T HOUR LAW INVOLVES TAL PUBLIC INTERESTS

on, March 19.—National and operation of the w, enacted by congress last when a nation-wide rail- threatened paralysis of on, was suspended await- preme court's decision upon tionality. National effect, ed, rested upon disposal of test case of the Missouri, and Gulf railroad, chosen roads and department of determine, for the whole issues.

were vital public and pri- ts, present and future, in- se of American railroads 250,000 miles and property $5,000,000,000, together with 400,000 railroad employes, the total. Also involved limit of public regulation operation of common car- boundaries of regulatory by congress.

on upholding as constitu- eatures of the Adamson act

hat it Involved.

nt establishment of a work ght hours as a measure or of calculating wages and train operatives.

ry but immediate increase 5 per cent in wages, during than seven nor more than nths, beginning Jan. 1 last, 400,000 trainmen, mostly of Four" brotherhoods of en- firemen, conductors and and those principally in rvice. Comparatively few trainmen were given imme- fit by the law.

the railroads of such tem- crease of from $40,000,000 to , as estimated by the rail- about $20,000,000 as esti- the brotherhoods. Future cost of a permanent eight- scale was estimated by the t $100,000,000 annually, with additional wage demands 0,000 other employes not by the Adamson law.

tension of congressional au- federal regulation of com- ers, with power to authorize ing by the interstate com- mmission.

al of about 500 railroad in- suits, in virtually every fed- ict court, to enjoin the law's nt.

ion holding the whole law utional involved:

ment of congress' power, pos- ver, in regulating interstate , with limitations upon pub- ation as distinguished from peration of common carriers.

tion of passage by congress bill authorizing the interstate commission to fix railroad wages like rates are regu-

e of injunctions in every fed- rt, in the railroads' 500-odd manently enjoining enforce- the law by the federal au-

mporary wage increase, in- stitution of the permanent eight-hour standard and all litigation, by formal agreement between the railroads and department of justice, have been held in abeyance pending the court's decision. However, the railroads have been keeping special account of increases due since the law became effective Jan. 1, with a view to prompt payment upon a ruling upholding the statute.

A decision upholding the eight-hour standard, it was admitted, would not bar trainmen from working more than eight hours a day, but merely entitle them to pro rata overtime pay. Also such a ruling entailed making of entirely new wage agreements for all trainmen affected, by private negotiation, as to the "amount" of wages which shall constitute an eight-hour-day standard.

The federal hours of service act, prohibiting continuous employment of trainmen more than 16 hours daily, remains undisturbed regardless of the decision upon the Adamson law.

Entitled "An act to establish an eight-hour day for employes of carriers engaged in interstate and foreign commerce, and for other purposes," the law was made effective Jan. 1 and comprised four sections. Briefly, the first section, providing the permanent eight-hour wage standard, declares that "beginning Jan. 1 eight hours shall, in contracts for labor and service, be deemed a day's work for the purpose of reckoning compensation of all employes * * * now or hereafter employed by any common carrier by railroad * * * actually engaged in any capacity in the operation of trains."

Some Exceptions.

Railroads not more than 100 miles long and independently owned, and electric street and interurban railroads were excepted.

Section 2 provides for the presidential commission of three, now headed by Major General Goethals, to investigate and report to the president and congress the "operations and effects of the institution of the eight-hour standard work day * * * and the facts and conditions affecting the relations between such common carriers and employes during * * * six to nine months." A report within 30 days after that period, discretionary with the commission, was ordered, the temporary increased wages remaining in effect still another 30 days.

Section 3, especially assailed by the railroads as void, providing the temporary increase, states:

"Pending the report of the commission and for 30 days thereafter the compensation of railway employes subject to this act for a standard eight-hour workday shall not be reduced below the present standard day's wage, and for all necessary time in excess of eight hours such employes shall be paid at a rate not less than the pro rata for such standard eight-hour workday."

Section 4, prescribing penalties, declares: "Any person violating any provision of this act shall be guilty of a misdemeanor and upon conviction shall be fined not less than $100 and not more than $1,000, or imprisoned not to exceed one year, or both."

The Bill in Congress.

The house voted 239 to 56 on Sept. 1 to pass the Adamson bill. Seventy republicans voted with democrats in its favor. Two democrats voted against it. On Sept. 2 the bill passed the senate, 43 to 28, Senator La Follette, Wisconsin republican, joining the democrats, and Senators Clarke of Arkansas, since deceased, and Hardwick of Georgia voting with 26 republicans against it. The brotherhoods' strike order was recalled that day and the president signed the measure the next day, Sunday, Sept. 3, and again on Sept. 5.

