

CASE IS LOST BY COURT'S RULING

JUDGE M'CALL HOLDS THAT STANDARD OIL COMPANY GRANTED NO REBATES.

JURY IS SO INSTRUCTED

It is Stated That the Testimony Presented "Tends to Prove There Was No Understanding, Expressed or Implied, Direct or Indirect," Between Defendant and Kentucky Company

Jackson, Tenn., Nov. 17.—In a ruling which required 20 minutes to read, Judge John E. McCall, in the United States circuit court, this afternoon ended the efforts of the government to have assessed against the Standard Oil company of Indiana penalties aggregating more than \$30,000,000.

The Elkins anti-rebate law was violated, it was alleged, through "scheme and device." Judge McCall, in his ruling, first reviews the indictment allegations. Next he takes up the testimony presented, as tending to prove that the consignments were shipped on orders received from the Standard Oil company of Kentucky by the defendant company from its refinery at Whiting, Ind., to Grand Junction, Tenn., "for beyond," with freight charges prepaid to Grand Junction, and there taken possession of by the Kentucky corporation.

No Understanding. He points out that the testimony presented "tends to prove there was no understanding, expressed or implied, direct or indirect," between the defendant company and the Kentucky company with regard to rates to be paid. That it was solely a business transaction between two corporations. Upon this statement of facts, Judge McCall recalled that the rule early in the trial that the Indiana company should not be held accountable for the shipments, so far as the transportation beyond Grand Junction was concerned.

"The uncontradicted testimony presented by the government," the ruling continues, "is that in the period covered by the indictment there was a 15-cent rate from Whiting to Grand Junction for points beyond and this rate was duly on file with the interstate commerce commission and was the legal rate." The testimony is uncontradicted that the shipments covered by the indictment were in carload lots from Whiting to Grand Junction for beyond and that the defendant paid this rate.

Quoting the response of T. M. Crossland, an attaché of the interstate commerce commission, who was recalled as a witness by the prosecution to interrogations of the court, Judge McCall points out that the witness held that the defendant company was authorized to use the 15-cent rate; that it was a legal rate, and that, if inquiry had been made of him by a shipper for the purpose of ascertaining the legal tariff, he would have quoted that rate. Taking up the much-discussed "blind billing," it was held by the court this morning that the carrier, "that there is not one syllable of testimony tending to show the defendant company knew the carrier was blind billing the shipment. But, if the defendant had known this, how could that effect its rights to avail itself of the 15-cent rate which was filed by the commission?"

BATTLESHIP FLEET FOR THE WEST

THAT IS THE KEYNOTE OF SPEECHES BEFORE FIRST PACIFIC COAST CONGRESS.

San Francisco, Nov. 17.—The defenseless condition of the Pacific coast in the event of sudden war and the necessity of a battleship fleet in the Pacific, was the keynote of the speeches made today before the first Pacific coast congress, called by Governor James N. Gillett, in pursuance of a resolution adopted by the recent special session of the legislature, to discuss the urgency of merchant marine legislation and the maintenance of a strong fleet in the Pacific, consider the holding of an exposition in San Francisco in 1915 and form a permanent congress to meet annually. About 200 delegates from all the Pacific coast states and as far east as Denver, responded at roll call. Mayor F. H. McCarthy welcomed the delegates to the city, and Governor Gillett, who presided, greeted them on behalf of the state.

ENGLISH POLITICS IS IN A FERMENT



Parliament building and King George of England. Lower left, Premier Asquith, and lower right, John Redmond, both of whom are figuring prominently in the crisis. Mr. Redmond had recently returned from a trip to the United States.

London, Nov. 17.—Politically this was an uneventful day, with the exception of Arthur J. Balfour's speech at Nottingham, which was awaited with keen anticipation as an exposition of the unionist's election program. Curiosity was aroused as to whether the unionist leader would make any new departure on the Irish question. It was quickly evident that, except on the question of the reform of the house of lords, on which the unionist party is now firmly committed to Lord Rosebery's scheme, the unionist platform stands the same as at the last general election in all its planks.

