

REBATES CASES

Art Overrides Demurrer of Standard Oil Company.

DETAINED IN TWO INDICTMENTS

Corporation Sustained in Only Two Out of Ten Pending Indictments and These Because of Technical Defects Violation of Elkins Law to Give Out Rate to Shipper Even Dealing Direct.

Chicago, Special.—Judge Landis of the United States District Court granted the demurrer of the Standard Oil Company to eight of the ten indictments pending against it for violation of the Elkins law, but sustained the demurrer as to two other indictments because of technical defects.

The court ruled against the defendant's contention that the Elkins law was enacted really to prohibit employment of indirect methods to obtain preferential rates, it being the defendant's contention that this was not a violation of the law if a way company, dealing directly with a shipper, give that shipper a rate.

The court also ruled against the defendant's claim that the provisions of the Elkins law requiring shippers to adhere to a published rate was not being against that provision of the interstate commerce law, which required carriers to transport property for a reasonable rate, the act holding that carriers and shippers were both required to adhere to published rates until such rates were publicly changed in the manner prescribed by law.

Binding on Consignees.

The court ruled against the defendant's contention that the provisions of the interstate commerce law requiring carriers to publish terminal charges was not operative upon consignees, holding that in respect to such terminal charges, inasmuch as consignees would have only little, if any, interest in the question, the law was intended to be binding on consignees.

After observing that the Elkins law was not intended to be a retroactive law, the court held that the future prosecution of offenses which had been committed against the Elkins law prior to its repeal, the court held that section 31 of the Revised Statutes of the United States, which provided that the repeal of a law should not affect the validity of any act done in reliance upon the law, was not applicable here, as an unwritten law was not repealed by the Congress that it repealed the authority, succeeding Congresses by limiting the effect to be given to the enactments. It is rather the substitution of a new rule, to be observed by the courts in the construction of statutes thereafter to be enacted, that until such old rule is restored, such succeeding Congress intends that the courts shall be guided by the new rule in giving effect to their enactments, seems to be beyond question.

To Enforce the Law.

"It is the duty of the law," said Judge Landis, "to enforce the will of Congress as expressed in the written enactment. In the enforcement of that will, I am not at liberty to ignore the ultimate object of the law. That object was the establishment of uniform railroad rates, reasonable in amount. The former law had failed to accomplish this, and was therefore strengthened. Instead of being wiped off the books as having served its purpose, additional and severe liabilities were created, and more drastic remedies and penalties authorized.

"My opinion is that the so-called savings clause in section 10 will be inserted for the sole purpose of definitely preserving the rule of procedure that should control the prosecution of cases then pending in various states in the courts, thus avoiding the confusion and controversy which, as experience has shown, must otherwise have resulted.

Report on Negro Exhibit.

Washington, Special.—The government board of the Jamestown Exposition, consisting of Secretaries Taft, Shaw and Metcalf, held a meeting for the purpose of receiving a report from the Negro Development & Exposition Company, which under the law has charge of the negro exhibit as to the progress that has been made in their work. Giles P. Jackson, of Richmond, the head of the company, submitted a written report, and adjournment was taken until next Monday. In the meantime Jackson's report will be examined by the board.

Fire Loss Over Half Million.

New York, Special.—Fire destroyed the big furniture store of Cowper, Thwaite & Sons, at Third avenue and 121 street, entailing a loss of half million dollars and causing the injury of four firemen, none seriously. The blaze, which started a few minutes after 6 o'clock quickly developed into the most spectacular fire seen in Harlem in a long time.

Road From Atlanta to Macon.

Macon, Ga., Special.—Directors and stockholders of the Macon, Dublin & Savannah Railroad held a meeting here and authorized the issue of a \$3,000,000 mortgage bonds. A road will be built from Atlanta to Macon to connect with the Macon, Dublin & Savannah in this city. It will give a line from Atlanta to Vidalia, nearly 190 miles, where connection will be made with the Atlantic Coast Line.

