

THE Pacific Commercial Advertiser

A MORNING PAPER.

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EDITOR

THURSDAY

DECEMBER 8.

SUGAR.—96 Degrees Test Centrifugals, 4c. Per Ton, \$80.00. 88 Analysis Beets, 9s. 0 1/2 d. Per Ton, \$77.73.

U. S. WEATHER BUREAU, December 7.—Last 24 Hours' Rainfall, .00. Temperature, Max. 73; Min. 68. Weather, cloudy.

BALLINGER-PINCHOT AGAIN.

Dispatches from the East indicate that a new turn is to be given to the Ballinger-Pinchot controversy at the present session of congress, bringing forward a proposition to refer the government's action in the famous Cunningham claims cases to the District of Columbia court of appeals.

The disposition of the cases is a matter that rests wholly within the executive power of the President and under him of the secretary of interior. According to present information, however, Secretary Ballinger intends to recommend to the President that he place the matter in the hands of the local courts. This is a surprising change, it is thought, in view of the letter written by Secretary Norton for President Taft very recently, in which Mr. Norton told the Pinchot brothers that the President would allow them to file with him a brief designed to show why the Cunningham claims should not be carried to patent.

It will be remembered that the Cunningham claims were the central factor in the controversy which raged under the administration of Secretary Garfield and again under that of Mr. Ballinger. The claims apply to a very large area of most valuable coal land in Alaska and are, it is supposed, ultimately controlled by the Guggenheim interests.

The situation is one which is likely within a comparatively short time, to affect the whole of the coal trade of the Pacific Coast, and when the Panama Canal is opened to affect the coal trade generally.

As it would take action by congress to get anything done toward placing the matter in the hands of the courts, the opportunity will be open for an extremely bitter struggle on the floor in which the whole conservation and Ballinger-Pinchot controversy can be aired. This controversy is in a very delicate situation at the present time, owing to the widely different reports made yesterday by the majority and minority of the investigating committee. It was known, of course, that at least two reports would be offered by different sections of the committee at the opening session of congress, and news comes from Washington that intriguing in behalf of each side of the controversy has been under way for some weeks. It would be considered unfortunate for the administration to afford another opportunity to push this matter prominently before the public, as would be the case were legislation asked for.

THE SUCKER LIST.

The Burr Brothers, the New York stock swindlers recently unmasked by the postoffice authorities, had in their office what is known on Wall Street as a "sucker list." This list contained the names of people all over the country who would "bite" at anything offered them in the way of a get-rich-quick scheme. If the list was at all representative it must have been a long one. One of the discouraging signs of the times is the eagerness with which temptations for reckless investments prevail. Not only inexperienced women and young men just out of school, but men of mature years and some success sometimes snap up propositions that should not, on their very face, deceive anybody. The love of money is the root of a good deal of credulity.

Through error, either in the Associated Press office in San Francisco or in the cable transmission, a recent message was received by The Advertiser and published to the effect that Secretary Ballinger was the author of a ship subsidy bill, which he expected would be passed during this session of congress. Instead of the bill being from Secretary Ballinger, however, mail advices show that it is the bill formerly presented in the senate by Senator Gallinger. Just how Secretary Ballinger was to have a bill presented in the senate was not apparent, but the Associated message received was clear enough.

"This sort of thing has got to stop," said Judge Cooper from the circuit court bench yesterday, referring to the number of cases of assault upon girls in Honolulu. The judge might have gone further and announced that the making of agreements between the lawyers for the prosecution and those for the defense that, if a plea of guilty were made sentence would be suspended, has also got to stop. It leads to suspicion and it also gives the city attorney's department the power to be not only the prosecuting department of the government but the sentence imposing part as well.

Every week, a dozen or so notices which the writers would like to see appear in the local column of this paper, are thrown in the wastepaper basket because the ones writing them have not seen fit to follow the style of this paper in their communications. If a notice is worth being printed, it is worth being properly written by the one it benefits. A few minutes devoted to studying notices that do appear will show others how to write. The Advertiser office is a busy place and there is no time to spare to correct other people's mistakes, made week after week.

