

COURT RULING CUTS DOWN PENALTY

JUDGE'S VIEW OF UNIT OF OFFENSE LIMITS POSSIBLE STANDARD OIL FINE.

ACTION CAUSES SURPRISE

Position Taken by Anderson as to the Number of Offenses Upon Which Big Trust May Be Penalized Cuts Possible Penalty Down From \$29,240,000 to a Small \$720,000.

Chicago, Feb. 25.—From Judge Landis' fine of \$29,240,000 to a possible maximum fine of \$720,000 is admitted to be the meaning of a ruling made today by Judge Anderson in the trial of the Standard Oil company of Indiana for alleged rebating. The ruling was informal, but it almost certainly will stand. The court of appeals in ruling out Judge Landis' great fine eliminated the view that each barrel of oil on which a rebate was accepted constituted a separate offense. There were 1,422 of these barrels, the freight charges for which were paid in 36 different settlements. Judge Anderson interpreted the decision, which he said served as his guide, to imply that the alleged rebates accepted after each of the 36 settlements constitute the unit of offense.

Judge Anderson's ruling was a severe blow to District Attorney Sims. He and his assistant, James H. Wilkerson, had figured that each of the 500 shipments, making a maximum of \$10,000,000, constituted an offense. This view, Judge Anderson declared, he could not understand. He saw no reason why, if a train load or carload were regarded as a separate offense, the matter might not be further divided, making a hundredweight the unit, or a gallon, greatly increasing the number of offenses and magnifying the punishment.

Mr. Wilkerson argued that the fine possible under the court's ruling would serve merely as a license to a great corporation. On this Judge Anderson said in effect: "That is a consideration which has no weight with me whatever. I am not concerned with the effectiveness of the statutes, but with their interpretation and application. If the view that I have taken has the effect you stated, that is a matter for the lawmakers to consider. If their laws are inadequate, get them to supply a remedy."

DECLARES ORDINANCE INVALID

COURT RENDERS IMPORTANT DECISION REGARDING STREET GRADE LAW OF BUTTE.

Special to The Daily Missoulian.
Butte, Feb. 25.—Judge J. E. McClernan made one of the most important decisions regarding the rights of incorporated cities today that has been given from the bench in recent years. The matter came up when a number of civil actions regarding the changing of a grade on West Platinum street were before a jury for attention. A. C. Smith's suit was on trial and it had been submitted on an action for a non-suit. The judge took the matter under advisement overnight and this morning practically instructed the jury to bring in a verdict for the plaintiff, which was done, in the sum of \$300. The two other suits were tried during the afternoon and the city lost upon the same showing of facts. Judge McClernan decided that the ordinance which has been in force in Butte since 1892 is unconstitutional, as it takes away a man's property, damages him and allows him no recourse. "The matter will be taken to the supreme court at once," declared City Attorney Booth. "If the ruling holds, every person in Butte adjoining a street where the grade has been changed has an action against the city for damages and enough of these suits may come in to bankrupt us. I expect to have a decision upon the matter within 60 days."

NEGRO KILLS BOSS.

Battle Mountain, Nev., Feb. 25.—A negro known as "Big Boy" shot and killed C. J. Deniger, foreman of a Western Pacific construction camp four miles west of here, this morning. The shooting followed a quarrel over money matters. The negro wanted more wages, and when refused shot Deniger three times, one bullet piercing his heart.

CLOSED FOR KEEPS.

Seattle, Feb. 25.—James F. McElroy, who controls the Meadows, says if there is any racing this year, it will be handled by himself and his assistants, and he is positive that the same will not be repeated. McElroy admits that while in California recently he talked over with horsemen the advisability of conducting a short meet at the Meadows, but, after considering the matter, decided not to attempt it.

HOUSE HOLDS ALL-NIGHT SESSION

REPRESENTATIVES VAINLY TRY TO PASS SUNDRY CIVIL APPROPRIATION BILL.

MUCH DEBATING IS DONE

Members of Lower Branch of Congress Indulge in Fiery Language Regarding Various Points at Issue and Every Effort to Secure Passage of Act Proves Unsuccessful.

