

of trade even though there was incidental elimination of competition.

When Mr. Nicoll essayed an explanation of the way in which the trust had increased the price of leaf tobacco paid to producers...

Chief Justice White asked Mr. Nicoll if there was anything in the record to show the existence of an organization of tobacco planters and night riders to guard the trust.

The new justice, Mr. Lamar, inquired whether the tables showed a comparison to indicate whether the advance in the price of tobacco leaf had kept pace with the advance in the prices of other commodities.

Chief Justice White threw a damper on the enthusiasm with which Mr. Nicoll was relating how the trust had advanced the price of tobacco leaf by relating what a tobacco planter in Louisiana had told him.

The tobacco trust methods had driven him and his fellow planters out of business and ruined the business of growing tobacco.

That must be an exceptional case, observed Mr. Nicoll and Attorney-General Wickham as they laughed.

Mr. Nicoll justified the secrecy maintained by the American Tobacco Company regarding its ownership of plants held out to the public as "independents" on the ground that the labor unions were not to disclose the real ownership.

which would have subjected the business to attack and diminished profits, but no independent concern had suffered by the secretly owned concerns.

Mr. Nicoll contended that the whole question of guilt turned upon the activity of the American Tobacco Company, if it had used unfair business methods to harass competitors, if it had secured control of raw material, of tobacco lands or had interfered with the "avenues of distribution" then, counsel for the trust admitted, there would be some ground for adjudging it a conspiracy under the Sherman law.

But none of these things had been established. The Government, said Mr. Nicoll, had taken possession of over 25,000 private letters concerning the business of the American Tobacco Company.

It had found only 10 that were available for testimony in the record and only 37 had found their way into the brief.

The counsel for the American Tobacco Company cited the number of independent concerns that had been established and had flourished in competition with the American Tobacco Company.

"Power" was not the test of guilt, Mr. Nicoll insisted. The power of the American Tobacco Company, said he, was the power of great wealth combined with great business experience.

But the defendant, said he, had no power over the grower of tobacco, over the raw material or over the avenues of distribution.

The price of the manufactured products is practically the same as when the American Tobacco Company started.

Mr. Nicoll declared in conclusion that no man or association of men should be barred from commerce merely because wealth.

The history of the American Tobacco Company is the growth of the American commerce," said he. "The only enemies it has are dealers who would rise to wealth or politicians who would rise to fame on its ruins."

The argument will be finished tomorrow and then the Standard Oil case will be taken up.

CANAL FLIGHT HAZARDOUS. But Harmon Will Try to Cross the Isthmus in an Aeroplane.

Lewis T. Haney, the engineer sent to the Isthmus of Panama to see if it is feasible to make an aeroplane flight from the Atlantic end of the Canal to the Pacific end, got back last evening by the Hamburg-American liner Prinz August Wilhelm.

He calls the project hazardous because of the stiff trade wind blowing from Colon toward the city of Panama, the many cross currents and eddies near the surface of the land and the jungle and swamp land that make landing spots few.

"I found the greatest interest in Clifford B. Harmon's project wherever I went," Col. G. W. Goethals, chairman and chief engineer of the Isthmian Canal Commission, Major E. T. Wilson, in charge of the subsistence department, the Panama Railroad officials and those of the Hamburg-American Line offered information and assistance.

Mr. Harmon's observations led him to believe that the aviator will be obliged to attain a height of from 450 to 550 feet as soon as possible after the start and to maintain this altitude or go higher in order to avoid the lower air currents.

Mr. Harmon, who is now in Europe with Claude Gribbance-White, is to return in time to leave New York on February 5 and arrive in Colon on March 10. The aeroplane is to be launched from a runway 125 feet long along the side of the liner Moltke, which is to be anchored a mile from shore.

NEW YORK'S BUS POST OFFICE. Receipts in 1910 Were \$104,020,510 More Than in the Year Before.

Postmaster Morgan gave out figures yesterday afternoon showing that the number of postal transactions for the year 1910 was 15,855,531, involving \$29,809,775. In 1909 the number of transactions at the New York office was 11,916,417, involving \$165,469,449.15. The increase in the year just closed was \$19,629,510.91.

Physician Death Stricken in the Street. Dr. William Wolfe Loewen, a member of the visiting staff of Mount Sinai Hospital, fell unconscious in front of his home, 50 West 143d street, last night and died after being carried to his home. Dr. Loewen was a graduate of the College of Physicians and Surgeons and had written on mental diseases. He leaves a wife.