Early last November injunction suits were filed by various railroads in virtually all federal district courts to enjoin the law's enforcement. The present test case, brought by Alexander New and Henry C. Ferris, receivers for the Missouri, Oklahoma and Gulf railroad, was agreed upon to determine nation-wide constitutionality and operation of the law. To expedite such determination, the case was submitted without argument to Federal Judge William C. Hook at Kansas City, Mo.

On Nov. 22, two days after the suit was filed, Judge Hook held the law "unconstitutional, null and void," and gave a decree permanently enjoining United States Attorney Wilson from enforcing it. Judge Hook dismissed the bill as to brotherhood officers named defendants and ordered the railroad to co-operate in expediting the appeal of the department of justice to the supreme court. He also ordered the railroad to keep account of wage increases due under the law, to insure prompt payment following a decision upholding its validity.

The federal appeal was filed in the supreme court Nov. 27 and the court assented to expedition of the hearing, three days of arguments, following Jan. 8 to 10. Pending the decision, the department of justice and railroad attorneys formally stipulated that the 500-odd injunction suits should not be pressed, that the federal authorities would not attempt to enforce penalties for non-observance and that the railroads would keep account of wage increases due from Jan. 1.

The railroad brotherhoods were not parties to the stipulation nor to the suit, and had no attorneys participating in the supreme court arguments.

Wage-Fixing Statute.

In appeal to the supreme court, the department of justice contended, briefly, that the Adamson act is constitutional and enforceable, both as to "hours of service" and wage-fixing statute, under congress' broad and supreme constitutional authority to regulate interstate commerce. Power of congress to fix wages and also to prevent strikes, in insuring unobstructed transportation and movement of commerce, was especially maintained.

The railroads contended, generally, that the act is void because grossly in excess of congress' commerce regulation authority. They asserted also that it is indefinite, uncertain, unworkable, incapable of application without judicial interpretation, fixes no standard for computing the "amount of wages, is a mere temporary expedient and experiment, interferes with constitutional liberty of contract and takes railroad property without due process of law." Also they insisted it is class legislation, benefiting only 15 per cent—and those the highest paid—of railroad employes, and prescribes excessive penalties. The roads denied that congress, in regulating commerce, has the right to fix employes' wages; contended that the law is "solely and primarily" a wage-fixing law and does not limit employment to eight hours daily. Especially the railroads attacked section 3 of the bill, providing for the immediate temporary increase, as taking of property without due process of law.

Power of congress to fix wages was the basic principle contested. The department of justice maintained that for public interest in unobstructed transportation, in efficient, safe train operation by conserving energy of operatives and having them paid fair wages, congress has authority to fix hours of labor and wage standards.

ORPHEUM THEATER

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THE TIGER WOMAN

The part that Miss Bara portrays in "The Tiger Woman," the William Fox super de luxe production, shows this marvelous and incomparable screen artist in a role fraught with thrills, mystery and tense situations. Her characterization of the Princess Petrovitch as a cold, hard, cruel, scheming, titled villainess, who hesitates at nothing to gain her own selfish ends, outrivals any previous vampire roles that Miss Bara has made famous.

Continuous Performance 2:15 to 11 P. M.

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Tomorrow

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This Issue of Post

Look in the Windows

LYNCH MAKES CALL FOR A NEW TRIAL CALENDAR

New Jury Returnable March 27—Cases Are Set for Balance of Month.

Judge Lynch this afternoon drew a jury, returnable March 27. The commission to supervise the drawing of the names was composed of Attorneys Joseph Binnard, M. Kerr Beadle and John P. Driscoll. Before taking up his law and motion calendar this morning the judge made a first call of his new trial calendar and set the following cases for hearing:

March 27—F. D. Williams, as receiver of the State Savings bank, against Fred Gagner and George N. Marsh; Harriet R. Hamilton against F. M. Chipman.

March 28—H. J. Grimes against S. E. Bennett and others; Annie Franey against Owen Shields and others.

March 29—John N. Gudell against the Davis-Daly Copper company and others; Frank Putzel against the Silver Bow National bank.

March 30—Johanna Serich against Mrs. Ed I. Goodkind and others; Martha Ericson against the Northern Pacific Railroad company.