Washington, Feb. 25.—The house held a lengthy session in a determined effort to pass the sundry civil appropriation bill. There was much debate on an amendment offered by Representative Bennett of New York to include in the bill \$50,000 appropriation for the enforcement of the contract labor law. The amendment relieved the authorities from the necessity of accounting vouchers for expenditures from this appropriation and brought out much opposition. Mr. Gardner of Massachusetts declared the secretary of commerce and labor should not be compelled to file vouchers for the money to be expended for enforcing the contract labor law, as it may be necessary for him to employ diplomats and spies.

The paragraph appropriating a million dollars for prosecuting land fraud cases was amended so as to require the employment of agents by the civil service commission. Chairman Tawney said the interior department had suggested they be chosen by the secretary of the interior.

Called to Order.

Representative Gaines of Tennessee was called to order for speaking to Representatives Humphreys of Washington in the second person. Mr. Humphreys incurred the displeasure of Mr. Gaines in a discussion of an amendment proposing to increase the appropriation of \$5,000 to enforce the game laws in Alaska to \$10,000. The amendment was adopted.

While Delegate Cole of Alaska was opposing this appropriation a member suggested that the governor of the territory framed the appropriation. "I wish to say," remarked Mr. Cole, "that if the governor of Alaska would remain in Alaska to perform the duties imposed upon him instead of being a lobbyist here, it would be a great deal better."

Wants to Know.

An unsuccessful attempt was made by Representative James of Kentucky to abolish the appropriation for the care of buffalo at Yellowstone park. He stated that he wanted to find out whether the government was getting "buffaloes" or not.

The democrats after midnight offered scores of amendments, none of which were adopted, but which inspired Chairman Tawney to "lecture" the democrats for their levity.

Representative Williams immediately replied by offering an amendment to increase the \$15,000 appropriation for extraordinary repairs on the White House to \$25,000 and to authorize its use for a "whitewashing."

Highly Dramatic.

Representative Adam M. Bayard of Mississippi, in the course of a speech in which he strode from one side of the chamber to the other in a highly dramatic manner, denounced the attitude of the American government on the Japanese question as the "most humiliating exhibition of obsequious servility of any party ever in power."

Several yells followed the speech. At 1:20 a. m. a motion by Representative Clayton of Alabama that the committee of the whole recess was voted down, 27 to 61.

PIONEER IS DEAD.

Helena, Feb. 25.—Thomas M. Davis, a prominent Montana pioneer and who was a placer miner in what is now Main street of Helena, is dead at his home in Powell county, aged 69. B. J. Phillips, another pioneer and father of B. L. Phillips, a Helena millionaire mining magnate, died today in this city, aged 79.

"GOVERNOR" BROOKS ANSWERS LAST CALL

Great Falls, Feb. 25.—A special to the Tribune from Lewistown announces the death of "Governor" H. P. Brooks at the age of 73. He was one of the best-known citizens of Montana, coming to the state with the first gold seekers in the early 60s. Later he was a pioneer in the stock business in the state and amassed a fortune. In the early days he was a strong force for law and order and it was this that gained him the title of "governor," which clung to him ever since.

MISSOULA'S NEW PLAYHOUSE IS DEDICATED TO ENJOYMENT OF GARDEN CITY RESIDENTS

Large and Fashionable Audience Attends Opening of Harnois Theater—"Brewster's Millions" Unusually Pleasing Show.

Mayor Keith, Judge Evans and Manager Harnois Tell History of Building and Turn It Over to the People of the City.

FROM FRIENDS.

Helena, Mont., Feb. 25.—C. A. Harnois, Missoula: Congratulate you on the successful opening of your pretty new theater. Best success to you.

MR. AND MRS. DONAHUE.
San Francisco, Cal., Feb. 25.—C. A. Harnois, Missoula: Success to the new theater. Sorry can't be with you.

MR. AND MRS. GREENHOOD.
Seattle, Wash., Feb. 25.—C. A. Harnois, Missoula: Congratulations to you and citizens of Missoula on your beautiful theater. The people are indebted to you for your great undertaking. Best assured you will get the best shows over the circuit.

JOHN CORT.
Chicago, Ill., Feb. 25.—C. A. Harnois, Manager Red Apple Theater, Missoula: My hearty and most sincere congratulations on the completion and opening of your opera house. Best wishes for complete success. Regards to all my friends.

