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### MUST PAY SPAIN DAMAGES

Heavy Penalty on Scotch Shipbuilders for Not Finishing Ships.

EDINBURGH, Feb. 18.—The Court of Sessions today awarded the Government of Spain \$237,500 in the action begun here January 29 by the Spanish Minister of Marine, Sanchez Toca, to recover \$250,000 from the Clyde Bank Engineering & Shipbuilding Company, because of the company's failure to deliver in contract time four torpedo-boat destroyers, which had been intended for use during the Spanish-American War.

In the course of the judgment, Lord Killachy, the presiding Judge, said he thought it more than probable that if Spain, even in the Spring of 1897, had been in a position to establish a really effective blockade in Cuba against the unloading of munitions of war, the insurrection might have been crushed and American intervention have been avoided. He therefore allowed Spain \$250,000 per week for the 15 weeks' delay.

Ex-Mayor of Prescott Dead.  
CONVERSE, Ind., Feb. 18.—Judge John Howard, six times Mayor of Prescott, Ariz., died here today, aged 83 years.

### WERE ACCUSED FALSELY

Rich Americans Arrested at Singapore—Boxers Busy in China.

VICTORIA, B. C., Feb. 18.—Two Americans, Messrs. Grossmeyer and Hopkirk, of San Francisco, who were passengers from Hong Kong for England, were taken from the steamer at Singapore on January 24, according to mail advices from that port, and arraigned in the police court, charged with stealing \$450 from a Hong Kong hotelkeeper. It was shown that a mistake had been made, and the Americans, men of wealth, were at once released.

According to a Tientsin dispatch to the Asahi, hundreds of Boxers showing a threatening attitude have assembled at Yutien Chang, Chi Li Province. The Prefect took measures for the arrest of the ringleaders, when the whole body made resistance. The prefect has applied to the Viceroy asking that troops may be sent to suppress the Boxers.

The Choking rebels were reported to have suffered a reverse. A dispatch from Peking to Japan papers says the Governor at Chinkiang reports that the rebel forces were defeated at Youchowfu and completely routed.

## TWO DAYS MORE

### Senator Friday Night or None at All.

### AGONY MUST END THEN

### Democrats Could Do Things if They Would.

### FULTON MEN STAY TOGETHER

### Multnomah Forces Still Afloat—Possibilities Are Many, but What Will Happen Before Fatful Midnight Hour No One Knows.

#### THE VOTE AT SALEM.

Fulton	32
Wood	24
Fellows	16
Scattering	12
Absent and paired	5
Total	90

SALEM, Or., Feb. 18.—(Staff correspondence.)—A United States Senator must be elected within the next two days, or the possible deadlock will within that time be a reality. The Legislature has, after a brief tussle, decided to end its more or less fruitless labors Friday at midnight. Mr. Fulton wanted to terminate the agony then, and opposition was indifferent. The House, however, at first thought it should have one more day to clear the congested calendar, and amended the Senate resolution for Friday adjournment to Saturday. The Senate refused to accept the amendment, and appointed several able strategists on the conference committee to settle the little dispute. The result was that the House cheerfully receded and concurred in the original Senate resolution, and adjournment Friday at midnight. Mr. Fulton's friends are confident that he may now be regarded as assured. Then everybody will know where he is at, which is the thing nobody knows now, and cannot know until the end.

It has been a restless and unsatisfactory day for all the candidates. Much has been done, but nothing determinate. The Fulton people held their own in the joint convention, and opposition accelerated the movement toward Geer, giving him another vote. Senator Johnston was on hand, and the ex-Governor's figure was there, run up to 27-5 less than Fulton, whose total, however, is really 34, counting himself and one member absent and paired. This handsome aggregate gave Geer's friends a fine chance to speculate on what might happen if any one of several contingencies were to arise. Suppose the 17 Democrats were to be overcome by a sudden and irresistible desire to obey the mandate of the people and rush in a body to the Geer camp. It would give him 44 votes, or within one of an election. It was to easy to think that if the Fulton forces, or the Multnomah delegation, or the scattering opposition would yield to the popular clamor and complete the great transaction by adding the needed 4th. This thrilling speculation was quickly dispelled by speedy adjournment of the convention, and the man who got 45,000 votes in June did not get 45 on this day of grace.