A RIGID INVESTIGATION

Under Resolution of Congress, Interstate Commerce Commission Will Shift Every Piece of Evidence to be Had in an Effort to Ascertain if Recent Railroad Disasters Have Been Due to Unreliable Block System, or Carelessness of Employes Stationed Here.

Washington, Special.—What promises to be a most rigid investigation of the recent wrecks of the Baltimore & Ohio Railroad at Terra Cotta, D. C., in which more than two score of passengers lost their lives, and on the Southern Railroad at Lawyers, Va., on Thanksgiving Day, when President Samuel Spencer and seven others were killed was begun by the Interstate Commerce Commission, acting under a general resolution passed by Congress in the last session providing for an inquiry into the operation of the block system on the railroads throughout the country. It is the purpose of the commission to determine whether the responsibility for these two wrecks should be placed on the workings of the block system or the carelessness of the railroads' employes stationed at the block station.

Commissioner Clements is conducting the inquiry, and the railroads are represented by attorneys. It is understood, if the block system is found to be unreliable, some immediate legislative remedy may be urged upon Congress by the commission.

The Terra Cotta Wreck.

The Terra Cotta wreck was first taken up by Chief Dispatcher T. F. Dent, of the Baltimore & Ohio Railroad, testified that the whereabouts of trains are often unknown to him for 5 or 10 minutes because of the failure of inability of operators at the block stations to communicate with him when a train passes their station. Engineer Hilderbrand, of the "dead" equipment train, which crashed into the Frederick (Md.) local at Terra Cotta testified that the "double green" light was displayed at Silver Springs and University station. If there was any "danger light" at Takoma station, the witness declares he did not see it. He testified that between Friday evening at 6:39 o'clock and Sunday evening at 6:30, when the wreck occurred, a period of 48 hours, he had had only eight hours sleep. He said, however, that when he was called to make the fatal run he did not feel a lack of sleep, but was in good trim.

Three Times Suspended.

Hilderbrand admitted he had been suspended on at least three occasions, once for allowing the engine

where engineers have passed by a red signal, but he could not give any specific instances.

He admitted he sometimes took a "kick" when on duty, but that on the day of the wreck he had not touched a drop.

Prepared Special Edition of President's Panama Message.

Washington, Special.—To meet a great public demand for the recent message of the President to Congress narrating the events of his trip to the Isthmus of Panama last fall, the Government Printing Office has prepared an edition, with seven appendices and 26 full-page illustrations making what is denominated a textbook on the subject of the canal, which will be sold to the public by the Superintendent of Documents upon application for 50 cents per copy.

Abandons Reconstruction.

New Orleans, Special.—A telegram from Washington states that the United States government has abandoned its reconstruction of Fort St. Philip, near the mouth of the Mississippi river, and that contractors amounting to nearly \$100,000 will be abandoned. One of the contractors said that he had received a request asking on what terms he will abandon his contract. During the gulf hurricane last fall Fort St. Philip was badly damaged.

Serious Floods in Arkansas.

Little Rock, Ark., Special.—The floods through central Arkansas are the worst known in 20 years. Little Rock and Hot Springs are practically isolated. No trains have been operated to or from Hot Springs since Wednesday afternoon. Not until Thursday evening was the Rock Island able to operate trains out of Little Rock, and all through trains from the Iron Mountain are detained via Texarkana and Camden.

Tributes to Mrs. Jefferson Davis.

Montgomery, Ala., Special.—Tributes to Mrs. Jefferson Davis, in manuscript, or other eligible form, brought forth by her recent death, will be sent to the Ladies' Memorial Association, to be kept at Montgomery, "the cradle of the Confederacy." This is given out by Mrs. Margaret Davis Hayes, only surviving child of Mrs. Davis, in compliment to the neighbors of her mother during the early days of the war.

Killed in Selma, Ala., Saloon.

