

DEFENDANTS HAVE HARD FIGHT

UNITED STATES HAS STRONG
CASE AGAINST WERNZ, MES-
SICK AND McNAMARAH.

CHARGED WITH TAKING GUNS

ALLEGED THAT NEW SPRING-
FIELD RIFLES WERE FOUND
IN THEIR POSSESSION.

OBTAINED FROM TROOP TRAIN

THREE WITNESSES BROUGHT
FROM PHILIPPINES TO TES-
TIFY TODAY.

The trial of Joseph W. Wernz, Guy A. Messick and John McNamara, charged with larceny of three Springfield rifles from soldiers en route to the Philippine islands on February 1, 1908, progressed quite rapidly in the United States side of the district court yesterday afternoon. The following jury was selected and sworn to try the case, after the defense had exhausted eight challenges and the United States its three challenges:

Pablo Ortiz, Matias Maestas, Apolonio Bandoval, Jesus Trujillo, Petrolino Armijo, Samuel C. Bains, Luis Sanchez, Juan Pedro Garcia, Panteleon Montano, Thomas Tipton, Ignacio Lobato, Victor Gonzales.

In his opening statement to the jury, U. S. Attorney David J. Leahy outlined the case of the government, as follows:

Statement of Case.
"Gentlemen of the jury—In order that you may understand the relevancy of the testimony in the case which you are to try, I will now state to you briefly what the government expects to prove. As I stated to you this morning this is a case brought by the government of the United States, by indictment, against the three defendants, wherein they are charged both with the larceny of government rifles and also with purchasing these rifles from persons in the employ of the military service of the United States. We expect to show you, by competent evidence, that on the first day of February, 1908, the defendant, Joseph Wernz, was conductor in charge of the second section of train No. 7 of the Atchison, Topeka & Santa Fe Railway company; that he left Trinidad on that train sometime before noon on February 1, 1908, and that at that time the other two defendants, Messick and McNamara, were brakemen on that train, with Conductor Wernz; that one of the cars in that train was a Pullman tourist sleeping car; that there was a company of soldiers riding in that car, regular soldiers of company K 23rd Infantry, en route from Fort Ontario in the state of New York, to San Francisco, and thence to the Philippine islands. That there were three rifles belonging to three of these soldiers hanging up in the vestibule or washroom of the sleeping car; that these rifles were hanging in that car at the time the train left Trinidad, Colo.; that after the train arrived on this side of the tunnel, and in the territory of New Mexico, the three rifles were missing. The government will show you that there were no lights in the car as it came through the tunnel, and on the car emerging from the tunnel, the rifles were missing. The government expects to show to you that the defendant, John McNamara, instead of riding down to Raton with that train, as it was his duty to do as brakeman, was seen at the station of Lynn, which is just this side of the tunnel, with the three rifles in question, and that he had his overcoat or some coat wrapped around them. We expect to show further that McNamara with the three rifles, went into the station at Lynn, and spoke to

the station agent there. We expect to show also that the defendant, McNamara, tried to ride from the tunnel to the city of Raton on what is known as a light engine—an engine that was coming down from Lynn to Raton without pulling any cars—that the engineer in charge of the engine not recognizing him as a railroad man, and he having no authority to ride on the engine, refused to let McNamara ride down to Raton. We will show that when McNamara climbed onto this engine he had these rifles with him wrapped in his overcoat. That he left the engine carrying the package with him. We expect to show you that one of these rifles was afterwards found in the possession of McNamara; another of the rifles was found in the caboose of Conductor Wernz, or was seen in that caboose, about two months after the rifles were stolen. That on the night it was seen there it was taken out of the caboose by somebody and left at the house of Conductor Maitland. That Maitland on opening the package containing the rifle, seeing it was government property, having heard of the larceny, immediately turned it over to Superintendent Kurn. We expect to show you that the third rifle was left by the defendant, Messick, at the house of another railroad man, named Drake. The rifles will be presented here and identified by the soldiers, and we will further show you that all this occurred in the Fourth Judicial district court, for the territory of New Mexico."

Kurn First Witness.
The first witness called for the prosecution was Supt. J. M. Kurn, who identified one of the rifles and stated that it was left with him by Conductor Maitland, and had been in his possession ever since—for a period of at least eight months.

