

CONSPIRACY CASE COMES TO TRIAL

Judge Marshall and Jury Now Hearing Evidence Under Sherman Act.

CHARGE OF RETRAINT OF TRADE

D. J. Sharp Coal Company Claims Railroads Forced His Retirement.

High Officials in Harborman Corporation Answer Indictments in United States Court.

THE JURY.

- H. J. Clegg.
- Jas. Long.
- Edw. Pickering.
- R. Dixon.
- J. T. Openshaw.
- C. C. Crismon.
- Horace Cummings.
- John Vicks.
- Geo. F. Fell.
- J. W. Campbell.
- J. A. Maxwell.
- J. H. Bardley.

Whether in the suspension of the D. J. Sharp Coal Company because it could not get any coal from the Union Pacific Coal company, any act was committed by the coal company, or by the Oregon Short Line railroad that will make it liable before the United States laws, is now being decided in the United States district court.

The Union Pacific Coal company, together with the railroad company and J. M. Moore and Everett Buckingham, officials respectively of the coal company and the railroad, came into court this morning as defendants under indictment by the United States grand jury.

The coal troubles of the complaining witness were well known through their exploitation before a session of the interstate commerce commission, held here in 1906 and before an investigating committee of the 1907 legislature. Briefly, the status of his case is that from 1903 until July, 1906, he was a Salt Lake coal dealer. In July, 1906, through inability to secure any more coal, this action following the publication of an advertisement to the effect that he would sell "storage coal" at a reduced price of 50 cents per ton, and the advertised price of other dealers. Previous to the insertion of this advertisement a reduction of 50 cents per ton had been announced to dealers for storage coal on and Aug. 1, 1906.

UNUSUAL INCIDENT.

Through an unusual incident in the procedure of cases before the court, the defense in this case spent considerable time this morning in extensive arguments showing probably the lines on which the defense will make its points.

In opening for the prosecution, U. S. District Attorney Booth detailed the circumstances of the suspension of the Sharp coal company after announcing this reduction in price. He pointed out that by this line of attack that included railroad company, coal company, and an alleged system among both of controlling the coal market in Salt Lake, Attorney C. S. Varian, when given an opportunity to open for the defense, launched into his case with such vigor that he had to be reminded, after proceeding to some extent, that it was hardly to be expected that the case would be argued before the introduction of testimony.

Attorney Varian admitted to the court that he had himself opened to this criticism and immediately closed his address to the jury.

JURY SECURED.

There was little trouble in securing a jury to try the case, as neither side had any special objections to offer, and in less than an hour the jury had been made up.

On hand to represent the government were United States District Attorney H. E. Booth and Asst. District Attorney William M. McCrea.

INDICTMENT READ.

U. S. Dist. Atty. Booth opened for the prosecution, reading to the jury the indictment as the case of the United States against the Union Pacific Coal company, the Oregon Short Line coal company, and the Everett Buckingham charged with unlawful conspiracy in violation of the act of Congress to protect trade against unfair restraint and monopoly. He then narrated the charges to the effect that Sharp had been refused coal after July 22, 1906, because he had cut the retail price which the railroad company and the coal company, whose stock was owned by the railroad company, were trying to regulate in this city.

C. S. Varian, in opening for the defense pictured the situation as one in which the coal company had no power over the coal company, which was entirely a separate individual before the law, and in which the coal company served only as a common carrier with a rate of \$1.75 per ton between Salt Lake and Rock Springs for coal. The coal company with a price of \$2 per ton at the mine was a separate company, and the high price to the dealer in Salt Lake was the common carrier's freight, plus the cost of the coal at the mines. Atty. Varian sketched the car shortage history, the fuel shortage in winter, due to the car shortage, and the effort of the companies—both railroad and coal—to fulfill a public obligation by getting all the coal possible stored for the winter of 1907.

CITES SHARP'S AFFAIR.

Therefore, he said, the railroad company had reduced its freight 25 cents a ton and the mine had reduced its selling price 25 cents a ton as a special inducement to dealers and consumers to keep up in summer. The rate, he urged, was not to apply at once, but to be a credit for coal on hand at the end of summer. Aug. 1, Sharp, he claimed, went ahead selling coal at a reduced price.