The Democrats could be a potent factor in the Senatorial scramble if they would. But they will not. With unflinching devotion and at the sacrifice of a yearning desire to break into the game, they have decided to stand by C. E. S. Wood to the last ditch and die with him there. They have in mind the example of other, though not better, Democrats who have aided a Republican to cut the pie, and it is not of record that they were ever in at any subsequent feast. The voice of the people has not gone thundering into their respective tympani so noisily as it has been dinned into the ears of the Geer followers; but the Democrats and what they might do if they would may as well be eliminated from all calculation, except so far as by their attendance they make it more difficult to get the required majority.

Mr. Fulton is satisfied for the present to make no headway. He is diligently pursuing the herding process. His tactics are to keep his flock intact and then force the opposition to him. All things come to him who waits, if he can wait long enough. If he can endure to the end he thinks his reward will be a certificate of election. If this is the way he long has sought and mourned because he found it not, he remembers, too, that joy cometh in the morning—sometimes. It may come next Saturday morning about 12:30 o'clock amid a great sounding of timbrels and beating of drums. It all depends on the clock and President Brownell with his little gavel, and incidentally the Legislature.

The Multnomah delegation has to date eluded all efforts of the Clatsop gentleman to draw support from it. It cannot be said that he has at all given up hope in that direction, but it can be said with reasonable assurance that the 19 men from Multnomah show less inclination than ever toward him. What will happen in the final fateful moments no man can say. Under pressure and excitement there may be a break, but it is to be remembered that the same influence working on the men from Multnomah at that time will surround the Fulton people themselves. If the Multnomah delegation develops a plan of campaign that looks practicable, and is at all inviting to the Geer people, an alliance between them

would be natural and even certain. Or, vice-versa, if the Geer men were to offer a candidate satisfactory to the Multnomah delegation it would result in amalgamation and possible success. But the difficulty is and has been to find a meeting point. The Multnomah people as a whole show no disposition or purpose to accept Geer, and the Geer people say the real candidate from Portland, if it has any, has not been seriously or finally proposed. E. B. P.

### FOR EX-GOVERNOR T. T. GEER, 27.

#### Bailey of Multnomah Goes to Marion County Man.

SALEM, Or., Feb. 18.—(Special.)—Representative Bailey furnished the only sensation of the joint convention today, and it was just a little one. The roll call had proceeded to the end, and there was nothing doing, except that everybody recorded his vote exactly as he had done the day before. The eight Multnomah men who yesterday left the geographical limits of Multnomah and marched into the Geer camp were in the same place. Bailey, who is first on the roll call after the absent Adams, had voted for George H. Williams. Bailey arose while the Clerk was casting up the totals. The hum and buzz and mild uproar which had followed the calling of the last name, instantly subsided and all eyes were fixed on Bailey. He paused a moment in order that what he had to say might have due weight, and then he uttered these words:

"Mr. President, I desire to change my vote to T. T. Geer."

There was a shout from the Geer lobby. The joint convention then adjourned.

For C. W. Fulton—Booth, Both, Brownell, Carnahan, Carter, Cornett, Dimmick, Eddy, Edwards, Emmitt, Farrar, Gault, Ginn, Hahn, Hale, Hansbrough, Harria, Hawkins, Hines, Huntley, Kuykendall, Leckie, Lockhart, Miles, Phelps, Purdy, Rand, Riddle, Shelley, Smith of Yamhill, Webster, Williamson—23.