Portraits by Prince Pierre Troubetsky NOW ON EXHIBITION at the Galleries of E. GIMPEL & WILDENSTEIN High Class Old Paintings and Works of Art. 636 FIFTH AVENUE S. W. Corner 61st Street

STORMY STILL AT MELILLA. But King Alfonso Makes a Hit With the Month's Tribesmen.

MELILLA, Jan. 10.—The storm which has been prevailing here since the arrival of King Alfonso increased in violence yesterday and continued to-day. It has had the effect of practically spoiling the King's visit so far as spectacular effects are concerned, but the programme prepared for his entertainment is being carried out as far as the weather conditions will permit.

Late to-night much anxiety was felt concerning the safety of the cruiser Princesa de las Asturias and the torpedo boat Terror, it being feared that they had met some accident in the storm. A despatch was sent to the Ministry of Marine at Madrid asking if it had received any information concerning the vessels. A reply was received that they had put into Almeria for refuge.

The King and his suite visited to-day Sidí Musa and Sidí Mamot Nador, the two leaders of the Kabyle tribesmen, who related to him the details of the first actions of the Mellilla campaign, in which the Kabyles took a most prominent part. The tribesmen cheered the King to the echo. The Kaïd of Keldana presented five splendid Arab horses to him.

Subsequently the King presided at the ceremony of throwing down the walls of Melilla. During the storm last night two large launches and two Moorish sailboats were wrecked in the harbor here.

NO MERCY FOR PHILIP FRUITS. English Judge Sent Man Who Embezzled From Phelps, Dodge & Co. to Jail.

LONDON, Jan. 10.—August William Finch, for many years London agent of Phelps, Dodge & Co. of New York, who was arrested on November 21 on the charge of fraudulently converting funds amounting to £11,852, or about \$58,260, belonging to his employers, was tried in the Old Bailey to-day.

The evidence showed that the prisoner was engaged in religious and charitable work and needed funds for this purpose. He took the money of Phelps, Dodge & Co. and speculated in copper. Finch testified that he intended to repay the money and felt sure that the market would favor him because of the object for which he wanted it. He lost, however. He never benefited to the extent of a single penny by his embezzlement, according to his own story.

Witnesses testified that for years Finch had dined on bread and cheese and gave the money saved in this way to charity. The prosecuting counsel said that Finch had embezzled together £133,050. Phelps, Dodge & Co. believed his story and wished that the greatest leniency should be shown him. The prosecutor said that the firm had handed over \$4,000, received from the sale of the prisoner's house, to his wife. The loss of confidence in Finch, the counsel said, shocked his employers more than the loss of the money.

The judge, after referring to the prosecutor's recommendation to mercy as the most extraordinary feature of the case, sentenced the prisoner to twelve months imprisonment.

ERUPTION IN SPAIN'S CABINET. Minister of Marine Will Resign, It Is Said.

MADRID, Jan. 10.—There is a persistent rumor that there will be further changes in the Cabinet. It is said that Diego Arias de Miranda, Minister of Marine, will retire, his decision to do so following a heated discussion over the squadron of warships which accompanied King Alfonso to Melilla.

Conferences have been held between the Ministers and Señor Villanueva, and it is believed that this fact indicates that the latter will succeed Señor Miranda. A lawyer will be given honor on January 22 in honor of Deputy Lerroux, the Radical agitator, who is making a tour of Spain to further his propaganda.

CHINA WOODING GERMAN? England Hears From Peking That She Is Nothing to It, Says Berlin.

LONDON, Jan. 10.—The Peking correspondent of the Daily Mail says, with reference to his former statement that China is seeking an alliance with Germany, that the Government is building a European residence within the precincts of the Imperial Palace at a cost of \$150,000 to accommodate the German Crown Prince on his approaching visit. A private loan has been arranged to meet the expenses of the Crown Prince's reception.

BERLIN, Jan. 10.—The Ministry of Foreign Affairs denies the report of a German-Chinese alliance, present or prospective.

DEUHL STILL IN PRUSSIA. But Less Than Was Feared, the Chancellor Says.