Edward Dowling, trainmaster at Raton, was called and testified that on February 1st a train consisting of thirteen cars, passed over the mountain between Trinidad and Raton, coming south, that the defendant Wernz was conductor of the train and McNamara and Messick the brakemen.

Soldiers Take Stand.
Sergeant Win. J. Ryan then took the stand, and stated that he was ser-

GOLD DUST CHOKES AUDIENCE AT OPERA

Cananea, Mexico, May 13.—A traveling Italian grand opera company, had a ten thousand dollar house here Monday night, but did not know it. An old ore house was fitted up for an opera house and the stamping of many feet before the performance set the gold dust flying. So thick was the dust that it set the people sneezing. Assayers estimate that those who attended could have washed enough gold out of their clothing to pay for their tickets.

WILL RESTORE NAME OF JEFFERSON DAVIS

Washington, May 13.—At the end of the present week the name of Jefferson Davis will again have been chiseled into the stone of the famous Cabin John's bridge, six miles west of the city. President Roosevelt before leaving office, gave orders to have the work done. The bridge was built when Davis was secretary of war and during the rebellion some staunch unionist chiseled the name out.

Given Welcome.
Dayton, Ohio, May 13.—Willbur and Orville Wright arrived here today and were greeted by a welcome from old friends. A great throng gathered at the station.

- ◆ Pierce Found Guilty. ◆
- ◆ Special to The Optic. ◆
- ◆ Albuquerque, N. M., May 13. ◆
- ◆ —R. H. Pierce was found guilty ◆
- ◆ of "detaining a female in a room ◆
- ◆ against her will for the purpose ◆
- ◆ of defiling her" by a jury in a ◆
- ◆ sealed verdict opened in court ◆
- ◆ this morning. This does not con- ◆
- ◆ stitute attempted assault. The ◆
- ◆ maximum penalty is a fine of ◆
- ◆ \$1,000 or five years in prison. He ◆
- ◆ was released on the old bond of ◆
- ◆ \$2,000 pending arguments for a ◆
- ◆ new trial. ◆

FIGHT OVER IRON ORE DUTIES

RAYNER DECLARES THAT HE
NEVER SAW MORE LIARS THAN
ARE IN WASHINGTON.

HOT TARIFF BATTLE TODAY

BURROWS SPEAKS FOR DUTY ON
IRON ORE AS SOURCE OF
REVENUE.

NO DANGER OF EXHAUSTION

DEPOSITS WILL LAST SIX THOU-
SAND YEARS AT PRESENT
RATE OF CONSUMPTION.

Washington, May 13.—"The situation in Washington today is such that you can't get the truth out of anybody. I am very fond of liars. I have studied them day and night, but I never in my life saw such an aggregation as are assembled in the capital now. They can lie with equal facility on either side of the same question."

This burst from Senator Rayner this morning in the senate upon a discussion of iron ore schedules. Rayner pleaded for free ore in behalf of the independent companies and was met with the statement by Smith, that Charles M. Sewab had said that to put the ore on the free list would not reduce the price of the manufactured article.

After a roll call of the senate had shown 63 senators present today, Burrows spoke in favor of a duty on iron ore as a source of revenue. The present duty of forty cents, which the committee proposes to reduce to twenty-five cents, yields, he said, a revenue of \$332,000, which would be lost by placing iron ore on the free list as proposed by the house.

Burrows said it was reasonable to state that 56,500 men were receiving \$31,500,000 annually in the production of ore, which industry, he said, it was now proposed to open to the competition of the world. Quoting from the advance sheets of the next annual report of the geological survey, he said that now there were 3,500,000,000 tons available high grade ore in the United States while there are about 72,000,000,000 tons of low grade.

"The senator from South Dakota yesterday told us our iron ore deposits would be exhausted in thirty years, but according to the statement of the geological survey at the rate of consumption now going on the ore will last six thousand years so there need be no concern on that score."

The senator also discussed the iron ore schedules, saying that if the senate should reject the act of the committee on finance, placing a duty of twenty-five cents a ton on iron ore, he would later move to put that article on the free list. He said that the duty would redound to the benefit of the United States Steel corporation and injure the independent mills which are compelled to buy imported ore. He said he did not believe Cuban ore would go west of the Alleghenies but would be available for steel companies on the east of the mountains, who are competitors of the steel corporation.

