referring to this speech, the Morning Post says:

Likened unto Lincoln.

"It was the tone of Lincoln, in his second presidency."

The Daily Chronicle comments upon the absence of the customary asperity during the debate, and declares that Mr. Chamberlain "went near to accepting Lord Rosebery's policy."

Mr. Chamberlain expressly declared that the government was not animated by any vindictive motives, but that the proposals for peace must come from a reliable authority.

The News argues that it is a pretext to prevent any negotiations whatever.

Mr. Chamberlain's speech considerably impressed all members of the house. He himself was imbued with its importance, for at one point he lost his notes and took a deal of pains to find and rearrange them before proceeding.

Winston Churchill will resume the debate today on Mr. Cowley's amendment to the address in reply to the speech from the throne, and a division will be taken tonight.

IN DISTRICT COURT ROOM.

Supreme Court Quarters Too Small for Pennsylvania Case.

(Special to Inter Mountain.)
Helena, Jan. 21.—Judge W. E. Cullen appeared before the supreme court this morning and suggested to the court that an adjournment be taken to the district court room when the trial of the Pennsylvania mine case comes on tomorrow.

More than 30 maps and models will be introduced as exhibits, and one model of the underground workings of the Pennsylvania mine and adjacent properties shows 23 miles of underground workings.

The court decided to hear the arguments in the case in the district court room.

"What will the court do when it goes into consultation if these models fill the room?" inquired Judge Brantly.

Lord Kitchener Reports.

(By Associated Press.)
London, Jan. 21.—Lord Kitchener reports that since January 13, 31 Boers were killed, 170 wounded, 170 were made prisoners and 41 surrendered.