BERLIN, Jan. 10.—The Prussian Diet reopened to-day. The speech from the throne was read by Dr. von Bethmann-Hollweg, the Premier, in the absence of the Kaiser, who is traveling. The finances of Prussia, according to the speech have developed favorably since 1906. The deficit is less than was anticipated, but the expenditures are not yet covered by the revenues.

BARCELONA THEATRE STAFF. Former Mayor Dies Suddenly During Performance at the Liceo.

BARCELONA, Jan. 10.—Ex-Mayor Sanllehy died very suddenly last night while attending a performance at the Liceo, the largest theatre here. His death almost created a panic among the audience, but their fears were soon allayed.

In Harbor at Kingston. Special Cable Despatch to THE SUN.

KINGSTON, Jamaica, Jan. 10.—The British yacht Mauna, with its owner, British Rothschild, on board, arrived here to-day from England. The German training ship Prinzessin Etel Friedrich has also arrived here.

NEW AQUARIUM IS PLANNED. CITY TO BE ASKED TO ENLARGE THE BATTERY BUILDING.

New York Zoological Society Also Announces That It Has a Quarter of Its Million Dollar Endowment Fund—Many Needs of the Bronx Zoo.

More than 1,000 members of the New York Zoological Society gathered in the ballroom at the Waldorf-Astoria last night at the Society's 17th annual meeting to hear the reports of the year's work and to look at moving pictures of Buffalo Jones's adventures in roping lions and rhinoceroses in Africa.

Prof. Henry Fairfield Osborn, president of the society, announced the completion of the first quarter million of the endowment fund of \$1,000,000, the collection of which was begun at the annual meeting last year. He said that the fund would be used to insure the permanence of the society and thus of the Zoological Park and the aquarium; for scientific exploration and for the protection of animal life.

The list of subscribers to the fund, which now amounts to \$286,762, includes Samuel Thorne, Jacob H. Schiff, George F. Baker and Cleveland H. Dodge, each of whom gave \$25,000; J. Pierpont Morgan who gave \$20,000; Ogden Mills, the estate of Phoebe Anna Thorne, Levi P. Morton and Percy R. Fyne, who gave \$10,000 each, and many contributors of from \$1,000 to \$5,000, among them Andrew Carnegie, H. A. C. Taylor, John D. Archbold, George J. Gould and Miss Helen Gould.

Among those who listened to the reports of the society's work were John S. Barnes, Cleveland H. Dodge, William Pierson Hamilton, Mrs. Henry Fairfield Osborn, Mrs. J. Stewart Barney, Mrs. E. M. Townsend, Jr., Mrs. Goelet Gallatin, Frank K. Sturgis, Emerson McMillin, Mrs. William V. Swords, Mrs. Henry S. Redmond, William C. Church, Percy R. Fyne, Miss Morgan, Mrs. Stephen H. Olin, Robert S. Brewster, Mrs. H. B. Harriman, Miss Mabel, Miss Rhett, H. C. de Ham, George B. Agnew, Mrs. W. C. Titling, William R. C. Williams, W. H. C. Williams, Mrs. Barnes, Mrs. E. L. Winthrop, Jr., and Grenville Kane.

Madison Grant, chairman of the executive committee, told the society that attention should be given to the Bronx Zoo, so rapidly that it is no longer possible to accommodate the crowds in the present building at the Battery. He said that the building must be enlarged to provide additional tank space and room for the additional animals and that the city would be asked to issue bonds this spring for the enlargement of the present building. It is proposed to make the new aquarium the largest in the world. Dr. Charles H. Townsend is to be sent abroad to study European aquaria, and to report on the most appropriate more than \$1,500,000 for the new aquarium.

Mr. Grant said that a new building was also needed in which to house the national collection of birds now in the society's administration building. The society had been expending during the last year for the purchase of five animals and that to-day the collection at the zoo is stronger than any other in the world. It is estimated that the city will be asked to appropriate more than \$1,500,000 for the new aquarium.

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FISH STORIES AT A DINNER. Dr. van Dyke and Collector Loeb at the Angler's Dinner.

Dr. Henry van Dyke told a fish story last night to the members of the Angler's Club of New York at their annual dinner at the Hotel Navarre. Dr. van Dyke began with the remark that "angling is a virtue whose reward is found in an increase of fraternity, longevity and veracity." Then he related the story of the orphan trout, Nicosdemus and of his fatal passion for bright colored flies.