For Geer—Bailey, Burgess, Cobb, Crook, Deery, Dammann, Davey, Gill, Hayden, Hobbs, Holman, Howe, Hudson, Hutchinson, Johnson of Grant, Johnston of Wasco, Judd, Kay, McGinn, Mulkey, Myers, Nottingham, Paulsen, Reed, Simons, Steiner, Williamson—27.

For C. E. S. Wood—Bilyeu, Blakley, Burleigh, Cantrall, Galloway, Kramer, Miller, Murphy, Olwell, Pierce, Robbins, Smith of Ematilla, Sween, Test, Wade, Wehring—19.

For George H. Williams—Fisher, Hodson, Jones of Multnomah, Mays, Smith of Multnomah—5.

For Dan J. Malarkey—Banks, Orton—2.

For D. F. Mulkey—Hume.

For M. C. George—Hunt.

For A. L. Mills—Malarkey.

Fellows—Hermann and Jones of Lincoln. Absent—Jaypool, Adams, Fulton—3.

### MAJOR GLENN ACQUITTED

#### But General Davis Disapproves Order for Shooting of Galde.

MANILA, Feb. 18.—General Davis has approved the firing of the Court-martial in the case of Major Edwin G. Glenn, of the Fifth Infantry, who was acquitted January 29 of the charge of unlawfully killing prisoners of war, with the qualification that he disapproves of the orders issued by Major Glenn.

The General says he recognizes the principle that guides may be impressed and that treacherous guides may be executed, but he adds that Major Glenn's orders showed a desire to peace over a copy of the Koran, which the General condemns and rebukes.

### Captain Pershing Now a Datto.

MANILA, Feb. 18.—White Captain Pershing was at Bayan, the Moro stronghold in the Lanao district of the island of Mindanao, the Moros consecrated him a datto, which is a priestly office. After the capture of the Moro leaders and Captain Pershing subscribed to peace over a copy of the Koran. When the United States flag was raised over the Bayan forts Captain Pershing's batteries saluted it with firing shrapnel shells, having no saluting cartridge for the occasion. The Moro chief, who was present, was deeply impressed by the salute.

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## LAW IS BROKEN

### Decision Given Against Beef Trust.

### AN INJUNCTION IS ISSUED

### Judge Grosscup Says Packers Are Conspirators.

### THEY HAVE RESTRAINED TRADE

### First of Knox's Suits Against Trusts Is Won by Government—Packers Will Doubtless Oppose Granting Permanent Injunction.

Judge Grosscup, of the United States Circuit Court, at Chicago, yesterday granted a temporary injunction restraining the meatpackers from continuing their combination, known as the beef trust.

He holds that they have entered into a conspiracy in restraint of competition, in violation of the Sherman anti-trust act.

The packers in question, who control 60 per cent of the business, have 20 days in which to deny the facts on which the decision is based. Then evidence may be taken, and Judge Grosscup will decide whether to make the injunction permanent. They may appeal now, or await Judge Grosscup's final decision before doing so.

CHICAGO, Feb. 18.—The so-called "beef trust" case was disposed of today by Judge Grosscup in the United States Circuit Court, the demurrer of the packers being overruled and a temporary injunction granted. The attorneys for the packers made no announcement of their future intentions. They have until March 4 to discuss the matter with their principals.

If they deny the facts upon which Judge Grosscup based his decision, the matter might go before a Master of Chancery, who will hear the evidence, and the case will again be argued before Judge Grosscup. An appeal may be taken, in order to hasten the final adjudication of the case. It is not believed likely that the packers will let the matter go by default, thus making the injunction permanent.

"Commerce," said Judge Grosscup in his decision, "is the sale or exchange of commodities. But that which the law looks upon as the body of commerce is not restricted to specific acts of sale or exchange. It includes the intercourse—all the initiatory and intervening acts, instrumentalities and dealings—that directly bring about the sale or exchange. Thus, though the sale or exchange is a commercial act, so also is the solicitation of the drummer, whose occupation it is to bring about the sale or exchange. The whole transaction, from initiation to culmination, is commerce.

