IS MR. ARMOUR A FUGITIVE?

TEST QUESTION AS TO PACKERS ARGUED BEFORE GOV. FORT.

Fine Points as to What Constitutes Fleeing From the Jurisdiction of the State of New Jersey—Governor Will Take Briefs and Give Decision Later.

TRENTON, N. J., April 18.—The question whether J. Ogden Armour of Chicago, one of the beef packers indicted by the Hudson Grand Jury, is a fugitive from justice was debated before Gov. Fort this afternoon at a hearing on the application of Prosecutor Pierre P. Garven for a requisition. The Prosecutor had anticipated that the hearing would include his applications for requisitions for Lewis F. Swift of Swift & Co. and Edward Morris of Morris & Co., but Gov. Fort advised him that as the three indictments involved practically the same questions the Armour case might be accepted as controlling his action upon the two others.

The granting of the requisition was opposed by Samuel Untermyer and Richard V. Lindabury, counsel for Armour. Prosecutor Garven presented his case in support of the application. Attorney-General Wilson assisted the Governor in conducting the hearing. He submitted that the only theory upon which the Governor might grant a requisition was that Armour is actually a fugitive from justice.

The application of the Prosecutor, Mr. Untermyer insisted, contained no proof of any act committed within the State in furtherance of the alleged conspiracy between the packers to raise the price of beef. Therefore no prima facie case had been established.

Reviewing the history of the indictment Mr. Untermyer said there were substantially two charges going to make the alleged conspiracy. One of these was the election of directors of Armour & Co. and the other the fact that cold storage warehouses have been operated in this State for the purpose of storing the meat product, thereby enabling the National Packing Company and the various other concerns involved to control the supply. He submitted that neither the election of directors nor the maintenance of the warehouses was in itself an illegal act and therefore that something more was needed to complete the offence.

Admitting that the offence of conspiracy might have been committed outside the State and that the laws of New Jersey might have been violated beyond its jurisdiction Mr. Untermyer said that even if such were the case it would not of itself justify the allegation that the offenders were fugitives from justice. He said that Prosecutor Garven seemed to base his argument upon the fact that Armour while on his way to Europe had passed through New Jersey, sailing from Hoboken on one of the vessels from that city. He submitted that the mere incidental presence of Armour in the State, having nothing whatever to do with the alleged conspiracy, and his subsequent departure could not be held to make him a fugitive.

Various decisions in extradition cases were cited by counsel to show that constructive presence within the jurisdiction of a State cannot be pleaded as involving in any way the commission of a crime for which extradition is obtainable. Untermyer submitted that it must be shown that Armour had actually been in the State on the day of the commission of a crime to justify the granting of an extradition. He pointed out that the election of directors or the maintenance of storage warehouses did not constitute in themselves criminal overt acts, but could only be construed as such in conjunction with the allegations of conspiracy.

Prosecutor Garven replied briefly to the argument of Untermyer, contending that the time of the commission of the crime was not the essence of the case. He submitted that if it could be shown that Armour was in this State at any time prior to the alleged crime and participated in the conspiracy, if he was here on the day on which the crime was alleged to be committed or at any time subsequent thereto, it was only necessary to show that fact to make him a fugitive. The trouble with the opposing counsel's briefs, the Prosecutor said, was that they had been prepared before it was known that Armour had actually been in New Jersey, and for that reason they did not fit the case.

The Prosecutor contended that the arguments of Untermyer might be proper in opposing the granting of an extradition by Gov. Deneen of Illinois but should not have weight in this State.

Untermyer said he assumed that his client had the same privileges and rights in this State as he would have in Illinois and that Gov. Fort would not grant any application without proper legal authority. As evidence of this he said it was an act of courtesy that Gov. Fort had given a hearing, which he need not have done had he been satisfied that a proper case for extradition had been established by the Prosecutor. Turning to Garven he inquired whether he would consider that if Armour had passed through the State in a sleeping car that fact in itself would have made him a fugitive from justice. He remarked that while he was not concerned at this time in the validity of the indictments, he could show that they were not worth the paper on which they were written.