H. S. REARDON.

With all the inspiration of a new theater—splendidly beautiful—a clever play, presented by a capable company, and a large and fashionable audience, the dedication of the new Harnois to the enjoyment of Missoula's people was fully as fortunate as ever. Manager C. A. Harnois could have wished there were "Oh's" and "Ah's" of delighted admiration as the men and women of the Garden city took their seats last evening and had what was for many of them the first opportunity to thoroughly inspect the new theater—the most artistic in Montana. In the audience there were many well qualified to judge as to the arrangement, the elegance, the innate charm of the model theater. In the audience were many who had, at one time or another, taken their places in some of the largest and best theaters in the United States and in Europe. These people—very naturally—compared the Harnois with what they had seen in other cities, in other states, in other lands, and the Missoula house suffered not at all. As large as some of the Harnois is not, but large enough for Missoula is the new theater, and its finish, its furnishings, its properties, its arrangement, its acoustics, and, above all, its comforts, are not to be excelled anywhere. To a city three times the size of Missoula the Harnois would be a great credit; to Missoula it is a monument—a memorial to the persistence of one of her citizens and the hearty co-operation of the rest.

The memory of the old Union—after last night's night—is licensed to refer to what was once Missoula's only playhouse as "old"—had a share in the opening of the Harnois last evening. Its principal part in the celebration—for that is what last evening really was—was in the memory of the 1,300 people who filled the new house, but the speakers, Mayor Keith, Judge Evans and Manager Harnois, mentioned the old place incidentally. There were no tears; it was a pleasant funeral.

The Speakers.

The first speaker, Mayor J. M. Keith, told of Missoula's first theater—a livery barn converted to Theaters uses and situated where is now the city hall. He told of the successor to the livery barn in its new capacity, and of the building of the Union theater, to accommodate a state convention in 1896. He referred to the life of the Union and congratulated Mr. Harnois and Missoula on the new.

Judge John M. Evans, speaking in behalf of the chamber of commerce, told of the connection of Missoula's business men with the building of the theater, with the construction of "as charming a little building as you may find anywhere in the country"—"the fruition of our hopes."

Brief was the talk made by Charles A. Harnois. He told of his promise, made three years ago, to give this city a good theater. "Tonight, I think, I have accomplished that object," he continued. "Tonight I present to you as good a theater as there is between St. Paul and the coast."

Mr. Harnois thanked his friends; thanked the newspapers of Missoula for their aid in building the theater, and asked their continued support, "to help make it what it should be, the best theater in the northwest."

"Brewster's Millions."

It is safe to say that never has the Harnois theater seen a better production than "Brewster's Millions," as headed by Robert Ober as "Montgomery Brewster" and June Mathis as "Peggy Gray." It would probably be just as safe to make the above assertion a year-five years—from now. Theatrical history in Missoula will henceforth be dated from the opening of the Harnois and "Brewster's Millions." Mr. Ober is a finished actor; he knows how to get the most out of a part rich in possibilities, but in no branch of the actor's art, in no part of stagecraft is he superior to his leading woman, Miss Mathis. Miss Mathis is not unknown in Missoula. It is not so many years ago that she



CHARLES A. HARNOIS.

BILLINGS IS SELECTED FOR MEETING

DRY FARMING CONGRESS WILL HOLD NEXT SESSION IN MONTANA TOWN.

Cheyenne, Wyo., Feb. 25.—The last hours of the dry farming congress were given over to the consideration of resolutions and the delegates were unanimous in their support of the measures tending to enhance the scope of the congress and aid the development of arid land. The resolutions were in most cases adopted without debate.

The delegates unanimously adopted a resolution declining to advocate any individual method of dry farming and favoring the investigations of all methods.

After a struggle in which the name "International Dry Farming congress" was advocated by many delegates, the name of the organization was changed to the "Dry Farming congress" and resolutions were adopted providing for a permanent headquarters for the congress, the spread of dry farming information and the gathering of dry farming information throughout the world. In this latter project government assistance is asked.

The legislature of the western states now in session will be urged to pass laws allowing the expenditure of funds for dry farming experiments and development by the county commissioners of each county throughout the arid belt and the government will be asked to investigate and if possible prevent the damage in Colorado and Kansas by the floods of the Arkansas river.

The methods of unscrupulous land dealers that have tended to bring dry farming districts into disrepute among the homeseeking public are denounced and steps will be taken to counteract the effect of misleading advertisements.