Mr. Balfour referred only incidentally to the home rule question, but sufficiently indicated he was in complete opposition to it as ever. Thus the unionist election policy, in the main, will be to pit reform of the house of lords against the liberals' demand for abolition of the veto power of the lords.

There is a disposition on the part of the liberal side to give the peers a longer time to debate the veto bill, possibly even to the extent of admitting a reasonable amendment, provided this did not interfere with the principle of the bill.

Mr. Balfour has now set the seal of his approval on the adoption of "American dollars" as a unionist election motto. The Standard, in an editorial, declares there would be no constitutional crisis but for this American subsidization of the nationalists. "It is Redmond's, not Asquith's crisis," says the paper, "Redmond's patrons are not the poor, like Parcells, but the affluent. It is the American business man, the American capitalist and millionaire who are financing the home rule party for purposes of their own. They do not live in England and they want to prevent the adoption of tariff reform."

At the End of His Rope. In short, the plain-clothes man, the handy man of captains and inspectors, the ready errand runner for "the system," has come to the end of his rope. Detectives will be no part of the product's command and will work independently of the uniformed police. This is the policy of the English detective force, which works under Scotland Yard, a centralized control, and it also is in line with the policy of the secret service in this country.

More than 600 detectives will have to adjust themselves to the new order. They will have nothing to do with gambling, disreputable houses and keeping the streets clean of soliciting, which will be looked after by a special squad. Their business will be to run down criminals.

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Washington, Nov. 17.—Henry M. Hoyt, counselor for the department of state, is seriously ill. While in Canada, engaged in the reciprocity negotiations, he was attacked with an intestinal trouble from which he had suffered before.

OREGON'S LAW IS BOURNE'S SUBJECT

SENATOR FROM COAST DELIVERS ADDRESS ON SYSTEM OF HIS STATE.

IS BEST IN THE WORLD

Declares the Initiative and Referendum, "the Keystone of the Arch of Popular Government" and Sets Forth His Belief—He Gives a Clear and Concise View of How it Works Out.

Philadelphia, Nov. 17.—An exposition of the much-discussed "Oregon system" which he declared to be the "best system of government in the world," was the contents of an address delivered by United States Senator Jonathan Bourne, Jr., of Oregon, before the American Academy of Political and Social Science at its opening session here tonight. The senator declared the initiative and the referendum "the keystone of the arch of popular government," and set forth in detail the reasons for his belief, analyzing, as well, the other features of the "Oregon system."

In his address, Senator Bourne argued that the initiative educates and develops the people by compelling them to study public questions and placing upon them responsibility for all laws. It gives every man an opportunity to submit his ideas to the people, provided a per cent of them believe their ideas worthy of submission to popular vote; thus, the speaker argued, there is a tendency to lift all the people to the plane of the most advanced.

"Laws proposed under the initiative," said Senator Bourne, "are not subject to amendment, and, therefore, cannot be made the means of enacting 'jokers,' as has often been done in the case of measures enacted by a legislature. Legislative blackmail and grants of special privilege are made impossible by the referendum."

Oregon is Satisfied. The people of Oregon are satisfied with their system of direct legislation.

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LIFE OF TOLSTOI HANGS BY THREAD



The Tolstoi home at Yasnaya-Poliana and Count Leo Tolstoi

Astapova, Russia, Nov. 17.—Although hope has not yet been given up, the attendants of Count Tolstoi recognize his life is in the balance and that although the strong constitution of the great Russian has carried him through other grave struggles against disease, his system has become so weakened and his heart has responded so feebly to restoratives that it will be almost a miracle if he recovers.

In the early stages of the inflammation of the lungs, from which he is suffering, it was the temperature that gave cause for anxiety; now it is the heart. The patient's temperature was not particularly high today, but the heart action was extremely bad. Tolstoi alternated part of the time between unconsciousness and delirium.