Legislation for Porto Rico.
Olmsted of Pennsylvania in the house today, offered a bill to amend the act creating a civil government in Porto Rico. The bill proposes that "if at the termination of any session of the legislature, appropriations necessary for the support of the government shall not have been made, an amount equal to the sums appropriated in the last appropriation bills for such purposes, shall be deemed to be appropriated." The bill also authorized the president to designate one of the executive departments to take charge of the Porto Rican affairs.

MILK CAUSES SPREAD OF DISEASE

INCREASE IN NUMBER OF CASES
OF TUBERCULOSIS IN NEW
YORK CITY.

DOCTORS WAGE STRONG FIGHT

GREAT CARE HAS BEEN TAKEN
IN COMBATING INCREASE IN
CASES OF WHITE PLAGUE.

STRAUSS GIVES HIS THEORY

DECLARES THAT IT SHOULD BE
MADE CRIME NOT TO HAVE
ALL DAIRY HERDS TESTED.

Washington, May 13.—That instead of a decrease in tuberculosis, there is a 33 per cent increase in the number of cases in New York, where the greatest fight is waged against the white plague, was the statement of Nathan Strauss, the philanthropist, before a meeting of the National Association for the Study and Prevention of Tuberculosis.

Strauss backed up his statement by figures from the health department of New York. He attributed the increase of cases to the lack of care in the use of milk. He said there would be no headway against the disease until it was made a crime to sell milk unless tested against tuberculosis.

STRIKERS IN PARIS DO NOT GAIN GROUND

Paris, May 13.—The number of striking employes shows no appreciable increase this morning. The services are normal and in some places the telegraphers who went out yesterday have returned to their places. Efforts of the strikers to induce workers to join their ranks from bureaus about the city, have been without effect. Union leaders claim the government is "bluffing" while the government claims the strike will be over in a few days. The government this afternoon will ask for a vote of confidence in parliament and if granted, another batch of dismissals will follow.

THREE MILLION TREES SET OUT BY RAILROAD

Chicago, May 13.—To provide for future requirements in timber and the Pennsylvania railroad will this spring execute the largest forestry plant ever undertaken by a private corporation. More than a million trees will be planted, making a total of three million, four hundred and thirty thousand set out in the last three years. Other railroads are said to be contemplating similar moves.

Big Church Conference.

Canton, Ohio, May 13.—Five hundred delegates gathered today for the 25th world wide quadrennial conference of the United Brethren church. Bishop J. S. Mills of Pennsylvania, presided. Delegates from all parts were present. The session will last twelve days.

POOR ATTENDANCE AT DUNCAN LAST NIGHT

The Alexander Recital company with Miss Martha Alexander and Miss Edith Parker as principals, which appeared at the Duncan opera house last evening, was very poorly attended, but despite the fact that only a few people were present, the entire program was carried out and those fortunate enough to be present greatly enjoyed the entertainment. Miss Alexander, extraordinary viol-

inist, rendered many very pleasing solos from some of the greatest composers and the ease in which she handled her instrument, which she has so fully mastered, plainly demonstrated that this young lady is unquestionably a great violinist. Her work was so greatly appreciated that it was necessary for her to respond to many encores, all of which were well received.

Miss Parker gave a reading from "Polly of the Circus," which was most highly entertaining and gave a general idea of the real merit of one of the foremost plays on the American stage today. She also gave many pleasing short readings and recitations, one being from "The District School," which was very amusing and pleased all.

It really is discouraging that two artists of so unusual merit were not better received in this city as there has never been an entertainment of its kind more worthy of a large and appreciative audience.

Experts Testify in Fraud Case.

Kansas City, May 13.—Dr. W. W. Lewis, a mining engineer of Prescott, Ariz., who examined the ore of the Two Queens mine in Arizona before the property was developed, testified today in the case against the Horn brothers, Raymond Ray and S. H. Snider, charged with using the mails to defraud. Lewis said the samples of ore justified an investigation, but the early development of the mine showed discouraging results. He said the mechanical work of development was of high order, but much of the work done was ill advised. Robert H. Heberington, the assayer of Prescott, who assayed the ore, testified as to the value of the samples submitted.

Does Not Want Fourth Term.