CHIEF OF POLICE BIGGY DROWNED

Was Crossing from Oakland to San Francisco, and How it Occurred No One Knows.

BODY HAS NOT BEEN FOUND.

Since Haas' Suicide Has Been Much Feeling Between Biggy and Prosecution in Ruef Case.

San Francisco, Dec. 1.—William J. Biggy, for over a year chief of police of this city, was drowned in the bay last night and his body has not been recovered. Chief Biggy was returning to the city from Belvedere in the police launch Patrol and when the boat arrived it was discovered that he was missing, though Engineer William Murphy, the only other occupant of the boat, did not see him fall overboard.

According to Murphy's story, Biggy entered the launch on the side of the bay about 8 o'clock in the evening and made the trip to Belvedere, where he went to the home of Police Commissioner Keil, a resident of the suburb, and spent some time in conference with the commissioner. It was nearly 11 o'clock when he returned to the launch and the return trip was started. The chief came to Murphy in the engine room and complained of feeling ill from the motion of the boat, which was very noticeable. The engineer advised him to go to the cabin at the stern, where it was cooler, and Biggy presumably followed this advice.

A little later Murphy looked toward the stern of the boat and saw the chief leaning over the side vomiting. The engineer did not again look in that direction until they were close to the city, as his attention was occupied with the handling of the boat. He then went to the stern to inform Biggy of the reason of a slight delay occasioned by the passage of a ferry boat and discovered that the chief had disappeared.

Many hurried to his berth near the harbor station and reported that the chief had fallen overboard and was lost. A party at once set out to search the bay and this was kept up all night.

Biggy was appointed to his position in September, 1907, by Mayor Taylor. At that time Biggy, who had held several political offices including that of state senator in 1906, and later president of the police commission of this city, was elisor in charge of the person of Abraham Ruef, the ex-political boss of the city, who was under arrest in connection with the graft investigation.

MUCH ILL FEELING.

Since the suicide of Morris Haas, the assistant of Asst. Atty. F. J. Heney, and who shot himself in his cell at the county jail the day after his arrest in the case of the late Mayor, the feeling between Biggy and the prosecution has been great, and the feeling between Biggy and the prosecution has been great, and the feeling between Biggy and the prosecution has been great.

Out of this has grown charges showing the feeling of the anti-graft forces against Biggy for failure to properly protect his prisoner.

Biggy replied with similar charges against Capt. of Police Dineen, who with Detective Burke searched Haas in the courtroom and Detective Sergeant Thomas Burke, who was in charge of the prisoner at the jail, but none of the charges has yet been substantiated.

Chief Biggy is survived by his second wife, from whom he was estranged, and a daughter. His first wife died many years ago.

BODY NOT FOUND.

The police commissioners met at 6 o'clock this morning and appointed one of their number, A. D. Cutler, chief of police, to fill the vacancy caused by the death of William Biggy, who was drowned last night in the bay off Alcatraz Island. It is understood that the appointment is only temporary, pending the choice of a permanent chief.

The waters of the bay and the shore lines are being thoroughly searched but the body of Chief Biggy has not yet been recovered.

Police Commissioner Kiel issued a signed statement today relating to the circumstances connected with the visit of Chief Biggy last night, to his Belvedere home. The commissioner had been notified by telephone to expect a visit, but no name was given in the message.

When the chief arrived he complained of feeling cold and was given a stimulant. He was very restless and complained bitterly of being hounded by the newspapers. He refused an invitation to remain all night, and insisted on returning to the city in his launch.

HARRY BARNATO LEAVES FORTUNE OF \$75,000,000

Lincoln, Dec. 1.—In the death of Harry Barnato yesterday London lost a remarkable multi-millionaire. He was born in the Whitechapel district, and known there as Harry Isaacs, and was a brother to the late Barney Barnato, the famous multi-millionaire.

The two brothers went as vaudeville performers to the diamond fields of South Africa. Harry has left a fortune of \$75,000,000 or more.

Harry was as eccentric as his famous brother.