Collector William Loeb, Jr., was another fisherman present and told how he had lost Bob Davis, editor of *Manly's* and the north fork of the Madison River and had lost Davis to fish for trout while he himself went off to a specially particular pool and caught five grayling. On his way back to the point where Davis was, however, the current took him off his feet while crossing the stream and he let go of the willow twig holding the grayling in an effort to save a \$40 rod, and the fish died.

Davis himself, who spoke a few minutes later, said that as a matter of fact he had seen Loeb fishing in that stream and had asked him to buy a few fish, adding that there were no fish there.

"I know," Davis quoted Loeb as replying, "but I like it because it is so near camp." Other speakers were Commodore I. U. Gregory, formerly in the Canadian navy; Dr. Charles Morrison, W. A. Balsdon, Robert B. Lawrence, the first president of the club, and Dr. E. C. Loeb, Jr., president of the club and according to some, about the best all around handler of all kinds of tackle in the city.

About seventy-five fishermen specializing in fly and bait casting attended the dinner, which was served under a big tent on the roof of the hotel.

ALDERMEN KEEP VOLKMAN. Also Decline to Give Up Newstand Control—A Halpin Daredevil.

The Board of Aldermen, acting on the suggestion of the Mayor that there should be an investigation of the charges made against Alderman Michael J. Volkman of the Twenty-second Manhattan district, who was arrested on the charge of demanding money for a newstand license, took up the matter yesterday and decided not to suspend Volkman.

Alderman Dowling, the Tammany leader in the board, Alderman Johnson, the Republican leader, and President Mitchell voted for suspension, but the rank and file of both sides voted down the resolution. Their contention was that to suspend Volkman would prejudice his trial. The vote against suspension was 15 to 16. Alderman resolution submitted by Alderman Johnson that the board relinquish the right of issuing permits for newstands was also rejected.

By way of uplift of non-voters, however, Alderman Drescher presented a resolution for the curtailing of the length of women's hennies. The resolution provided that the pin should not extend more than one-half inch beyond the crown of the hat unless the point was so guarded as to render contact with it entirely free from danger. Penalty, \$5. This went to the committee on laws and legislation.

TEXAS COTTON GIN REPORT. AUSTIN, Tex., Jan. 10.—The December report of the State Department of Agriculture, which was issued to-day, shows that the amount of cotton ginned in Texas in 1910 was 2,279,616 bales. The total number of bales ginned to January 1 is 2,942,027, against 2,221,616 bales for 1909, being a gain of 721,111. The cotton is practically all out.

COMMANDER J. F. LUBY DEAD. Was Executive Officer of the Yankton, Which Blockaded Cleopatra.

WASHINGTON, Jan. 10.—The Navy Department has been advised of the death of Commander John Fraser Luby, U. S. N., commanding officer of the cruiser Des Moines, which has been stationed on the west coast of Africa for about eight months. The death was reported in a cable message from St. Vincent, where the Des Moines touched yesterday. Commander Luby's body will be taken to Boston, where the Des Moines will arrive about January 23.

Commander Luby was born in Ireland on July 20, 1828. He was the son of Thomas Clarke Luby, the Irish Nationalist writer and Fenian leader, and the grandson of John Fraser, who under the pen name of De-Juan was a poet of celebrity in the Young Ireland movement. Commander Luby was appointed to the Naval Academy by the late Abram S. Hewitt, then Congressman for the Tenth district of this city, on June 25, 1875. He was commissioned Ensign in 1884; Lieutenant junior grade 1893; Lieutenant in 1897; Lieutenant Commander in 1903, and Commander in 1907. He had served on the training ship *Albatross*, coast survey steamer *Bache*, training ship *Richmond*, nautical schoolships *Saratoga* and *Essex*, and on the Iowa, Detroit, Newport and Annapolis.

He was an expert hydrographer and was employed on the canal survey of Lake Ontario with the war ship *Spain*, was declared. Being called home he was made executive officer of the Yankton, which alone conducted the blockade of Cleopatra. Later he served several years as equipment officer and captain of the yard at Olongapo, P. I. Previously to taking command of the Des Moines he had been serving as equipment officer at the Boston Navy Yard, training ship *Richmond*, nautical schoolships *Saratoga* and *Essex*, and on the Iowa, Detroit, Newport and Annapolis.

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ROBERT DAVIS'S FUNERAL. To Take Place Tomorrow in St. Peter's Church. The Honorary Pallbearers.