Richard V. Lindabury closed the case for Armour, devoting his argument particularly to the contention that no crime had been committed in this State.

Gov. Fort said he would permit counsel to present briefs before rendering his decision.

WHITE ASKS FOR MERCY.

Alleged Army Record to Be Examined Before Bad Check Passer Is Sentenced.

Stephen R. White, who said he was an ex-army captain when he was arrested at the Astor House on March 30 on the charge of passing a bad check, pleaded guilty yesterday in Special Sessions, and was remanded to the Tombs until Friday that his case may be investigated before sentence is pronounced.

The complainant is Gilbert Hennessy, proprietor of the Press Café, at 168 William street. The check, for $20, was given to him by White on March 26. White was sent to the Hudson street hospital suffering from heart disease on the day of his arrest. That delayed his trial.

Stafford Krone of 826 Park avenue, Hoboken, a young man who was arrested with White, was kept in jail for two weeks awaiting a hearing. Yesterday he proved that he had merely introduced White to the complainant, and was acquitted.

White's lawyer said White had had no idea that the check was bad, passed it in good faith and had been anxious to make restitution. Furthermore, he argued, his client was deserving of mercy inasmuch as he had served his country well in the Philippines and in Porto Rico, and had an aggravated case of heart disease.

The Court postponed judgment to examine into the truth of these assertions.

There is no Capt. Stephen R. White on the retired list of the Army Register.

Fall to Convict in Blackmail Case.

The jury in the case of Bennett C. Silver, charged with blackmail, failed to agree yesterday afternoon after being out two hours. Silver was on trial all last week before Judge Swann in the General Sessions. It was alleged that Silver, signing himself "Esperanto," had written a letter demanding $2,000 of Mrs. Rebecca Cohen of 212 West 137th street. The case will not be tried again.

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"Star" Tennis shirts with detachable half-sleeves—soisette, $2; flannel, $5.

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Law Does Not Care for Majors.

The Albany Burgesses Corps got permission from Supreme Court Justice Blanchard yesterday to serve an answer in two suits brought against the Burgesses by Edward F. Briscoe and William P. Healy to recover $500 for money loaned. The Burgesses were in default in answering because their reply was verified by Major Otis J. Woodward, commandant, whereas the commandant has no standing in law. When the Burgesses are sued their president or treasurer must do all the verifying. They must pay $40 costs as a condition of having the default opened.

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GARRICK 35th St., nr. B'way. Eve. 8:15. Mat. Sat. only 2:15. Audience laughed until sides ached.—Herald. W. H. CRANE in FATHER & THE BOYS

LYCEUM W. 45th St., nr. B'way. Eve. 8:15. Mats. Thurs. & Sat. 2:15. Mrs. FISKE TUESDAY & WEDNESDAY EVES. HANNELE preceded by THE GREEN COCKATOO. THURSDAY MAT. AND REST OF WEEK. PILLARS OF SOCIETY. NEXT TUES. (Seats Wed.) CHAS. CHERRY in THE SPITFIRE.

HUDSON W. 44th St., near B'way. Evs. 8:15. Mats. To-mor'w & Sat. 2:15. THE SPENDTHRIFT with EDMUND BREESE.

CRITERION B'way & 44th St. Evs. 8:20. Mats. Saturday only 2:15. "As tender as Little Lord Fauntleroy and 3 times as funny." FRANCIS WILSON in THE BAD BURGOMASTER'S BABY.

KNICKERBOCKER B'way & 38th St. Evs. at 8. Matinee Sat. only 2. BEST OF ALL MUSICAL PLAYS. THE DOLLAR PRINCESS.

CHARLES DILLINGHAM'S GLOBE B'way & 46 St. Evs. 8:15. Mats. To-mor'w & Sat. 2:15. Montgomery and Stone in THE OLD TOWN.

NEW AMSTERDAM THEATRE, 42d St. W. of B'way. Evs. 8:15. Mat. To-morrow. Seats Sale Thursday. Best Seats $1.50. MADAME X

NEW YORK B'way & 44th St. Evs. 8:15. Mats. Tomor'w & Sat. 2:15. LAST 5 NIGHTS. HENRY B. HARRIS presents A SKYLARK. A New Whimsical Musical Comedy. NEXT MONDAY. Seats Next Thursday. VALESKA SURATT IN THE GIRL WITH THE WHOOPING COUGH.