He carried checks for \$300,000 and \$400,000 in his pocket and allowed his \$10 a week clerks to buy him drinks without return. He was always covered with diamonds like an opera star. He spent thousands of pounds purchasing thoroughbreds, yet if the weekly feed bill exceeded his limit by a few pence, he was miserable.

He fought his tailor for amounts like 36 cents and yet spent thousands of pounds for a spectacular dinner at the Gaiety hotel at the end of the Russian war. But he would not tip the waiters.

MURDERED BY A JAPANESE.

San Jose, Cal., Dec. 1.—John Kyne, who was murdered by a Japanese below Gilroy, died at Gilroy last night. His right arm was severed at the elbow and his head having been beaten almost into a jelly. One of the Japanese is in jail here, but four others concerned in the assault are still at large. The hand on which they escaped after the crime has never been found.

Kyne was a section foreman.

ATTEMPTED JAIL BREAK AT PRISON

Abe Majors and Joe Sullivan Get Ready to Leave the Penitentiary.

KEY AND ROPE ARE FOUND

Blankets Torn in Strips Discovered by Guard Johnson and Acting Warden Ure in Cells.

Owing to the watchfulness of Guard Johnson and Acting Warden Ure another attempt at escape from the state prison has been frustrated. As before Abe Majors is accused of being the ring leader and this time he has for his partner another desperate convict, Joe Sullivan. Both men are murderers and both, judging from past records, will be at nothing to escape. The finding of a rope made from torn blankets and a rough skeleton key in the cells of the convicts was the first intimation that there was a plot on foot.

The two prisoners in question have been locked in their cells for some months, as it was found unsafe to allow them the run of the prison yard or the cell corridors. The same restrictions were placed on Deming.

But although locked up, the other prisoners in the corridors could stop and converse with their comrades in their cells; and in this way it was easy to pass notes and attempt to cook up a scheme to make trouble. Majors and Sullivan took advantage of the opportunity, and together hatched up a plot to get away. But the passing of notes could not escape the watchful eyes of Guard Johnson, who saw last Sunday what was going on, and immediately notified acting Warden Ure, who is in charge of the prison in Warden Pratt's absence.

Mr. Ure lost no time in acting, and assisted with several guards made a thorough search of Majors and Sullivan and of their respective cells. The search revealed a quantity of trolley wire and a key, while they had in prompt ropes made up from blankets and overalls. Just how the precious twain intended to operate can not be stated, further than the stuff found on them and in their cells suggested picking locks and scaling the prison walls.

They had the opportunity.

The men were at once removed to cells where they could have no communication with any one, and later the board of corrections were notified. The board went down there this afternoon, and its members are investigating. Sullivan, Majors and Deming will be removed as soon as possible to the new cell house where they can scheme away to their heart's content without ever being able to accomplish anything. It is believed that the knowledge that escape from the new cell house would be impossible, prompted the convicts to make a desperate attempt to escape before the transfer.

THREE DESPERATE MEN.

Sullivan, Majors and Deming are considered equal to the worst cases in any state prison, and require constant and careful watching. Being locked up, and unable to circulate among the other convicts, they have had plenty of time to think, and they have put in all their thinking powers planning possible and impossible means for escape. Majors is doing life for shooting Police Captain Brown of Ogden, while resisting arrest early in the nineties, while his brother was always proven a troublemaker prisoner. Not that he would violate prison rules, for he was careful not to do that; but he has lost no time in plotting an escape, and the October break of '06 was partly of his concocting. He failed to get away himself and the break came to naught. He fulfills the western definition of "a good Indian"—"good" only when dead; and the officers of the prison find it necessary to watch him constantly.

Majors is regarded as a cunning wild animal; all attempts to reform him have failed, so there is nothing to do but to keep him shut up, away from his fellow kind, until death claims him.

Joe Sullivan, one of the men attempting to escape, is a bad man and is in for life for participating in the murder of Policeman Charles Ford, on the 13th of December, 1907 in front of the Albany saloon on West Second South street, his partner in the crime, and the man who is thought to have been guilty of the real shooting being Joe Garcia, who was killed while resisting Sheriff Emery and other officers in Seattle a few months back.