Early this evening it was announced the inflammation had been confined to a comparatively small section of the lungs and that expectation was free. The heart, however, caused constant anxiety. Strophantus, a powerful stimulant, was administered. Oxygen was not resorted to. The physicians have issued frequent bulletins, in which they refer to the persistent temperature. A clyster was administered as a means of relieving this, and as an immediate result the patient's temperature fell from 101.5 to 100, less, however, than was expected. Temporarily, there was easier breathing and the pulse dropped slightly. The patient faced a critical night. An emergency telegram addressed to Tolstoi by Atanas, metropolitan of St. Petersburg, presiding over the synod, and the departure of Bishop Cyril for Astapova marks the extreme solitude of the church to gather Tolstoi into its folds.

At the time of the writer's serious illness at Crimea in 1900 a similar exhortation was sent to him and secret orders were dispatched to Crimea to allow only the representatives of the church entrance to the bed chamber during his dying minutes, as the synod had determined at any case to bury him.

On that occasion, when he regained consciousness, Tolstoi dictated the following reply to the clericals: "Even in the face of death twice two makes four."

Would Re-Enter Church.

St. Petersburg, Nov. 17.—It is reported that Count Tolstoi desires a reinstatement in the Greek church from which he was excommunicated following the publication of his work "Resurrection" in 1901.

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BATTLE FIELD FOR LABOR FIGHT

AMERICAN FEDERATION OF LABOR MEETING HEARS AN IMPASSIONED APPEAL.

MAY HELP LOS ANGELES

Unions of California City Are Preparing to Make a Fight for Their Rights and Central Body May Appropriate Money for the Purpose—Clams Gas Caused Explosion.

St. Louis, Nov. 17.—The electrical workers' union controversy, which for two years, has been the bitterest internal strife in the history of the American Federation of Labor, is to be thrashed out finally tomorrow. Late this afternoon the convention made it a special order of business. Frank Duffy, general secretary of the United Brotherhood of Carpenters and Joiners of America, precipitated the debates which resulted in the special order, by requesting that his side of the controversy be heard before he returns to Indianapolis tomorrow night. After several acrimonious speeches, this permission was granted. The electrical workers are divided into two camps, the "socialists" and the "regulars," each clamoring for recognition by the Federation. The "regulars" numbering about 12,000, enjoy the favor of the federation administration, but back of the socialists, 27,000 strong, is the almost unanimous support of the United Mine Workers, the strongest labor union in the world.

Support Los Angeles Labor.

Job E. Harriman, attorney for the strikers in Los Angeles, delivered an impassioned plea for support in the Los Angeles labor fight. He charged the Huntington's with responsibility for the labor difficulties in the California city and declared the Los Angeles Times disaster was the result of a gas explosion, for which labor could not be held to blame. Mr. Harriman received enthusiastic applause at the conclusion of his speech and a special vote of thanks for his presentation of the situation. The matter of aiding the Los Angeles trade unions in their fight is in the hands of a committee which will report next week. It is said the Federation delegates are almost unanimous in support of a proposition to make the western city the battleground of the labor struggle in the United States.

Appropriate Millions.

Los Angeles, Nov. 17.—"The American Federation of Labor will appropriate millions, if necessary, to unionize Los Angeles."

This was the declaration contained in a telegram received today by Anton Johansson, one of the witnesses before the special grand jury which is investigating the Times explosion, from Olaf Tveitmo, secretary and treasurer of the California state building trades council, who left Los Angeles last week, after giving testimony in the alleged dynamiting case, to attend the convention of the national labor organization in St. Louis. In the telegram Tveitmo declares further that the federation viewed with satisfaction the progress of the movement to strengthen the cause of labor unions in Los Angeles. Johansson had planned to go with Tveitmo to attend the St. Louis labor gathering, but the grand jury refused to give him permission to leave the state, although it extended to Tveitmo the privilege of continuing his testimony upon his return from the convention two weeks hence.

POLICEMAN IS SHOT IN CHICAGO

TROUBLE COMES TO WINDY CITY WHEN POLICE TRY TO DISPERSE STRIKERS.

