

ORDER FOR RETRIAL AFFIRMED

SUPREME COURT HANDS DOWN OPINION IN CASE OF JOHN GARWOOD VS. OTHERS.

Special to The Daily Missoulian. Helena, Feb. 19.—The supreme court handed down an opinion today in the Silver Bow case of John L. Garwood against Wallace Corbett, W. S. Talant, George Dyrgott and Barton Mitchell, a suit brought to recover \$1,000 damages. The plaintiff alleges that the defendants induced him to leave his employment as a stationary engineer in Butte and go to South Bend, Ind., to sell stock in the Butte-Meadowville Copper Mining company, a company, which it is alleged, had not existed in fact. The judgment rendered in the Silver Bow district court awarded Garwood damages of \$1,500 from each of the plaintiffs. The plaintiffs made a motion for a new trial, which Judge Bourquin granted. It is from the order granting a new trial that the plaintiff appealed. In the opinion rendered today by Justice Smith, the supreme court affirms the order granting a new trial.

TO BUILD MORMON TEMPLE.

San Francisco, Feb. 19.—According to Elder H. A. Smith of the Latter Day Saints, who is in this city, a Mormon temple is to be built in San Francisco with money contributed by the church at Salt Lake. The elder says that he has obtained options on several fine sites.

DISPOSES OF PLAYERS.

Chicago, Feb. 19.—Manager Frank Chance of the Chicago National league team today announced the sale of catcher "Doc" Marshall to Brooklyn and the releasing of Outfielder Hayden to Indianapolis. The Chicago team will leave for Hot Springs, Ark., on March 1.

RACETRACK MEASURE IS SIGNED

THE WALKER-OTIS ANTI-GAMBLING BILL APPROVED BY GOVERNOR.

Sacramento, Cal., Feb. 19.—Governor Gillette signed the Walker-Otis racetrack gambling bill today, which will have the effect of closing the big tracks at Emeryville and Arcadia. The measure was sent to the governor on February 10, after having been passed by both houses with practically no opposition. Under the law the chief executive has 10 days for consideration of all bills sent him by the legislature. This is the ninth day since the Walker-Otis bill was received, but the governor denies that it was his intention to avoid taking it up before the end of the period allowed.

REPRIEVE IS GRANTED IN NICK OF TIME

Lincoln, Neb., Feb. 19.—With only an hour to live, under the terms of the death warrant read to him, R. Mead Shumway was reprieved by the supreme court this afternoon and a stay of sentence granted until March 5. Shumway was sentenced to die for the murder of Mrs. Sarah Martin on Sept. 5, 1907. A crowd of 150 waited in the cold Broomcorn warehouse and the hangman was leaning against the scaffold waiting for his victim. Then the warden ran across the court crying out the reprieve and Showalter, for a time, was saved.

Bright and Active at 94.



Mrs. Lorena Smith, of Branford, Conn., who is 94 years old, says she is bright and active and retains her mental faculties through the constant use of Duffy's Pure Malt Whiskey which builds her system up and restores her vigor and strength of youth. Mrs. Smith recently wrote: "For a number of years I have been using Duffy's Pure Malt Whiskey and found it very beneficial to me and am still using it. I have tried other tonics, but find Duffy's seems to suit my constitution the best and does me the most good. I am now in my 94th year. Am bright and active and retain all my mental faculties." Every testimonial is guaranteed genuine and is published in good faith with full consent.

of thousands of others, both aged men and women, who have been kept hale, hearty and vigorous by the constant use of Duffy's Pure Malt Whiskey as a medicine. It is a predigested food which has a stimulating and tonic effect upon the system. It builds nerve tissues, prevents decay and keeps the entire system in a normal, healthy condition.

Duffy's Pure Malt Whiskey

If you wish to keep young, strong and vigorous and have on your cheeks the glow of perfect health, take Duffy's Pure Malt Whiskey regularly, according to directions. It tones and strengthens the heart action and purifies the entire system. It is recognized as a family medicine everywhere.

CAUTION—When you ask your druggist, grocer or dealer for Duffy's Pure Malt Whiskey be sure you get the genuine. It is the only absolutely pure medicinal malt whiskey, and is sold in sealed bottles only; never in bulk. Look for the trade-mark, the "Old Chemist," on the label, and make sure the seal over the cork is unbroken. Write Consulting Physician, Duffy Malt Whiskey Co., Rochester, N. Y., for a free illustrated medical booklet and free advice.