March 31—John Sefrar against the Hennessy company; Mrs. Maggie George against Mrs. Arbeto Plazi, formerly Mrs. Adele Arroney.

NOTICE TO SUBSCRIBERS!

Carriers are not allowed to accept payment of subscriptions, or to accept orders for cancellation of subscription. All such orders to have delivery of papers discontinued must be made to the Butte Daily Post, business office.

FALLS IN STREET CAR AND FRACTURES ARM

Mrs. W. Hazelhurst of the Tait hotel is a patient at the Murray hospital undergoing treatment for a fracture of the right wrist sustained yesterday while in a depot-bound street car which was at Second and Arizona streets. Mrs. Hazelhurst says she got up from her seat to leave the car when it stopped with a jerk, throwing her to the floor.

MINER'S WIFE IS ASKING A DIVORCE

Hilja Erickson is asking for a divorce from John Erickson on the ground of cruelty. The couple were married in Hancock, Mich., Oct. 24, 1903, and there are three children. The plaintiff says that her husband is a miner, earning $4.75 a day, and owns 160 acres of land at Woodland, Wash., which is valued at $2,500. In addition to the decree of divorce the plaintiff is asking for the care and custody of the children, $60 a month alimony, $150 attorney fee and $25 suit money.

JAMES SHINNERS DEAD.

James Shinners, aged 46 years, a resident of Butte for 21 years and for many of them a shiftboss at the St. Lawrence, died yesterday at his home, 730 East Mercury street. He was born in England and is survived by his wife, three brothers, Jerry, Thomas and William of Butte; two sisters, Mrs. Michael Elliott and Mrs. Joseph Guy; a sister-in-law, Mrs. James Tuft, and a cousin, James McNamara of Butte. Mr. Shinners was a member of the Butte council No. 668, Knights of Columbus, Ruby tent No. 6, Knights of Maccabees of the World, and Pioneer council No. 1050, Knights and Ladies of Security. The funeral will be held on Wednesday.

MRS. ANNIE DREW DEAD.

Mrs. Annie Drew, aged 49 years and for 12 years a resident of Butte, a native of England, died at her home, 433 South Arizona street, yesterday. She is survived by her husband, Richard Drew, a miner; four daughters, Mrs. Annie Hazeltine, Mrs. Pearl Trezise, Mrs. Myrtle Carlson and Miss Violet Drew; a son, Ellary Drew; two sisters, Mrs. Richard Rodgers and Mrs. James Roberts; two brothers, Joseph and Samuel Rich. The Drew family is well known in Centerville, where they lived until a short time ago.

KERR M'NEILL DEAD.

Kerr McNeill, aged 29 years, a contract miner at the Badger and a resident of the Apex hotel, died last night after a brief illness. He was a native of Nova Scotia, where he has several relatives. The body is at the Daniels & Bilboa parlors, where it will be held pending word from relatives.

SMITH FUNERAL.

Funeral services were held this afternoon for Mrs. May Smith, wife of W. A. Smith, in the Daniels & Bilboa chapel. A number of friends attended the services and there were many floral offerings. Burial was in the Mountain View cemetery.

HENRY LAWRENCE DEAD.

Henry Lawrence, aged 77 years, and for 20 years a resident of Butte, died early this morning in a local hospital. He is survived by a nephew in St. Paul. He was widely known among the building tradesmen of the city and was a member of the bricklayers and masons' union. He was a stonemason by trade. The funeral will be held at an hour to be determined under the auspices of the union. The body was removed to Walsh's parlors.

AT THE BROADWAY THIS WEEK

PANTAGES VAUDEVILLE

Billy McDermott "The only survivor of Coxey's Army"

Mack Adams in a Musical Comedy "The Uke Girls" featuring Harry Young and Madeline Lee

La Estrellita Famous Spanish Artist and her Dancing Pagan.

Don C. Alfordo Zelaya Concert Pianist in a series of Recitals.

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Rego and Nelson Singing Talking and Dancing.

MATINEES Daily at 2 p. m. EVENINGS at 7 and 9:15

BROADWAY THEATER

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Augmented Orchestra

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Blanche Duffield, Oscar Figman, Eva Fallon, Ben Hendricks, Alexander Clark, Louis Casavant, David Quixano, William Quimby, Isabelle Jason and Jack Pollard.

Prices: 50c to $2.00. Mail Orders Now. No Phone Orders.

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CURTAIN AT 8:20