Billings, Mont., was selected as the place of the next meeting, which will be held in November, 1909. The dates will be fixed by the executive committee.

KOREAN IS TORTURED BY ENEMIES

LABORER IN HUTAN IS BURNED WITH HOT IRONS UNTIL HE DIES.

Merida, Yucatan, Feb. 25.—Helplessly bound and then burned and seared with white hot irons until his screams of agony brought in the police and citizens to batter down the door, a Korean laborer named Yuneun Nido, who was involved in a clash among the Korean laborers and who was captured and tortured by his enemies, is dead from his injuries.

A fight started among the Koreans and soon involved a large number. Yuneun Nido was seized by those opposing his friends, carried to a house, and after being bound, had hot irons applied to the soles of his feet and to his limbs. Police and nearby citizens were soon attracted by his screams, and the door of the house was battered down, but too late to save the unfortunate Korean from fatal injury.

CARDINAL HERVAS DIES.

Toledo, Spain, Feb. 25.—Cardinal Gilblaco Maria Sanchez Hervas, archbishop of Toledo, died today. He was born in 1832 and was created a cardinal in 1894.

LESS EXPENSE MOB VIOLENCE OR HIGHER TAXES A CERTAIN RESULT

CARTER DECLARES APPROPRIATIONS MUST BE TRIMMED OR REVENUE INCREASED.

SOUNDS NOTE OF WARNING

Montana Senator Resents Criticism of Efforts to Curtail Expenses and Pays His Respects to the Forestry Department in Sarcastic Language. Money Spent for Luxuries.

Washington, Feb. 25.—"During the day," said Senator Carter of Montana, in discussing the forestry service in connection with the agricultural appropriation bill, "I have heard it noised about that a conspiracy had been formed here to reduce the amount of this forestry item, the employment of that term as applied to the action of the senate in seeking to correct an appropriation which seems too large, is a fit example of the manner in which all persons are treated in and out of this chamber when they exhibit the temerity to object to appropriations for the forestry service."

Mr. Carter called attention to an estimated deficit in the public revenues next year of \$140,000,000, and declared: "We will diminish appropriations or increase taxation, and any person in the presence of this great situation confronting the government, in equity of supreme impertinence if, in the employment of the government, to suggest that a senator bent upon reducing appropriations is engaged in a 'conspiracy.'"

Five Hundred Pens.

"I will comment on these expenditures, although I well know that 500 facile pens will be set in motion and men will be sticking type all over the country tonight resenting ordinary criticism as hostile to the preservation of the forests. I make this prediction in respect to the press, because that has been my experience in the past. This is one service that no man dare criticize without having his motive impugned."

Vigorous Defense.

Senator Nelson vigorously defended the forestry service, saying that despite ridicule it would continue. Mr. Carter moved to decrease the forestry appropriation from \$1,000,000 to \$2,000,000, and with the amendment pending, consideration was postponed until tomorrow.

Earlier in the session while discussing the bill's provisions for an investigation of the liquor traffic, Senator Bailey criticized the report of the home commission. He said that if the proposed liquor commission should make a report it would be necessary that it should be expurgated before it should be given to the public if it followed along the lines of the home report. He declared that if that document were printed by private parties it would be excluded from the mails.

PREDICTS OWN DEATH.

Houston, Tex., Feb. 25.—Dr. W. A. Dun, a prominent physician, is dead at his home here of blood poisoning contracted while performing an operation three weeks ago. He diagnosed his own case, attended to his own treatment and predicted the exact date of his death two weeks ago. He appeared to take great interest in the case, last in observing the progress of the case.

TO PROSECUTE RIOTERS.

Omaha, Feb. 25.—Chief of Police Briggs of South Omaha announces that he has already given the names of 20 members of the Sunday anti-Greek riots in the city attorney and that the entire number will be recommended for prosecution.

JUROR CHALLENGED BY THE PROSECUTION

San Francisco, Feb. 25.—There was another shift of jurors in the case of Patrick Calhoun today. Duncan B. Hilder, an auctioneer, was passed by both sides to occupy one of the two vacant seats in the box and later in the day Judge William P. Lavelle allowed a challenge directed by the prosecution against David Halseberger, one of the jurors accepted several weeks ago. The session of court ended with the tenth tableau of the day under examination by the prosecution after two hours had been passed by the defense.