"When commerce, thus broadly defined, is between parties dealing from different states, to be effected, so far as the immediate act or exchange goes, by the transportation from state to state, it is 'commerce between the states' within the meaning of the Constitution and the statute known as the Sherman act. But it is not the transportation that makes the transaction interstate commerce. That is an adjunct only, and only essential to commerce, but not the test. The underlying test is that the transaction as an entirety, including each part, calculated for bringing about the result, reaches into two or more states; and that the parties dealing with reference thereto deal from different states. An interstate commercial transaction in this sense is an affair arising from different states and centering in the acts of exchange, each essential part of the affair being as much commerce as is the center. With this definition in mind, let us see what the transaction made out in the petition is.

**Facts of the Case.**

"For the purpose of clear exposition, the facts set forth in the petition should be separated into two groups—those that are intended to bring the transaction within the body of interstate commerce, and those that are intended to fix upon such transaction the character of unlawful combination and conspiracy. The first group may be stated as follows: The defendants, controlling 60 per cent of the trade and commerce in fresh meats in the United States, buy in the course of their business livestock, shipped from points throughout the United States, which, having been converted into fresh meats, is sold again by them at the places where prepared to dealers and consumers in other states; or is sold through their agents, located in other states, to dealers and consumers in the states where the agents are located. The shipments in the first class of sales are made directly from the places where the meat is prepared to the dealers and consumers in other states, and in the latter class to the agents in the other states, who, upon sale, deliver directly to the dealer and consumer. What may be called the body of these transactions is twofold. It reaches backward to the purchases of cattle that come to defendants from states other than those in which defendants manufacture, and it reaches forward to the sale of meats after conversion to parties dealing with respect thereto from other states, followed by shipments into other states. Each of these transactions constitutes, in my judgment, interstate commerce.

"Coming to the other branch of the transaction—the sales by defendants—a like result follows. Unquestionably, it is interstate commerce when purchasers from other states buy directly from the defendants, and have the meats shipped to them by the vendors. The status of such a transaction, both as to the initiatory intercourse, and as to transportation in furtherance of the exchange, includes a state other than the one from which defendants deal. I think the same is true of meat sent to agents and sold from their stores. The transaction in such case in reality is between the purchaser and the agent's principal. The agent represents the principal at the place where the exchange takes place, but the transaction, as a commercial entity, includes the principal, and includes him as dealing from his place of business. Indeed, such privacy exists between the principal and the transaction that he could, at the instant, as a citizen of another state, sue upon the transaction in the Federal courts, nor have I any question that, if the conditions of this case were reversed, so that the defendants were invoking the shelter, instead of seeking to escape the obligations of the commerce clause, Federal law would be found equal to the protection asked.

"Because a thing can be taxed by the state, it does not follow that it lies outside the body of interstate commerce, for commerce, interstate as well as domestic, is subject to the police and taxing power of the state, so long as the exercise of such power does not interfere with the National Government's exclusive right of regulation.

"Do the facts set forth in the second grouping fix upon the transaction, even though the transaction be within the body of interstate commerce, the character of unlawful combination? The averments are as follows: That the defendants are engaged in an unlawful combination and conspiracy under the Sherman act in (a) directing and requiring their purchasing agents at the markets where the livestock was customarily purchased to refrain from bidding against each other when making such purchases; (b) in bidding up, through their agents, the price of livestock for a few days at a time to induce large shipments, and then causing from bidding to obtain the livestock thus shipped at prices much less than it would bring in the regular way; (c) in agreeing at meetings between them upon prices to be adopted by all, and restriction upon the quantities of meat shipped; (d) in directing and requiring their agents throughout the United States to impose uniform charges for cartage for delivery, thereby increasing to dealers and consumers the charges for such meats; and (e) in making agreements with transportation companies for rebates and other discriminatory rates.