Funeral services for Robert Davis, the Democratic leader of Hudson county, will take place at 10 o'clock tomorrow morning at St. Peter's Catholic Church, Grand and Van Vorst streets, Jersey City. A solemn high mass of requiem will be celebrated by the Rev. Father Wallace, with the Rev. Father McGrath as deacon and the Rev. Father Keane as sub-deacon. The burial will be in the Holy Name cemetery, in West Side avenue, Inland Park.

The honorary pallbearers will be County Collector Stephen M. Egan, former United States Senator James Smith, Jr., George W. Young, the New York banker; Thomas H. Edwards, cashier of the same bank; Joseph P. Crosby, Joseph Filoraso, Dr. George W. Crosby, medical director of the Hudson County Insane Asylum; Walter O'Mara, president of the Board of Freeholders; George W. Henry, John E. Boyle, Joseph Dorfmuter and Samuel Nagle, County Judge John A. Blair, former State Senator Robert S. Hudspeth, Surrogate of Hudson county, John J. McMahon, former County Clerk Dennis McLaughlin, James Hennessey, chairman of the Hudson county Democratic committee, Deputy City Collector Charles J. Somers, former Register James C. Clark and former Sheriff Tom Foley of New York.

Obituary Notes. John W. Corning, for a number of years Deputy Surveyor at the port of New York, is dead at Palmyra, N. Y. He was born at Ontario, N. Y., September 8, 1841. He engaged in company R, Thirty-third New York Infantry, during the war, and was discharged in 1865. He was married to Joseph W. Corning in November, he was commissioned a Second Lieutenant in the war, and was promoted to First Lieutenant. Six months later he was made Adjutant-general of the regiment, and was discharged in 1865. He was out in 1862, was conscripted with the pay department, paying troops in the Army of the Potomac, and was discharged in 1865. He was a collector of tolls on the Erie Canal at Palmyra. In January, 1877, he was elected a member of the Board of Freeholders, and served for two years. He was elected to the office of Justice of the Peace in 1882. He was appointed a member of the New York State Board of Supervisors in 1885. He was appointed Deputy Surveyor of the port of New York in 1887. He was married to Mrs. William M. Parsons of Palmyra and Mrs. Clifton Briggs of Ithaca, N. Y.

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Smith Gray & Co. Foremost Clothiers Since 1845. January Reductions. When you judge these extreme values by the superior excellence of Smith Gray & Co. tailoring, the accepted correct styles of Smith Gray & Co. models, the high standard and special weavings of Smith Gray & Co. fabrics—and the unusually attractive assortment of over 10,000 garments from which you may choose—you cannot but appreciate that your savings are considerably more than indicated by the comparative values. Suits and Overcoat values to 27.50—now 15.00. Suits and Overcoats values to 35.00—now 21.00. Suits and Overcoats values to 55.00—now 32.50. Motor Clothes for Owners and Chauffeurs. Two Brooklyn Stores: Fulton St. at Flatbush Av. Broadway at Bedford Av. Two New York Stores: Broadway at Warren Street Across from City Hall. 5th Av., Bet. 27th & 28th St.

CLEANING UP HORACE GREELEY. BATHED THE BEES FINALLY PUT IN HIS OLD PLACE.

Banished for a Time by the Hurling of the *McAdams* Times, He's Re-located, but Not Yet Reconciled. Many Days Has Been Scrubbed Off.

Mr. Horace Greeley of Greeley Square, this city, was bathed publicly yesterday afternoon. There was no stirring of the classic whisker, no lifting of the heavy eyebrow to indicate that Mr. Greeley was in any way perturbed. He may have been so, but he has laid with all due respect for the permanent genius of Greeley Square that he so rarely needed what he received yesterday. Mr. Greeley's general aspect had been bordering on the seedy and there were stains on his wide spreading frock coat which seemed to be indicative of carelessness or abstraction. But if the truth must be told, these marks were accumulated in the many months that Mr. Greeley has been in retirement.

When more than a year ago the Hudson and Manhattan Railroad sappers and miners began to worm their way up Sixth avenue to the terminus at Greeley Square, the editor in his own chair viewed with alarm the impending instability of his pedestal. His greatest fears were realized when some engineers came along with a derrick, lifted his chair and himself over to an unobtrusive position in the little triangle of sod and built a tidy box of