GETS TWENTY-FIVE YEARS.

Des Moines, Feb. 25.—Dr. F. W. Sells of Des Moines, president of the Oswald hospital, was sentenced today to 25 years in the penitentiary. He was convicted of committing an assault upon Miss Stella Hartman, a patient among the jurors accepted several weeks ago. The session of court ended with the tenth tableau of the day under examination by the prosecution after two hours had been passed by the defense.

CALIFORNIAN DECLARES RACE PROBLEM IS SURE TO RESULT IN TROUBLE.

WANTS SOMETHING DONE

Representative Asserts There Are 22,000 Idle White Men in San Francisco and When Men Get Hungry Something Is Going to Happen—Whites No Match for Aliens in Diet.

Washington, Feb. 25.—The Japanese question was the subject of brief consideration in the house today during the consideration of the sundry civil bill. Representative Hayes (Cal.) declared that the people of California would not only exclude the Chinese from the soil of their state, but also the Japanese and "all other orientals in the category."

"The race problem in California has not reached a state of mob violence," said Mr. Hayes, "but it must come. When men are hungry I look for trouble. There are 22,000 white men idle in San Francisco, and yet in my district there are 16,000 Japanese, and nearly all of them are employed. I believe I represent the view of 95 per cent of the people of California in asking that congress protect us from the menace and aid in preserving the lands of the Pacific coast for the Caucasian race. There is an immediate pressing necessity to stop the influx of orientals."

Mr. Hayes' remarks were greeted by applause by the democrats. Representative Champ Clark (Mo.) expressed his approval of the exclusion of the Japanese and Chinese, which, he said, was advocated not only by organized labor, but by all labor.

"I have been a laboring man all my life," said Mr. Clark, "I started out as a farm hand, and I am against this immigration. The Caucasian race has always been the dominant race, as now, and will be as long as there are any of us left."

While superior to the oriental races, Mr. Clark said, the Caucasian race cannot compete with the Chinese in the matter of starvation.

"If you let them in," he continued, "you would starve our labor out. It is currently reported that there are 1,000,000 American laborers out of employment."

Mr. Clark added that he had a high regard for the president-elect since the first time he met him, when Mr. Taft appeared before the house committee on foreign affairs in advocacy of excluding the Chinese from the Philippines.

Representative Harrison (N. Y.), speaking in favor of oriental exclusion, said he would vote for Japanese exclusion if he continues as a member of the foreign affairs committee.

INQUIRY COMMITTEE TO REPORT

THREE ARE APPOINTED TO DRAFT FINDINGS OF LAND INVESTIGATING BODY.

Special to The Daily Missoulian.
Helena, Feb. 25.—The legislative state land inquiry committee resumed its hearing today and appointed a committee of three to formulate a report for submission to the general committee.

W. N. Noffsinger of Kalspell addressed the committee briefly. He gave it as his opinion that the lands had been sold at a fair price to the state and that the sale was legally made.

If the sales were unconstitutional, he gave it as his belief that the board should not be censured for the reason that it is an executive body to carry out the instructions of the legislature and therefore no fault should be found. Mr. Noffsinger said that the statutes seemed to require the sale of these tracts in 160-acre lots, so the board in selling them complied with both the letter and spirit of the law by conveying to individual purchasers of each 160-acre tract and by making vacant seats in the box and later in the day Judge William P. Lavelle allowed a challenge directed by the prosecution against David Halseberger, one of the jurors accepted several weeks ago. The session of court ended with the tenth tableau of the day under examination by the prosecution after two hours had been passed by the defense.

HOPKINS MAY WIN.

Pasadena, Cal., Feb. 25.—"Private advices have just reached me that Albert J. Hopkins will be re-elected United States senator from Illinois. The deadlock may not be broken at once," but Hopkins will win out finally."

The foregoing statement concerning the battle for senatorship in Illinois was made today by Republican State Chairman West of that state.

NO RECONSIDERATION.

Carson, Nev., Feb. 25.—The motion to reconsider the vote taken on the anti-gambling bill in the assembly yesterday afternoon was lost this afternoon by a vote of 28 to 19. The bill will now go to the senate and will probably pass there by a margin of two votes.