THE ORIGINAL McINTOSH TREE, Dundela, Ontario.



THE FIRST IN MONTANA, Amos Buok's Orchard.

BELIEVES CONGRESS SHOULD ACT

SENATOR NELSON THINKS THAT BODY OUGHT TO APPROVE STATE CONSTITUTIONS.

Washington, Feb. 18.—The requirement that congress instead of the president shall approve the constitution adopted by a new state was urged by Senator Nelson today, when the New Mexico and Arizona statehood bill was taken up by the senate committee on territories. As a basis for this suggestion Senator Nelson criticized the Oklahoma constitution, which resulted in a general discussion of that subject. Another meeting of the committee will be held on Tuesday next. All members of the committee declared that the bill should have thorough consideration, which makes it certain that no action can be had at the present session.

OBJECTS TO NAMING DISORDERLY MEMBERS

Washington, Feb. 19.—Speaker Cannon today for the first time during the present congress took the floor and answered a suggestion by Mr. Davis of Minnesota, that the speaker should name members who persisted in creating confusion or disorder in the house. Mr. Foster of Vermont, speaking on the rules, suggested that the removal of desks would effect better order. Mr. Davis made this suggestion, and the speaker, standing in front of the rostrum, pointed out that Speaker Blaine had refrained from naming a member who was out of order because such action would be resented by the member himself and others. The only case Mr. Cannon recalled was in Speaker Crisp's time, when the man named was a "big member" who did not suffer politically or otherwise. "I, myself," he said, "would dislike very much to have a speaker do that to me," and wearing a broad smile the speaker resumed the chair.

PITCHER BATEMAN SOLD. Milwaukee, Feb. 19.—Quats Bateman, pitcher and outfielder of the Milwaukee American association baseball team, was today sold to the Vernon club of the Pacific Coast league.

CONCERTED ACTION.

General Agent Scanlan of the C. M. & P. S. railway responded to the toast, "Peopling the Red Apple Country." He referred to the persistent efforts which the railways are making to interest immigrants in this region, and urged co-operation and concerted action on the part of the state in the matter. He declared that the state can do more effective work than the individual local organizations.

A Dead One.

At this juncture there was a rustling above the heads of the speaker and his audience. All looked up, and, sliding down a wire, suspended by the neck, was an effigy labeled "Mr. Knocker." The individual was quite dead, and there was no attempt made to resuscitate him.

SUGAR.

"Yellowstone Sugar and Apple Sauce" was the theme upon which Frank H. Cooney spoke. He gave interesting facts and statistics regarding the beet sugar industry in Billings and its tributary country, and complimented Missoula upon having the most liberal patrons of the home refinery of any place in the state outside of Butte and Helena, and said that it was the sort of spirit that wins out and that makes the Land of the Red Apple famous and prosperous, and is an example that other communities should pattern after.

LEGISLATORS ATTEND DEDICATION

(Continued from Page One.) the narration of his experiences on an overland tour of the Yellowstone park in 1863, when he had to go with a pack train or not go at all. The judge's recollections of the trip were clear as to detail, and he kept the banqueters laughing with his stories. He also told of some of his futile efforts to make the people in his old southern home believe the stories which he told them about Montana, although the tales had been true to the letter.

"Red Apple Girls."

John H. Tolan had a trying experience getting to the Red Apple banquet from Anaconda; he started from the Copper city on time, but had to wait at Garrison three hours. He persevered, however, and just three minutes before the toastmaster called his name, he entered the banquet hall, and was ready when the toast was announced, "Red Apple Girls." Mr. Tolan was specially pleasing in his tribute to womanhood in general and to the women of the Red Apple land in particular. His speech was brief, but every word of it was eloquent with feeling, and Mr. Tolan was warmly applauded.

Senator Meyer.

Senator W. F. Meyer toasted his home county, Carbon, eloquently and interestingly, but he prefaced his remarks with a splendid tribute to the Red Apple land of western Montana and to the educational work that is being done here in Missoula at the university. His description of Carbon county was worthy of the splendid subject, and he was cheered when he referred to the fact that Carbon county had captured first honors in competition with all the rest of the state in the McIntosh Red class. He claimed for his county the honor of having the most varied resources of any county in the state, and cited figures to prove his claim.