Sullivan made his escape on the night of the murder of Officer Ford, and made his way to California and thence by friends was aided in reaching Portland, Or. He was apprehended at Portland and brought back to Salt Lake and was placed on trial for his life for the shooting of Ford, and was found guilty of first degree murder by the jury, with a recommendation to mercy, however, in the verdict. Sullivan was sentenced to life imprisonment in the Utah penitentiary by Judge Armstrong, on April 9, 1908, and began to serve his term on the same day.

IMPORTS OF OPIUM.

San Francisco, Dec. 1.—The collector of the port has received orders from Washington to prohibit in future the importation of opium containing less than 9 per cent of morphine or any opium that might be used for smoking. The instructions came from Dr. H. W. Wiley, chief of the food and drug chemists of the department of agriculture.

GRAZING SHEEP ON SAWTOOTH RESERVE

Misunderstanding Between Forest Service and Idaho Flock Masters Cleared Up.

CAUSED BY SLIDING SCALE

Large Owners Reduced on This Basis So as to Provide for New Applicants and Other Persons.

(Special to the "News.") Washington, D. C., Dec. 1.—A misunderstanding, which the officers of the forest service consider very regrettable, has arisen in Idaho in regard to the number of sheep to be grazed on the Sawtooth national forest during the season of 1909, and it has taken several long telegrams between Gov. Gooding and Gifford Pinchot to explain matters. Last year the total number of sheep was 248,000 of which about 321,000 were actually grazed on this forest. The allotment for present season was 335,000, or 13,500 more than actually grazed last year. In anticipation of a demand for range from new owners, a sliding scale was prepared and the supervisor was instructed to reduce large owners on the basis of this scale in order to provide range for new applicants and other persons entitled to share in its use, who did not use it last season. The publication of this sliding scale has been accepted by Gov. Gooding as an indication that a reduction has been made in the total number of sheep allowed. But Mr. Pinchot in answer to a telegram from Gov. Gooding explains that "Ten thousand limit does not mean that large permits will be reduced to that number, but simply prevents increase by purchase beyond 10,000."

He adds: "The forest service has worked consistently and effectively for the permanent prosperity of the sheep industry throughout the west by enforcement of regulations necessary to protect the range and rights of others. Where reductions are necessary for industry, they will be made. Idaho sheepmen have no justification whatever for the assumption that unnecessary reductions will be made or that the forest service is attempting to destroy their industry."

UTAH'S WOOL INTERESTS

Special Representatives Arrive in Washington to Enter Protest—Mrs. Bonnemort Creates Interest.

Washington, Dec. 1.—A. S. Erickson and Mrs. Erickson and Mrs. Bonnemort, representatives of the Utah Wool Growers' association before the committee on ways and means of the house of representatives, arrived in Washington this morning. Both are here to protest to the committee against lowering the tariff on wools imported to this country.

Mr. Erickson and Mrs. Bonnemort will present their case before the committee tomorrow morning. It is understood that they will both urge that the present schedule of duties on wool be lowered as a protection to western wool interests. They maintain that the cost of production has greatly increased since the present tariff was fixed and declare that there is every reason why the duty should be increased and none for a reduction.

Mrs. Bonnemort is one of few women ever to appear before a congressional committee on an important subject and as representing the sheep industry is the only woman ever to come to Washington in a semi-official capacity. She is receiving much attention from the press, which has informed that a "sheep queen" was in the capital, was on the quiver to show her proper attention.

"WHITE SLAVERS" FINED.

Chicago, Dec. 1.—A blow was dealt at the "white slave trust" in Chicago yesterday morning when Judge Belton of the United States court, sentenced August Duval and Jacques Bouque to pay a fine of \$1,000 each and Marie Duval to pay a fine of \$100 on charges of conspiracy to harbor Mme. Boulton.

TWO UTAH MEN TO ATTEND.

A convention of national and state conservation commissions will be held in Washington, D. C., Dec. 8, the first meeting to convene in the Illinois theater at 4:15 o'clock on that date. Two of the three members of the Utah representatives will be in attendance, namely, Anthony W. Ivins and O. J. Salsburg. The other member is Prof. Joseph F. Merrill, of the University of Utah.