New York, May 13.—The refusal of James W. Van Cleave to accept a fourth term as president of the Manufacturers' association, which will hold a convention beginning Monday here, is looked upon as jeopardizing the association's fight for a tariff commission. Senator Beveridge, who has led the fight for a tariff commission, has written letters inducing the members of the association, telling them that if Van Cleave is not elected he fears for the commission.

THOUSANDS ATTEND CORRIED'S FUNERAL

New York, May 13.—With impressive services, the public funeral of Heinrich Corried, the former director of the Metropolitan Opera company, was held in the building which had been the scene of his labors in the years of his directorate. The auditorium held a great throng. "Amen" from "Parsifal" which opera Corried produced at the Metropolitan for the first time on any stage except at Baireuth, was sung by the choir boys whose voices have been so often heard in that number in operatic performances. The members of the family accompanied the body to Cypress Hill cemetery.

WIND CAUSES EXPERT SHOTS TO FALL DOWN

The second day of the Raton Trap Club shoot was very unfavorable to the shooters and the best shots failed to make the records they have been used to making on account of the terrific wind blowing from the southwest. There were eight events with thirty-one entries. The live bird shooting proved the most interesting sight to the onlookers and every contestant entered for this sport. There were four men, Lawton, Cotton, Cobb and Sorcande who tied for first place by killing ten birds out ten, and three men, McCreary, King and Browner, tied for second place with nine birds. The averages were as follows: Maxwell, first in Professional with 120 out of 135; Bowman, second with 95 out of 135; Keefe, third with 86 out of 135.

Lawton took first among the amateurs, with 117 shots out of 135; McCreary and Nicoll tied for second place with 114 out of 135, and King third with 112 out of 135.

CITY COUNCIL HAS SHORT SESSION

COUNCILMEN VOTE TAX LEVY OF
THIRTEEN AND A HALF
MILLS.

DESIRES NEW FRANCHISES

LAS VEGAS RAILWAY & POWER
CO. URGES THAT SLIGHT
CHANGES BE MADE.

TWO PETITIONS PRESENTED

CITIZENS DESIRE IMPROVEMENTS
ON EIGHTH STREET AND
WASHINGTON AVE.

The city council met last night in regular session but no business of great importance was transacted. All the members were present but H. B. Hubbard, who is attending the gun shoot in Raton.

The minutes of the regular meeting were read and approved and the monthly reports of the city officers were referred to their proper committees.

Councilman James O'Byrne stated that the reports on the electric lights for last year, showed that enough lights had not been burning during that period to make up the price of one arc light for the whole year, amounting to \$87.50, which sum ought to be deducted from the bill. As the last bill had been approved and paid, he thought it was too late to make any deductions but the mayor informed him that it was not too late yet if the council wished to take this course.

A tax levy of ten mills for general purposes and three and a half mills for interest was passed.

The Las Vegas Railway & Power company submitted new forms of franchise to operate the electric street car lines and electric and gas lighting and power plant. They were read in full and ordered to be published before any definite action is taken.

Alderman Martin moved that the finance committee and the mayor prepare a memorial to be sent to congress protesting against the enforcement of house bill No. 213, entitled "an act relative to the publication of legal notices and other matters wherein publication is required, regulating the prices to be charged therefor, and providing a penalty; repealing certain sections of the compiled laws of New Mexico of 1897 and for other purposes." The motion of Mr. Martin was seconded and carried.

A petition was read from the citizens residing on North Eighth street asking the council to order sidewalks to be built on the east side of that street between Friedman avenue and the city limits. It was referred to the street and alley committee.

The Ladies' Relief society of the Las Vegas hospital presented a petition praying the council to order Washington avenue between Eighth street and the Mora road to be graded and to order sidewalks to be built on the south side of that avenue. It was read and referred to the street and alley committee.

Bids for building cement sidewalks and cross walks were opened and read. They were as follows:

M. M. Sundt, 16 1-2 cents per square foot; cross walks 25 cents per square foot.

T. W. Smith, sidewalks fifteen cents per square foot, cross walks, twenty-four cents per square foot.

Smith and Maloney, sidewalks, fifteen cents per square foot; cross walks, twenty-three cents per square foot. Vitrified brick side walks at the rate of sixteen cents per square foot.

Short Time to Pay Taxes.

The county treasurer urges all citizens to pay their taxes now, as after June 1st, a penalty of 5 per cent will be added to the amount due.