Chicago, Nov. 17.—Renewed rioting today, in which one policeman was shot, disturbed the comparative peace that recently has marked the garment workers' strike. More than a score of strikers, most of them women and girls, were arrested and several policemen were injured. Thomas Flowers, a private detective, was shot while aiding the police disperse strikers at Fifth avenue and Harrison street. The strikers were said to be on their way to break into the plant of the Royal Tailors, where non-union help is employed. Flowers joined the police in a demand that the strikers disperse. Instead, one of the crowd fired into the platoon of policemen. The injured man was taken to a hospital and Mrs. Magdalene De Bona, a striker, was arrested. A revolver, with one chamber recently discharged, was found in her possession.

NEW YORK SLEUTHS ARE SEPARATED FROM POLICE

PLAIN-CLOTHES MEN WILL NO LONGER ACT AS RUNNERS FOR THE "SYSTEM."

New York, Nov. 17.—The shakeup in the police department, predicted ever since Mayor Gagner took office, came today. The changes strike at the foundations of the police department and place the entire detective force on a new footing. Beginning Saturday, there will be no more brown detective bureaus in any of the boroughs except Brooklyn. Detectives will no longer report to captains of precincts or to inspectors of districts, but to a lieutenant or captain of detectives, who will be directly responsible to the inspector at headquarters in charge of the entire bureau, who, in turn, will be the second deputy commissioner, William Flynn.

At the End of His Rope. In short, the plain-clothes man, the handy man of captains and inspectors, the ready errand runner for "the system," has come to the end of his rope. Detectives will be no part of the product's command and will work independently of the uniformed police. This is the policy of the English detective force, which works under Scotland Yard, a centralized control, and it also is in line with the policy of the secret service in this country.

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DEATH IS RESULT OF SPIRAL GLIDE

Ralph Johnstone, Holder of the World's Altitude Record for Aeroplanes, Falls 500 Feet While Performing One of His Daring Feats at Overland Park in Denver.

Denver, Nov. 17.—With one wing tip of his machine crumpled like a piece of paper, Ralph Johnstone, the brilliant young aviator, holder of the world's altitude record, dropped like a plummet from a height of 500 feet into the inclosure at Overland park aviation field this afternoon and was instantly killed. When the spectators crowded about the inclosure, reached him, his body lay beneath the engine of the biplane with the white planes that had fallen him in his time of need, wrapped about it like a shroud. Nearly every bone in his body was broken. He had gambled with death once too often but he played the game to the end, fighting coolly and grimly to the last second to regain control of his broken machine.

The Fatal Spiral Glide.

Fresh from his triumphs at Belmont park, where he had broken the world's record for altitude with a flight of 9,714 feet, Johnstone attempted to give the thousands of spectators who stood with craned necks to watch him add an extra thrill with his most daring feat, the spiral glide, which had made the Wright aviators famous. The spectators got their thrill, but it cost Johnstone his life. The fatal flight was the second Johnstone had made this afternoon. In the flight when he was in the air with Hoxsey and Brooks he had gone through his usual program of dips and glides with his machine apparently under perfect control. Then Johnstone rose again and after a few circuits of the course to gain a height, headed toward the foothills. Still ascending, he swept back in a big circle and as he reached the north end of the inclosure he started his spiral glide. He was then at an altitude of about 800 feet. With his plane tilted at an angle of almost 90 degrees, he swooped down in a narrow circle, the aeroplane seeming to turn almost in its own length. As he started the second circle the middle spar, which braces the left side of the lower plane, gave way and the wing tips of both upper and lower planes folded up as though they had been blinged. For a second Johnstone attempted to reach the plane by warping the other wing tip. Then the horrified spectators saw the plane swerve

like a wounded bird and plunge straight toward the earth. Johnstone was thrown from his seat as the nose of the plane swung downward. He caught one side of the wire stays between the planes and grasped one of the wooden braces of the upper plane with both hands. Then, working with hands and feet, he fought by main strength to warp the planes so that their surfaces might catch the air and check his descent. For a second it seemed to the white-faced spectators, almost under him, that he might succeed, for the football helmet he wore blew off and fell more rapidly than the plane. The hope was only momentary, however, for, when only about 500 feet from the ground, the machine turned completely over and the frightened spectators fled wildly as the broken plane and the tense-faced boy, still fighting grimly in its mesh of wires and stays, plunged among them with a thud and crash that could be heard over the big field.