Selma, Ala., Special.—Marion Phillips was shot and killed by L. S. Burch in a saloon here. Both men are white linemen. They had frequently quarreled and after a dispute, Phillips knocked Burch down, whereupon Burch opened fire, killing Phillips. Burch came here from Jackson, Miss. Phillips has a wife in Savannah and relatives in Augusta, Ga.

TO THE PHILIPPINES

All Colored Troops Ordered to Foreign Service

NO ECHO OF BROWNSVILLE CASE

Department Issues Orders for Preparation for Service and Soldiers Will Sail Between March 5 and June 5 of Present Year—Troops Being Sent Because It is Their Turn to Go and Not Because of Any Desire to Get Them Out of United States at This Time—None Were Sent Between 1902 and 1905.

Washington, Special.—The Ninth and Tenth Cavalry and the Twenty-fifth Infantry, including all the negro soldiers in the regular army in the country, have been ordered to prepare for service in the Philippines and will sail at different times between March 5th and June 5th of this year. The only other regiment composed of negroes, the Twenty-fourth Infantry, is now doing service in the Philippines.

Other troops ordered to the Philippines are the Sixth Cavalry, the Eighteenth, Twenty-sixth, Twenty-ninth and Thirtieth Infantry. The troops which will be relieved by the sending of these new regiments will be the Fourth, Seventh and Eighth Cavalry and the Ninth, Thirteenth, Fifteenth, Sixteenth and Nineteenth Infantry.

It was stated by Major General Bell, chief of staff, that the negro regiments are being sent to the Philippines because it is their turn to go, and not because of any desire to get them out of the United States at this time.

The negro troops are to sail for the Philippines before most of the white organizations, the last of which will not leave this country until early in January, 1908.

Statement by Department.

The following statement was issued from the War department in explanation of the orders:

"There was a time, between 1902 and 1905, when the colored regiments were not sent to the Philippines at all. In 1905, however, this policy was tentatively changed, and the Twenty-fourth Infantry, colored regiment, was sent to the Philippines and is now there. The services of the Twenty-fourth Infantry in the Philippines has been entirely satisfactory, and it is thought that the services of the other regiments will be.

"In reporting upon this subject General Wood states: 'I recently visited and made an inspection of the Departments of the Visayas and Min-

CONGRESS AT WORK

Both Houses of Congress Resume Work After Holiday recess.

Soon after the Senate met Senator Foraker's resolution providing for an inquiry by the Senate into the discharge of the negro troops of the Twenty-fifth Infantry on account of the Brownsville, Texas, episode, was laid before the Senate and Senator Culberson made an address on the subject. He said that he would have kept quiet but for the fact that great injustice had been done the people of Brownsville.

Mr. Culberson said that the conduct of the negro soldiers had been very irritating to the Brownsville people and especially so to the women. He related that on August 4, last, the day before the "shooting up" of the town, a criminal assault had been committed by one of the soldiers on the wife of a reputable citizen and said that no arrests had been made for the crime. Mr. Culberson defended Captain McDonald, of the Texas Rangers, to whom Mr. Foraker had referred because of Major Blockson's reference to him as a man who was "so brave that he would not hesitate to charge hell with a bucket of water." Mr. Culberson also said that he knew Major Blockson to be a gentleman.

Defends the President.

In defending President Roosevelt for his dismissal of the troops, Mr. Culberson said the fact that the troops were negroes had nothing to do with their discharge. Confusion as to the legal question involved was, he said, responsible for the statement that the President had no authority to make the discharge. The President's constitutional authority and the authority given him by the articles of war clearly covered the case and made his action legal, he declared. He contended that discharges for criminal offenses are covered in the articles of war as are also discharges made to effect punishment.

Mr. Culberson said that there was a distinction between a "discharge without honor." In the former case the President could exercise his discretion as he had done in the instance only he made as the result of a court-martial. He instanced several cases to sustain his position.