"No one can doubt that these averments

(Continued on Second Page.)

## CUTS RED TAPE

### Moody Makes Find of Indian War Records.

### BURIED IN PENSION OFFICE

### Veterans' Claims Rejected on Technical Grounds.

### BECAUSE RECORDS WERE GONE

### He Proposes Bill to Put Them Where They Can Be Found—Pension Office Seeks to Letter of Law, Despite Promises.

Representative Moody has discovered the reason why many applications of veterans of Indian wars for pensions are rejected, and is seeking to have the remedy applied.

Claims are rejected because the records fail to show service, but Mr. Moody has discovered that years ago the records in question were stowed away in the archives of the Pension Bureau and forgotten.

He has introduced a resolution to have those records placed in the War Department. When this is done claims can be verified and allowed.

A similar discovery was made regarding records of the Cayuse war. The Pension Bureau insists on strict compliance with the law, despite promises to the contrary.

OREGONIAN NEWS BUREAU, Washington, Feb. 18.—Since his attention has been called to the fact that a number of claims of Oregon Indian War veterans are being rejected either because "the records of the War Department fail to show service of the claimant," or "there is no record of his having received pay from the United States," Representative Moody has been conducting a systematic investigation to determine why the records are deficient. After several weeks' search he finds that the rolls of many of the old companies are not properly filed in the record divisions of the War Department, but had years ago been put away in bundles in the archives of the Pension Office, without classification, without any record whatsoever; in fact, their presence there was not known to a single official of the Pension Office. He further finds, since through his efforts the records have been recovered, that pensions are still disallowed because the "records of the War Department" do not show service, a mere technicality upon which adverse action is being taken in many cases.

To cure this evil, and in order to have the records properly filed and recorded, he has introduced and will secure the passage of a resolution authorizing the transfer of all Indian War rolls from the Pension Office to the record division of the War Department, where all other military records are now kept. When this is done, many of the Oregon and other Indian War claims that have heretofore been rejected or still await action, will be passed to issue.

### Cayuse War Claims Old.

Mr. Moody further discovers that many claims of survivors of the Cayuse War are being rejected because claimants cannot show pay by the Government and the rolls of this war do not show the length of service. In running down this class of claims many of them of men who have received bounty heretofore. Mr. Moody discovers that years ago an Oregon commission filed with the Auditor for the War Department a list of men who served in the Cayuse War. Those whose names appeared on the list were paid for their services and the Territory of Oregon reimbursed to the extent of \$100,000. Those veterans of the war whose names were never certified by the commission were never paid and the territory never drew from the Government any allowance for their service.

Apparently, therefore, owing to the limited information contained on the old company rolls, the only salvation for these deserving veterans is to now file claims for pay with the state and have the state seek reimbursement through the Government. This, of course, will probably make it necessary for the next Congress to amend the Indian War pension act so as to recognize the claims of survivors of the Cayuse War without this suggested requirement, for these claims are as meritorious as those of veterans whose names were certified by the old commission.

### Pension Bureau Strict.

Mr. Moody discovered the status of these Cayuse claims in running down the case of Mary E. Carnahan, of Clatsop, widow of Hiram Carnahan, who served in the Cayuse War in 1847-8. Carnahan had secured 160 acres of land warrants, but his name was not listed by the commission. The Pension Office holds that the granting of a bounty or the evidence upon which said bounty was granted cannot be held sufficient for the allowance of pensions.

Despite protestations to the contrary, it is evident that the Pension Office is demanding a very strict compliance with the law in all Indian war pension cases and is not showing that liberality which had been expected.

### Japanese Envoy Dies.

YOKOHAMA, Feb. 18.—Prince Komatsu, who was the envoy of Japan at the coronation of King Edward, died today of an affection of the brain.

### RETIRING JUDGE OF SUPREME COURT.



JUSTICE GEORGE SHIRAS, JR.