President Theodore Roosevelt will make the opening address at the meeting indicated, and the presiding officer will be Hon. William H. Taft, president-elect of the United States. It is not definitely known at this time just how many sessions of the conference there will be, but as many important subjects are to be considered, it is likely that at least several days will be taken up by the gatherings. Governors and other prominent men from all the states and territories in the Union are expected to be in attendance.

WOMAN FIGHTS FIRE.

Mrs. W. C. Alexander "Keeps Her Head" During Blaze This Morning.

There was considerable excitement occasioned at 10:20 this morning by a fire in the Bransford apartments, in the suite occupied by W. C. Alexander, No. 29, on the Third floor. The blaze was caused by Mrs. Alexander cleaning ribbon with gasoline and the ribbon set fire to the cloth and exploded, the dangerous fluid. Mrs. Alexander had her right hand badly burned and the hair was singed on the right side of her head. She proved to be plucky, however, and beat out the flames as best she could and also turned in an alarm. The apparatus from No. 2 and the steamer and truck from headquarters responded. The truck had to go to Main street and

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The above statement is made in this morning's Tribune, and it pretends to believe that the statement was true. The record is open to the Tribune, and to everyone else, and one moment spent in scanning the record of the board of education's action on this matter will show the most prejudiced person that the statement made in the Tribune today is an absolute falsehood, made with intent to deceive.

IMMIGRATION RECORDS.

Coming Year May See Those to United States Broken.

New York, Dec. 1.—With so much talk of prosperity in this country going abroad with every vessel, indications are according to experts that immigration records to the United States will be established during the next years. This belief is expressed by Richard G. Neighbors, one of the commissioners who has been studying immigration records for the government, who has just returned to this port. He says that steamship agents in Europe whom he interviewed confidently predict that the next two months will see the largest tide of immigration to the United States in history.

CANADA AFTER NORTHWEST WHEAT CARRYING TRADE

Chicago, Dec. 1.—Quietly and deliberately Canada has been spending something like \$200,000,000 for canals and railroads with a view to hauling the great wheat business of the north west, according to R. F. Sutherland, speaker of the Dominion house of commons.

"And now," he says, "the Dominion is in a position to demand more attention to its natural resources. The result would be that the United States would lose the grain business which has meant so much to the northwestern states."

These remarks were sandwiched into a speech in which Speaker Sutherland lauded Scotland and the Scots at the annual banquet of the Illinois Society of St. Andrew, which was held at the Auditorium last evening. More than 600 Scotch-Chicagoans were present.

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"Our navy and army should be classified together in that they must work together in the event of war," said he. "They would be or use only for defensive purposes because of their small numbers. However, we do not care to embark on any aggressive warfare."

In the present day, however, our salvation is found in the fact that we do not need such large numbers of soldiers. Take 200,000 trained soldiers and they can hold off an army of almost any size. In fact, the greater the numbers of the opposing army the greater the difficulty in approaching the smaller enemy."

HELMICH, BICYCLIST, ARRIVES IN LOS ANGELES

Los Angeles, Cal., Dec. 1.—Robert Helmich, a German bicyclist who accompanied by George Weldon, a Hungarian rider, left Paris early in July on a trip around the world, arrived in Los Angeles late last night. The trip was started originally as one only of pleasure, but a New York firm offered a prize of \$2,500 to the man who arrived in Paris first after having ridden around the world. Helmich, who won the prize, an American rider, Henry Fisher, joined the foreigners at New York and entered the race. Helmich is hundreds of miles ahead of his nearest competitor, Fred Weldon, a Hungarian rider, broke down at Ogden and it will require several days for him to get a new wheel.

GROUND ON WHICH STEVENSON WILL CONTEST

Chicago, Dec. 1.—One of the charges of political misconduct on which the Democratic state central committee of Illinois, proposes to ask the legislature for a recount of the ballots in the Deen-Stevenson election for governor is that the judges and clerks of election in a precinct in Perry county used a small chicken coop for a ballot box.

In this depository of expression of a free and independent electorate in southern Illinois, as best she could and also turned in an alarm. The apparatus from No. 2 and the steamer and truck from headquarters responded. The truck had to go to Main street and

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