Negro Soldiers Motive.

To establish the motive actuating the negro soldiers in creating the alleged disturbance, Mr. Culberson read resolutions recently adopted by negro citizens of Boston, which advised the soldiers to "hold their

Disclaiming any partisanship for the President, Mr. Culberson created a wave of merriment by saying: "I have nothing to do with the President in the matter. I care nothing about him. My personal relations with him are about as cordial as those of the Senator from Ohio."

In all fairness, Mr. Culberson said, the country ought to know that the report made to the President was reliable.

In the House.

Within 15 minutes from the time the gavel of Speaker Cannon fell calling together the House of Representatives, after the holiday recess, the lower branch of Congress adjourned, the absence of a quorum bringing about the early adjournment. The House was a trifle late in meeting due to the absence from the Speaker's table of the badge of authority, the gavel, and in consequence the small membership of the House present were kept standing a minute or two longer than usual until the Speaker obtained the "hammer." But when the gavel was received a responding wack brought the House face to face with what bids fair to be a busy session.

W. F. Englebright, of the first California district, and Charles G. Washburn, of the third Massachusetts district, were sworn in as members of the 60th Congress to take the places of James N. Norris Gillett, of California, resigned, and Rockwood Hoar, of Massachusetts, deceased.

"The Omnibus Claims Bill."

"The omnibus claims bill," so called, carrying appropriations for claims under the Bowman and Tucker acts, and miscellaneous claims on which favorable reports have been made by the war claims committee, was before the House and for nearly five hours the merits of the measure were exploited. The bill, however, hardly got beyond the starting post stage when the House adjourned.

Immediately after approval of the journal Speaker Cannon announced the appointment of Representative Englebright, of California, to a place on the committee of mines and mining, vice Mr. Williamson, of Oregon, removed. The speaker based this action on the ground that Mr. Williamson had failed to attend a single session of the Fifty-ninth Congress. He has been convicted of participation in land frauds in Oregon.

Train Robber Arrested.

Huntington, W. Va., Special.—Percy Martin, of Atlanta, Ga., was arrested here charged with being one of the bandits who held up a Seaboard Air Line train 8 miles south of Richmond on New Year's eve. He admitted his guilt and delivered to the officers a \$500 diamond ring which had been taken from one of the passengers. He told where most of the money can be found.

The Vatican Determined.

Paris, By Cable.—Developments in the church and State situation continues to indicate that the Vatican authorities feel constrained to vindicate their course, by which church property in France to the value of \$120,000,000 was forfeited by the rejection of everything offered by the government, and will even go to the extent of ordering the clergy to leave the churches in the hope of driving the French Catholics to demand reformation of the ballot box.

BOMB WRECKS BANK

Cashier and Others Killed By Explosion

CRANK WANTED A BIG LOAN

Dropped by Unidentified Foreigner After He Had Demanded of President a Loan of \$5,000—Cashier Instantly Killed and Bomb-Thrower Blown to Pieces—The Injured are Clerks and the Negro Messenger, Who Was Fearfully Hurt, Both Eyes Being Blown Out, Scalp Torn Off and Face So Mangled That He Is Unrecognizable.

Philadelphia, Special.—Demanding a loan of \$5,000 and failing to get it, a man who has not yet been identified dropped a bomb in the Fourth Street National Bank Saturday, blowing himself to pieces, instantly killing Cashier W. Z. McLearn, and injuring six others, one or two of whom may die. The only clue to the identity of the bomb-thrower was a bunch of keys found in a portion of the clothing attached to which was a plate inscribed "R. Steele, Garner, Iowa."

The Fourth Street National Bank is the largest financial institution in the city and occupies the greater portion of the first floor of the Buttlitt building on Fourth street between Chesnut and Walnut streets in the heart of the financial district. The explosion was terrific and it caused tremendous excitement in the crowded building and the street.