LIBERTY West 42d St. Evs. 8:15. Mats. Tom'w & Sat. at 2. "Don't miss it at any cost."—Eve. Sun. THE FANTASTICAL MUSICAL COMEDY THE ARCADIANS WITH ITS WONDERFUL LIST OF 100.

GAIETY B'way & 46th St. Mat. Wed. & Sat. 2:15. FORTUNE HUNTER. WITH JOHN CUMBERLAND.

JOE WEBER'S B'way & 29th St. Evs. 8:15. Mat. Tom'w Best Seats $1.50. THE LADY FROM LOBSTER SQUARE.

America's Foremost Theatres and Hits.

HIPPODROME Entire Block, 6th Ave., 43d-44th Sts. Daily Mat's. 2. Best Seats $1. Eve. 8, 25c-$1.50. Entire Circus by A Trip Ballet of Inside. 50 Little People to Japan. Jewels. The Earth.

NAZIMOVA'S Evgs. 8:20. Mat. Tom'w 2:20. 39th Street Theatre NAZIMOVA in Ibsen's LITTLE EYOLF.

MAXINE ELLIOTT'S THEATRE, 39th, bet. B'way & 6th Av. $1.50. Matinee To-morrow 2:20. Evgs. 8:30. Mabel Taliaferro, Harry Harrison. LULU'S HUSBANDS. Conger. Say: Check It With Your Hat! "HERALD": Its laughs travel at a pace that breaks the speed laws. Nothing blue in the play except Miss Harrison's pajamas.

COMEDY 41st St., bet. B'way & 6th Av. Evs. 8:15. $1.50 Matinee To-morrow, 2:15. Professional Matinee To-morrow Wednesday. LAWRENCE IRVING. The Three Daughters of M. Dupont. MABEL HACKNEY. "EVENING TELEGRAM": Entertaining from start to finish. Ably rendered into English and admirably performed.

DALY'S B'way & 30th St. Evenings 8:20. $1.50 Matinee To-morrow 2:20. MARIETTA OLLY Last Week THE WHIRLWIND. THURS., APRIL 28. DE WOLF HOPPER with Louise Dresser in A MATINEE IDYL. Seat Sale Next Thurs.

Lew Fields Last 2 Weeks HERALD SQ. B'way & 35th. Evs. 8:15. Mats. Thurs. & Sat. 2:15. BLANCHE RING in THE YANKEE GIRL.

BROADWAY Thea., B'way & 41st. Evs. 8:15. $1.50 Matinee To-morrow 2:15. The JOLLY BACHELORS with NORA BAYES.

BIJOU B'way & 30th St. Evs. 8:20. $1.50 Matinee To-morrow 2:20. CYRIL SCOTT in THE LOTTERY MAN.

CASINO B'way & 39th St. Evs. 8:15. Sun. Mat. To-morrow 2:15. WHITNEY OPERA CO. THE CHOCOLATE SOLDIER.

LYRIC 42d St., W. of B'way. Evs. 8:15. $1.50 Matinee To-morrow 2:15. Clyde Fitch's Greatest Play. THE CITY.

HACKETT 42d, W. of B'way. Evs. 8:30. Mats. Thurs. and Sat. 2:15. GRACE LA RUE in MOLLY MAY.

WEST END 125th, W. of 8th Av. Evs. 8:15. $1.00 Matinee To-morrow, 2:15. BLANCHE BATES in THE FIGHTING HOPE.

MADISON SQ. GARDEN TWICE DAILY 2:15 & 8:15 P. M. LAST 5 DAYS. Last 2 Performances Next Saturday. CIRCUS BARNUM-BAILEY. 400 CIRCUS ARTISTS. 50 CLOWNS. 125 NEW CIRCUS FEATURES. 6 ARENAS FILLED WITH WONDERS. THREE RINGS. 10 ONLY ONE DESPERADO AND 10 ONLY ONE SHOW. SEE FOR IN 8TH AVENUE. Adm. 25c. & 50c. Reserved Seats 75c. & $1.50. Boxes Seats $2 and $2.50. Children under 10 years half price to afternoon performances. APR. 25th ONE WEEK 5th Av. & 31 St. BROOKLYN.