Concerted Action. General Agent Scanlan of the C. M. & P. S. railway responded to the toast, "Peopling the Red Apple Country." He referred to the persistent efforts which the railways are making to interest immigrants in this region, and urged co-operation and concerted action on the part of the state in the matter. He declared that the state can do more effective work than the individual local organizations.

A Dead One.

At this juncture there was a rustling above the heads of the speaker and his audience. All looked up, and, sliding down a wire, suspended by the neck, was an effigy labeled "Mr. Knocker." The individual was quite dead, and there was no attempt made to resuscitate him.

SUGAR.

"Yellowstone Sugar and Apple Sauce" was the theme upon which Frank H. Cooney spoke. He gave interesting facts and statistics regarding the beet sugar industry in Billings and its tributary country, and complimented Missoula upon having the most liberal patrons of the home refinery of any place in the state outside of Butte and Helena, and said that it was the sort of spirit that wins out and that makes the Land of the Red Apple famous and prosperous, and is an example that other communities should pattern after.

J. M. Evans.

"Electric Cars and the Orchard" was the toast to which Judge John M. Evans responded. Judge Evans reviewed the history of the movement to secure for Missoula and the Bitter Root valley an electric railway, and prophesied that within a short time—comparatively—electric cars would be helping to haul "from this land of plenty" its exports. He promised that the local system would soon be in the building. "If you'll follow Sidney Inch for the next 90 days, he'll show you some ralls." Before the next speaker was called upon Lieutenant Governor Allen brought a toast, "Here's to Missoula and her chamber of commerce—royal entertainers."

ROOSEVELT'S COURSE INDORSED

LOWER HOUSE OF HAWAIIAN ASSEMBLY APPROVES STAND ON JAP QUESTION.

Honolulu, Feb. 19.—The lower house of the Hawaiian legislature today adopted Representative Douthitt's concurrent resolution indorsing President Roosevelt's recent efforts to prevent legislation in some of the states, prejudicial to the rights of the Japanese, and his endeavors, by fair and friendly treatment, to preserve the amicable relations that have so long existed between Japan and America. It also congratulates the legislatures of California, Nevada, Oregon and other states for defeating by substantial majorities this undesirable legislation, and declares that the Japanese form a valuable element in the industrial prosperity of the Hawaiian islands, where they live in friendly association with all citizens. The resolution will be sent to the senate tomorrow, and after adoption in the lower house, copies of it will be sent to President Roosevelt and the emperor of Japan.

INELIGIBLES WIN VARSITY CONTEST

The Downs and Outs defeated the Ups and Ins in the Charter day basketball game at the varsity yesterday by a score of 24 to 21. The game was closely contested throughout, and it was only after a hard struggle that the Outs won. The contest started promptly at 5 o'clock, as was advertised, and was watched by an enthusiastic crowd of students. The first half was hard fought and well played, but teams putting up an unusually good class of ball. The half ended with a tie score of 12 to 12. Both teams started the second half with a rush, first one team and then the other getting the upper hand. This half ended as did the first, in a tie score, the totals being 21 to 21. It was decided to play out the tie, and the game was started again. After a few minutes Bishop of the Downs and Outs put the ball in for the deciding score. The teams as they lined up were: Downs and Outs—Bishop and Little, forwards; Vealey, center; Connors and Simpson, guards. Ups and Ins—Montgomery and Hogan, forwards; Ryan, center; Leach and Macley, guards.

LEAGUE ORGANIZERS ARE NOW IN SESSION

Salt Lake City, Feb. 19.—There are 12 applicants from which to select the cities desired to make up an inter-mountain baseball league, according to a message received by Manager J. J. Grim of Salt Lake from W. H. Lucas today. Mr. Lucas is in Butte, having finished his round of the Utah, Idaho and Montana cities which are interested in the proposed organization. He instructed Mr. Grim to attend a conference between himself and representatives of the various cities, which will be held in Butte Sunday or Monday. Mr. Grim started north tonight. The telegram from Mr. Lucas indicates that the formation of the league is assured and that the awarding of franchises is the principal question to be settled.