Honoluluans are uniformly considerate. This is a trait generally shared and one for which the citizens of this city are noted at home and abroad. Because of this desire to be considerate, Honoluluans will do their Christmas shopping early and will not unite in one grand rush during the last two or three days, when clerks will be overworked, the chance of a good selection will be less and the possibility of disappointment more. For that matter, Honoluluans might as well "Do It Now."

Advance estimates of the population of the commonwealth of Australia, made by the federal statistician, place the total number of people in the six states at 4,474,000, according to consular reports received here. The taking of the decennial census will be begun on April 1, 1911, and allowing for a normal increase before that date the population is expected to reach 4,500,000. This would represent an increase during the past decade of about 725,000.

Governor Frenn has watched the breakwater and wondered how it could stand, unmovable and unshaken by the storms and the winds and the uproar that surround it. Many people have watched the Governor and wondered about the same thing.

Rebuke to the Technicians.

The Outlook.

The Supreme Court of the United States has rendered an opinion which The Outlook regards as of great value, not in itself, but in the example which it sets to courts, state and federal, throughout the country. As our readers know, The Outlook has regarded as a serious defect in American jurisprudence the tendency of American courts to reverse decisions upon purely technical points. This tendency has been especially seen in criminal trials. To give the accused every possible advantage has been almost an American passion; the necessity of giving the community adequate protection has been almost forgotten. James H. Ho, who shot a man in the barracks at Fort Worth and was convicted and sentenced to imprisonment for life, appealed to the Supreme Court of the United States on various technical grounds; intellect in the phraseology of the indictment; the claim that incompetent evidence was admitted before the grand jury; the refusal of the court to exclude from the jury a man who had read the newspapers, who had no opinion other than that derived from the papers, but who believed that he

could try the case solely upon the evidence, fairly and impartially; the allowing of the jury to be present during the argument of a legal question before the court; remarks made by the prosecuting attorney in his opening address; permission to the jury to separate during the trial; an opportunity for them to read the daily papers pending the trial; evidence that the prisoner was required, in preliminary proceedings, to put on a blouse in order to act as a witness to identify him. These objections were all overruled by the court as technical objections that did not get to the merits of the case. Perhaps still more important was the Supreme Court's approval of the definition of a "reasonable doubt," given by the trial judge: "A reasonable doubt is an actual doubt that you are conscious of after going over in your minds the entire case, giving consideration to all the testimony and every part of it. If you then feel uncertain and not fully convinced that the defendant is guilty, and believe that you are acting in a reasonable manner, and if you believe that a reasonable man in any matter of like importance would hesitate to act because of such a doubt as you are conscious of having, that is a rea-

sonable doubt, of which the defendant is entitled to have the benefit." We hope that this decision indicates and foreshadows a general adoption throughout the country of what we believe to be the spirit of the English criminal law, that when a man is once convicted of a crime, the conviction is not to be set aside except for grounds which lead the appellate court to doubt the substantial justice of the conviction.

A Reporter's Aeroplane Ride

There are plenty of reporters at the aviation meets, but as their observations are usually made from terra firma, we have so far had very few accounts of how it really feels to fly. The man who runs the machine has other things to think about, and is not usually a graphic writer. A correspondent of the London Times, however, recently took an airship, but is invited to go because he weighed 196 pounds. The aviators were having a weight-carrying contest. The wind was blowing about twenty miles an hour, and the rest of the competitors declined to take the risk, so the aviator and the reporter had a "walk-over," but not as tame as most victories of that kind. We read:

"The worst part of such a journey for the novice is the waiting until everything is ready for the start. The sensation of anticipation is not unlike the feeling that one has when one is waiting for a wounded bear to break cover from the corner into which he is driven. But once the propeller starts to whirl behind you all other thoughts beyond exhilaration of rapid motion vanish. You have gripped the struts thinking that you will have to hold on like grim death, but you immediately find that this is not necessary. The machine moves along the ground at an extraordinary pace, and I only knew that it was actually flying when I saw the elevating plane change from the horizontal. Of the motion of flight it is difficult to speak clearly. Even in the high wind that

Mr. Grace was now climbing, it was not more than the sensation of a beautifully balanced motor car. The earth—in this case the sward of the Lanark racecourse—seemed to be racing away from under us, and in a flash we were level with the first pylon and the judge's box.