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MENDELSSOHN HALL Wed. Eve. at 8:15. April 20. VIOLIN RECITAL. MISS HENRIETTE BACH. Assisted by Mr. Sydney Biden, baritone. Tickets $1.50, $1, on sale at box office.

Mendelssohn Hall, Fri. Eve., April 22, at 8:30. Recital of the brilliant Roumanian Pianist ROSE FOXANEANU. Seats $1.50 to 75c. at Hall. Mgt. Eugene Kunsle.

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April 20—Chas. Keller, 2245 4th av.; all pledges prior April 15, 1909, to No. 36545.

April 21—S. m. Simpson, 91 Park row; all pledges prior Feb. 25, 1909, to No. 8850.

April 21—S. A. Flatto, 1295 3d av.; E. Sobel, formerly 1377 3d av.; all pledges prior April 11, 1909.

April 22—M. Phillips, 137 Bowery; all pledges prior April 12, 1909, fine consignment jewelry.

April 22—F. Berger, formerly 460 6th av.; Berger Bros., 204 West 42d st.; all pledges prior April 16, 1909.

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April 19—Clothing; A. Sellnger, 634 3d av.; I. Harris, 513 9th av.

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April 21—Jewelry, &c., all goods pledged prior April 10, 1909, to No. 76958; Max Bernstein, 275 West 125th st. and 232 1st av.

April 22—Clothing, &c., pledged prior April 11, 1909, and all goods held over from previous sales; B. & S. Aufses, 279 Stanton st.

CENTRAL AUCTION CO., M. Sheehan, Auctioneer, 152 Canal st., sells at 11 A. M.:

April 19—By R. Simpson Co., 9 Myrtle av. and 509 Fulton st., Bklyn., diamonds, jewelry, &c., pledged to No. 3290, to March 1, 1909, and old dates.

April 20—By M. Harlem, 282 Columbia st., Brooklyn; jewelry, &c., to April 10, 1909.

April 21—By M. Weil & Co., 2247 3d av.; diamonds, jewelry, to April 10, 1909.

April 26—By R. Simpson & Co., 143 West 42d st.; diamonds, jewelry, &c., pledged previous to No. 6000, March 1st, 1909, and all goods held over.

ELI SOBEL, Auct., 98 Bowery, sells 10 A. M.:

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April 21—Clothing; Chas. I. Singer, 426 10th av.

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Atlantic Transport Line New York—London Direct, Pier 58, N. R. Minneapolis.....Apr. 23, 9:30 A.M. Minnehaha.....May 7. Minnetonka.....Apr. 30, 9:30 A.M. Minnewaska.....May 14.

Red Star Line From Pier 59, N. R., 11 A. M. ANTWERP DOVER LONDON PARIS. NEW MAMMOTH SS. LAPLAND, April 23, 11 A.M. Glass-enclosed Promenade, Verandah Cafe, Lounge, Elevator, Orchestra, Shop, Wireless, etc. Kroonland.....Apr. 30. Finland.....May 7. Vaderland.....May 14.

White Star Line From Piers 60 & 61, N. R. N.Y.—Queenstown—Holyhead—Liverpool. Celtic.....Apr. 29, 10 A.M. Arabic.....May 7. Cedric.....Apr. 30, noon. Baltic.....May 14. N.Y.—Plymouth—Cherbourg—Southampton. Oceanic.....Apr. 20, 9:30 AM. Adriatic.....May 4. Majestic.....Apr. 27, 9:30 AM. Teutonic.....May 11. N. Y. AND BOSTON—MEDITERRANEAN. Our Travelers' Checks Good Everywhere. Offices, 9 Broadway & Pier 62, N.R. (23d St.), N.Y.

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AGWI Clyde Line—Mallory Line—Porto Rico Line—Ward Line. City Ticket Office, 290 Broadway.

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