THE WEATHER

In honor of the out-of-town visitors yesterday the weather was mild, the only objection being the wind, which was at the time rather strong. The temperatures: Maximum 36 Minimum 27 At 6 a. m. Thermometer 29 Barometer 28.65 At 6 p. m. Thermometer 34 Barometer 28.67 Wind from the southwest and a trace of precipitation. France has withdrawn her objection to a proposed wireless telegraphy service between England and Italy.

ATTORNEYS SQUABBLE IN COURT

JUDGE HAS TO THREATEN IMPRISONMENT TO RESTORE ORDER AT CALHOUN TRIAL.

San Francisco, Feb. 19.—Reviving the attempted assassination last November, Francis J. Heney today charged that Henry Ach, attorney for Abraham Ruef, the convicted political boss, knew of the intentions of Morris Haas, the would-be assassin, before the deed was committed. The most heated exchange of words that has occurred during the trial of Patrick Calhoun took place today, and before the session assumed its usual calmness, Judge William P. Lawlor had threatened two of the belligerent attorneys with imprisonment in the county jail. There were references to armed gunmen, to the use of dynamite and to the prospects of imprisonment before the court succeeded in inducing both sides to lay aside the immediate basis of disagreement and cease their objectionable references.

After Judge Lawlor had ordered an adjournment until next Tuesday, Mr. Heney engaged Stanley Moore in an extended and earnest conversation. The subject was not made public, but it was learned that the prosecutor objected to the attention given him by agents of the defense, whom he once warned to keep away from him. A single seat in the jury box remains to be filled before the order for temporary challenges. Ten talesmen were examined and discharged during the day.

MINER BLOWN TO PIECES.

Tonopah, Neb., Feb. 19.—C. H. Joslyn, a miner, working on the Jim Butler mines, was killed yesterday morning when he drilled into a "missed shot" in which a charge of dynamite placed on a previous shift had failed to explode. The explosion smashed Joslyn's body into jelly.

AUSTRIAN IS KILLED.

Salt Lake, Feb. 19.—Janos Ploeba, an Austrian, was shot and killed at Bingham Canyon today by Priblral Rapovich, a compatriot. Rapovich fled to the hills and has not yet been apprehended.

DRISCOLL HAS BEST OF ATTELL

SPECTATORS AT RINGSIDE DECLARE ENGLISHMAN IS BETTER THAN ABE.

New York, Feb. 19.—Jim Driscoll, the English featherweight champion, and Abe Attell of San Francisco, world's champion in that class, met in a 10-round bout tonight at the National Athletic club, and Driscoll had a shade the better of the contest. They were weighed in at 8 o'clock. Neither turning the scale at the stipulated weight, 135 pounds. No decision was given by Referee Charles White, as the laws of the state do not permit decisions to be rendered in boxing bouts. The championship title was not involved in the articles governing the match. At the conclusion of the contest both men were in good condition and could probably have gone for many more rounds. The experts who watched their every move were a unit in saying that nothing short of a 20 or 25-round go would be sufficient to determine a decisive superiority of either man.

DIES FROM INJURIES INFLICTED BY HORSE

Special to The Daily Missoulian. Kallispell, Feb. 19.—News has reached this city of the death of Milton Jones, resulting from injuries sustained when he and his horse broke through the ice on the big arm of Flathead lake today. Jones, who is the son of Mr. and Mrs. Isaac Jones of Angel Point, attempted to cross the arm of the lake on the ice. The latter proved too soft to bear the weight of man and animal and both were precipitated into the water. Indians who were camped near the scene rushed to the young man's assistance, but though they were able to drag him from the water, the frantic horse had pawed him so severely in its efforts to escape from the lake that the victim died before his rescuers could get him to the shore.

SOUTHERN PACIFIC WILL ISSUE BONDS

New York, Feb. 19.—The directors of the Southern Pacific railroad today authorized an issue of \$2,000,000 20-year 4 per cent bonds, which are changeable for common stock at 120 per share. Holders of common stock or preferred stock will be allowed to subscribe for the new bonds on or before April 20, 1909, at 96, with adjustment of interest. The bonds will be convertible until June 1, 1909, at 130, or will be redeemable at 105 upon any semi-annual interest date after March 1, 1914. It is understood that the proceeds of the bond issue will be used to cover the Southern Pacific's expenditures for the extension of subsidiary lines amounting to \$103,000,000. BLOW OPEN BANK SAFE. El Paso, Tex., Feb. 19.—Robbers blew open the vault of the state bank at Kilgore, Texas, early this morning and escaped with \$3,400. Bloodhounds from the state penitentiary at Rusk have been put upon their track.