"The machine was now up to 150 feet, and I became engrossed in Mr. Grace's method in flying. It seemed to me that his attention was glued to his elevating plane, with just momentary glances out of his eye to judge the distance by which he had to slant each pylon in its turn. We were now crossing the gates, the wire fences, and a man bathing in the water. Then we were round into the wind. Our pace immediately slackened, and Mr. Grace was working to keep his machine in the air. As we crossed a road we were going so slowly that I could observe the direction of the hoof marks of a horse that had recently passed. Here all observation ceased, as Mr. Grace was now battling with the wind. We had only 500 yards to traverse to cross the winning line, but the dead weight against the wind was bringing the machine down. Then there came a gust heavier than them all. It took the machine just up the requisite amount to cross the line, and we came gently to earth. It had only been a four minutes' ride, but it was certainly the most delightful ride that I had ever experienced. The only recollection that I have that will describe the general sensation is that of exquisite motion."

Army and Navy News

Desertions in Army.

WASHINGTON, November 15.—According to the annual report of Adj. Gen. Ainsworth, there are 4,310 officers and 67,459 enlisted men in the regular army and 166 officers and 5,109 enlisted men in the Philippine Scouts, making a total of 4,476 officers and 72,559 enlisted men, not including 3,486 enlisted men of the Hospital Corps, but including 197 first lieutenants of the Medical Reserve Corps on active duty. The commanding generals of a majority of the geographical military departments, as in previous years, invite attention in their annual reports to the shortage of officers due mainly to the relatively large numbers of officers absent from their commands on detached service.

From these reports it appears that 25.76 per cent of the line officers and 19.27 per cent of the general and staff officers were absent from their commands. Of the 462 line officers on detached duty, 565, or 85.4 per cent, were captains or lieutenants.

Reductions in Desertions.

In the matter of desertions, the adjutant general says that the condition that confronts the government is a very grave one. The official returns show 3,463 desertions from the enlisted force during the past fiscal year. This number is 3.66 per cent of the whole number of enlisted men in service, or of enlistment contracts in force, during that year. The number is 39.6 per cent less than the number of desertions during the preceding fiscal year.

The adjutant general says that the reduction in the desertion rate is undoubtedly due to the continuance of systematic and vigorous efforts to apprehend and punish deserters.

The regiments serving in the United States that had the lowest percentages of desertions during the year were the 24th Infantry and the 10th Cavalry, both colored organizations. The regiments with the highest percentages of desertions were the 4th Field Artillery, the 8th Infantry and 4th Cavalry. Of the white troops 3.77 per cent and of the colored troops but 1.35 per cent were reported as deserters, as compared with 3.66 per cent for the whole army.

Compared With British Army.

Comparative tables show, the adjutant general says, that the desertion rate of our colored troops compares favorably with the very low desertion rate of the British army, and that both of these rates are very much lower than the desertion rate of our white troops.

"Inasmuch as our colored soldiers, including those who desert as well as those who do not," says the adjutant general, "are treated in every way precisely as our white soldiers, it is evident that this treatment is not a cause of desertion among them, and the reasons for their very low desertion rate are substantially the same as in the case of the British soldier. In this connection, a remark made by Secretary of War Procter, in his report for the year 1889, is pertinent. In speaking of the difference between the white and colored men of our army in the matter of desertion, he said: 'To the colored man the service offers a career; to the white man too often only a refuge.'"

Service the First Consideration.

The adjutant general concludes a full discussion of the subject of desertion with the following comment:

"The treatment of the deserter should not be governed either by vindictiveness toward him nor by a weakly sentimental regard for his interest. It should be governed chiefly, if not entirely, in the interest of the military service, and it is certain that a due regard for that interest will not permit of the restoration of deserters to a status of honor in a service upon which they have brought discredit by their desertion from it. Wherever expediency is to be shown them, and undoubtedly there are many cases in which expediency may well be shown, should be extended to them outside the army, and after they have been relegated to a civil status."