The explosion occurred a few minutes before 12 o'clock, at a time when the bank is usually well filled with persons in a hurry to transact business before the bank closes. No one saw the unknown man enter the bank except E. F. Shanbacher, the vice president, who was passing out of the building on his way to luncheon. He noticed the man was poorly dressed, looked like a Russian and carried a small parcel. The man walked straight back to the rear of the bank and asked a clerk to direct him to the office of the president, Richard H. Rushton. What took place in his office is best told by the president himself.

Asked a Loan of \$5,000.

"I was very busy when the man entered my office, and I asked him to be seated for a moment. He was very

Late News

In Brief

MINOR MATTERS OF INTEREST

It is reported that the Marlboroughs have become reconciled.

Hot municipal elections were held in several West Virginia towns.

Chancellor von Buelow calls on the German electorate to put down socialism.

Great Britain will send a splendid naval fleet to the Jamestown exposition.

The new French Church and State Separation bill was signed and promulgated.

Archbishop Ryan denounced the French government officials as worse than pagans.

Judge William Bush, 82 years old, was run over and seriously hurt at Parkersburg.

Defeated for re-election, a Massachusetts septuagenarian officeholder took his life.

Two thousand Norfolk women met to plan the city's part in the Jamestown exposition.

Gov. Vardaman, of Mississippi, declares stories of Seoba riots were greatly exaggerated.

Alexander J. Cassatt, president of the Pennsylvania Railroad, dies suddenly in Philadelphia.

James M. Thomas was found dead in a ravine near Danville under mysterious circumstances.

A prominent Atlantan shot and dangerously wounded another at a wedding near that city.

Labor Commissioner Neill says he hopes for early settlement of Southern Pacific firemen's strike.

A number of new laws, notably the Pure Food, Free Alcohol and Anti-Pass laws went into effect.

The indications now are that Henry A. Richardson will be elected United States Senator from Delaware.

Governor Charles E. Hughes, of New York, in taking office, declared for purity in the public service.

Accusations against the Governor of Mississippi were made by the retiring foster of the penitentiary.

Dr. Foster remains de facto superintendent of the Williamsburg Hospital despite efforts to supersede him.

Sweeping reforms were advanced in the first message of Governor Hughes to the New York legislature.

Thirty-five persons, principally Italian laborers, were killed or burned to death in a wreck on the Rock Island road.

Spencer Blackburn, on a charge of criminal libel.

The French bishops will meet to discuss the church's crisis in that country at the Chateau de la Muette January 15.

The new \$60,000,000 coastwise steamship consolidation formed by Charles W. Morse was incorporated at Portland, Maine.

Governor Pennypacker of Pennsylvania, in his message to the legislature, courted an investigation into the State capital scandal.

A young woman against whom he had decided a suit involving an inheritance tried to shoot a judge in his courtroom in St. Louis.

The Atlantic fleet, under the command of Rear-Admiral Evans, has sailed for Guantanamo, for the winter evolutions of the fleet.

Major-General Jesse M. Lee was retired under the age regulation, Brig-Gen. J. Franklin Bell was promoted to the rank of major-general.

The deadlock among republicans of the House in Delaware was broken, both branches of the legislature were organized and the governor's message was read.

United States pledges support to Great Britain in any steps toward ameliorating conditions in the Congo.

Mayor McClellan of New York in declining to reappoint a Murphy candidate on the Board of Elections, uses blistering language regarding the Tammany leader.

In a report to President Roosevelt Interstate Commerce Commissioner Lane, who has made an investigation, states that the coal famine in North Dakota was due to the shortage of cars on Western railroads.

Charges of fraud were filed with the Postmaster General against the New York Cotton Exchange by Representative Livingston, of Georgia, and Harvie Jordan, president of the Southern Cotton Association.

The society reporters always speak of a bride being "led to the altar," just as though a bride couldn't find her own way there blindfolded, remarks the Philadelphia Record.

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