Missoula Mercantile Co.

Last Day of the White Goods Sale



Over a Hundred Styles in This Sale

Corset Covers, 35c to \$4.00; worth 50c to \$6.00. Nightgowns, 75c to \$15.00; worth \$1.00 to \$20.00. Drawers, 50c to \$4.50; worth 65c to \$8.00. Chemises, 75c to \$3.50; worth \$1.00 to \$5.00. Short Skirts, 75c to \$2.25; worth \$1.00 to \$3.00. Petticoats, 75c to \$15.00; worth \$1.00 to \$20.00. Princess Slips, \$3.50 to \$15; worth \$5.00 to \$20.00. Combinations, \$3.50 to \$6.00; worth \$5.00 to \$8.00.

Embroidery and Laces

Beautiful new embroideries, all-overs, skirt flouncings, medium and white bands, beadings, insertions and edgings; worth 35c and 40c a yard; special, per yard, 23c. Torchon Laces, in dainty, new patterns; usually sold at 10c and 15c a yard; special for this sale, yard, 5c. Pointe de Paris Laces; medium and wide insertions and edgings; sold regularly at 15c and 20c a yard; on sale at 12 1-2c.

White Goods

12 1-2c India Linon, very fine and sheer, yard, 10c. 15c India Linon, an extra fine quality, yard, 12 1/2c. Longcloth, yard-wide goods, 12 yards to the piece, fine even texture, perfectly bleached; bought to sell at \$2.25 a piece; sale price, \$1.69. Another Longcloth special; goods easily worth \$2.50 a piece; on sale at, \$1.98.

CONTEST ARRANGED FOR BOYS

STUDENTS TO BE GIVEN OPPORTUNITY TO TRY THEIR POWERS WITH RIFLES.

Washington, D. C., Feb. 19.—An interesting competition for school-boys has been arranged by the executive committee of the National Rifle association. It will be known as the "Inter-Scholastic Rifle Match" and will be for the inter-scholastic gallery championship of the United States, to be shot this year for the first time. The match will be shot on the galleries of the various schools which enter, the shooting taking place on any date between April 12 and 24. It will be open to teams of ten pupils from any school, preparatory high school or private school, not conferring degrees. Where the school has a club affiliated with the National Rifle association no entrance fee will be charged. Other schools may enter teams on the payment of \$2. The distance will be fifty feet and the N. R. A. target with a one-inch bulls-eye will be supplied by the N. R. A. Each string will consist of five shots and ten shots will be fired in a standing position, and ten in a prone position, with two sighting shots for each position. Any .22 caliber rifle may be used which has sights in front of the hammer; any ammunition may be used. The competition is open to bona fide scholars only and a certificate to this effect must be filed with Lieutenant Albert S. Jones, secretary of the N. R. A., Washington, D. C., which organization will designate a judge to represent it at each school. The prize will be a handsome new "championship trophy" to be held by the winning school for one year, and medals to the individual members of the teams. The National Rifle association now has affiliated with it about thirty-five school-boy clubs, all of which are expected to enter the contest.

WILL OPEN COAL PROPERTY

GREAT NORTHERN WILL BUILD SPUR TO MINE AT WINDHAM, MONT.

The Great Northern railway is making preparations for the development of its coal properties located at Windham, Mont., and has a spur track under course of construction to the mine, which is located one and one-half miles from the Billings & Northern line. It is understood that the coal found at Windham is of good commercial value and exists in large veins. The new coal property is 44 miles from Judith Gap and 76 miles from Great Falls. It is understood that the company will develop the property on a large scale the coming season. At present a small plant of machinery is on the ground, but this will be replaced by a new and modern plant.—Great Falls Leader.

Come Around at Noon

Splendid merchants' lunch from 11:30 to 2 o'clock every day at Ye Olde Inn. 40 cents.