The adjutant general pays a tribute to the zeal and efficiency of the civilian employees in his office, and says it will afford him "much pleasure if Congress

shall deem it expedient to legislate so as to give more substantial pecuniary recognition to those of the employees in his office whose ability, adaptability and interest in their work merit such recognition."

Our Unguarded Military Secrets.

When the nations of the earth wish to learn the military secrets of the United States they send polite notes to the war department or the navy department and their desires are quickly complied with. This is a situation elabor-

ately outlined in an article on the foreign spy bugaboo by Gardner Mack in Popular Mechanics for December. Mr. Mack not only shows that any person seeking information regarding the military resources of this country can get all he wants from the government offices or libraries, but that picture postcards showing views of fortifications, range finders and guns made from detail producing photographs are to be had anywhere for insignificant sums. That other nations are not quite so liberal with their information he also shows. The writer calls the United States a kindergarten for spies because none but the very best of the business are needed to gather together the hidden (?) facts as to our armament. Mr. Mack admits there are a few military secrets left uncovered in America, but he asserts they are few and far between.

"In only one country in the world is there no law against the publication and sale of all information relating to military and naval matters," the writer states, "the United States. The other great powers make the punishment of spies as drastic as possible. The Dreyfus case in France gives an excellent idea of the manner in which a supposed secret agent is treated. Only recently a naval spy was captured in France—a man believed to have secured secret naval plans. His punishment was as quick, as sure and as severe as that administered Captain Dreyfus. Frequent sights in port towns of Europe are signs in several languages warning tourists that no photographs may be taken within certain limits, the metres and bounds being carefully stated. At Gibraltar, the English government will not permit tourists to land with cameras. Neither will the Japanese at Nagasaki. In fortified towns, visitors are permitted only in certain specified districts. Beyond that heavy armed guards bar progress."

Expert witnesses are allowed to give evidence as to what is their opinion, and hence are out of the reach of an indictment for perjury, which always hangs over the head of the ordinary witness, who can testify to fact only. Apropos of this, there used to be a saying current, years ago, of a judge who recognized three degrees in liars; the liar simple, the d—d liar, and the expert witness. There is another version which is of interest—namely, the three degrees of liars, which are said to be the liar, the d—d liar, and the mining engineer.

COMPLICATIONS STILL COMING

(Continued from Page One.) Then it began to drop them in one by one into the cautious housewife who has a stored in the bank, forty-five cents in her hand and a vegetable bill of fifty cents to pay.

When the little door fell out according to the usual reckons with great gloe extorted the twenty nickels and the fifteen hundred dollar check. He asserts the claim that he knew it all the time.

Lady Shed Tears.

Upon seeing the name Chong Leong on the check, a grilling cross examination commenced and the Chinese lady embosomer wept tears all over Uncle Sam's furniture and carpets. Finally, after advancing the whole Chinese language in various combinations as being her name she broke down and confessed that her true name was Chong Leong, Tablaun.

Upstairs the appeal from the decision of Judge Cooper denying McBride the writ of habeas corpus for Jue Yuen Mow proceeded all day in the supreme court. McBride finished his case but Milverton, who is still conducting it for the city, had not completed his and it will be resumed at nine o'clock this morning.

Real Meat of the Nut.

In case the high tribunal sustains Cooper and remands the man again into the custody of Sheriff Jarrett the next step of McBride is not quite clear. In case he finds that he has exhausted all means to delay the procedures the warrant of extradition will probably be served on Jue Yuen Mow by Conlon. Then the identical struggle over the custody of the woman will take place and the whole procedure will be gone over again. The legal fight, which is getting more wearisome every minute, is costing the city a lot of money and the city officials a lot of valuable time.

Incidentally the fact that both the prisoners are accused of serious crimes in San Francisco where they should be tried, seems to have been lost in the shuffle.

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