Sensation-Mad People.

Scarcely had he hit the ground when sensation-mad brutes, both men and women, swarmed over the wreckage fighting with one another for souvenirs of the terrible occasion. One of the broken wooden stays had thrust its jagged end almost through Johnstone's body. Before the doctors or police could reach the scene one man had torn this splinter from the crushed and mangled body and run gleefully away carrying his prized trophy with the aviator's blood still dripping from its end. Frantic, the crowd tore away the canvas from over his body and fought for the very gloves that had protected Johnstone's hands from cold. The machine fell on the opposite side of the field from the grandstand and there were few near the spot but physicians and police were rushed across the field. Physicians declared that death was instantaneous, as Johnstone's back and legs were broken, the bones of his thighs being forced through the flesh and the leather garments he wore. Arch Hoxsey, who, in a previous flight this afternoon, had reached an altitude of 2,500 feet, had risen just before Johnstone began his fatal glide

and was in the air when the accident took place. As he swung around the other end of the course he saw that Johnstone had fallen and guided his machine directly over the body of his friend. He descended as soon as he could bring his plane to the ground and rushed to the wreckage where he and Walter Brooks helped to lift the mangled body into an automobile which brought it to the city.

Many of the spectators were watching Hoxsey's flight and did not see Johnstone's machine collapse, but a woman's shriek, "My God, he's gone," drew every eye in time to see the doomed man dashed to death upon the ground. The band in the grandstand, blaring away under contract, never ceased to play and Johnstone's body was driven out of the inclosure with the strains of "A Grizzly Bear" for a funeral march. It would seem that many incidents had happened throughout the aviation meet to warn the ill-fated aviator. Yesterday in alighting, Johnstone broke the left wing of his machine against the fence. It was the same tip that gave way today and caused his death. Today when he started on his first flight one of the wheels on which the aeroplane runs along the ground gave way and he had to have it replaced. As he prepared to start for his last flight a fox terrier that had broken through the fence, stationed himself directly in front of the machine and, barking frantically, refused to be driven away. As the machine rolled down the track one of the wings swept above the dog, which pursued the machine until it lifted into the air.

Believed He Understood the Air.

In discussing his flights in this rare atmosphere yesterday with a representative of the Associated Press, Johnstone declared he would attempt no "stunts" here, as he considered it too dangerous. Evidently, however, he believed he had solved the problems of this altitude when he dropped his machine. Hoxsey's daring flight far over the foothills seemed to have fired him with a determination to outdo his teammate, for the first spiral which he made safely was by

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EDUCATORS MEETING IN THE CITY OF MORMONS

PELAGOGUES FROM 30 STATES DISCUSS PLANS FOR UNIFORM CERTIFICATION.

Salt Lake City, Nov. 17.—More improved methods in determining national standards for teachers in the public schools and a uniform interstate certification are the ends sought by superintendents of instruction and commissioners of education who, as representatives of more than 30 states, met here today in a conference that is expected to last through the remainder of the week. Prominent among the delegates in attendance is Dr. Harlan Updegraff of the national bureau of education. In his address to the conference today Dr. Updegraff predicted that results of far-reaching effect upon the future plans and work of the nation's educators would follow from the discussions. Governor Spry delivered an address of welcome at the opening session today.

In his address, which occupied most of the business session today, Prof. Updegraff said that 28 states recognize certificates issued by other states, with various limitations, while 29 do not. In the United States there are 52 different forms of licenses for teachers. To establish common standards of proficiency and unify the certification system the United States bureau of education has prepared a plan which Prof. Updegraff explained.

RUMORS OF MEXICANS CROSSING THE BORDER

El Paso, Nov. 17.—The editor of the Marathon Hustler wires the following tonight: "The deputy sheriffs at Marathon, Texas, telephoned that an armed band of 60 Mexicans has crossed the river near there and is marching on this town. Four scouts have already been started toward the river, and in the meantime the town officials of Marathon are raising armed men to protect the people." Marathon is a small town east of El Paso.