

FEDERAL SUIT FOR \$30,000,000 LOST

Judge McCall Finds Standard Oil Company of Indiana Not Guilty.

REBATE LAW NOT EVADED

Court's Ruling Is That the United States Failed, After Four Years, to Alter Evidence, and Contentions Not Proved.

JACKSON, Tenn., Nov. 17.—In a ruling which required 30 minutes to read, Judge John H. McCall, in the United States Circuit Court this afternoon, ended the efforts of the Government to have assessed against the Standard Oil Company of Indiana penalties aggregating more than \$30,000,000.

The ruling instructing that a verdict of not guilty be rendered, came with the conclusion of the case in chief of the prosecution and in substance holds with the contentions of the defense, that after four years, the United States had failed to build its structure of evidence other than that then on hand.

The prima anti-rebate law was violated, it was alleged, through "scheme and device."

Court Reviews Charges.

Judge McCall, in his ruling, first reviews the indictment allegations. Next he takes up the testimony presented as tending to prove that the consignments that were shipped on orders received from the Standard Oil Company of Kentucky by the defendant company from their refinery at Paducah, Ky., for beyond with freight charges prepaid to Grand Junction and there taken possession of by the Kentucky corporation.

He points out that the testimony presented "tends to prove there was no understanding, expressed or implied, direct or indirect" between the defendant company and the Kentucky company with regard to rates to be paid; that it was solely a business transaction between two corporations.

Early Ruling Recalled.

Upon this statement of facts, Judge McCall recalled that he ruled early in the trial that the Indiana company should be held accountable for the shipments as far as the transportation beyond Grand Junction was concerned.

"The uncontradicted testimony presented by the Government," the ruling continues, "is that in the period covered by the indictment there was a 13-cent rate from Whiting to Grand Junction for points beyond and this rate was duly on file with the Interstate Commerce Commission, and was the legal rate. The testimony is uncontradicted that the shipments covered by the indictment were in carload lots from Whiting to Grand Junction for beyond, and that the defendant paid this rate."

Crosland's Response Quoted.

Quoting the response of T. M. Crosland, an attorney of the Interstate Commerce Commission, who was recalled as a witness by the prosecution this morning, to interrogations of the court, Judge McCall points out that the witness held that the defendant company was authorized to use the 13-cent rate; that it was a legal rate, and that if inquiry had been made of him by a shipper for the purpose of ascertaining the legal tariff, he would have quoted that rate.

Taking up the much-discussed "bill of lading," it was held by the court that this was done by the carrier, "that there is not one syllable of testimony tending to show the defendant company knew the carrier was bill-of-lading the shipment. But if the defendant had known this how could it affect its rights to avail itself of the 13-cent rate which was filed with the Interstate Commerce Commission?"

FLIGHT COSTS ONE LIFE

(Continued From First Page.)

That Johnstone had fallen and guided his machine directly over the body of his friend. He descended as soon as he could bring his plane to the ground, but the engine, which was Walter Brookings helped to life the mangled body into an automobile which brought it to this city.

Grizzly Bear In Funeral March.

Many of the spectators were watching Hoxsey's flight and did not see Johnstone's machine collapse, but a woman's shriek "My God, he's gone," drew every eye in time to see the doomed man dashed to death upon the ground. The band in the grandstand, blowing away under contract, never ceased to play, and Johnstone's body was driven out of the enclosure with the strains of "The Grizzly Bear," for a funeral march.

It would seem that enough incidents had happened throughout the aviation meet here to warn the ill-fated aviator. Yesterday in alighting Johnstone broke the left wing of his machine against the fence. It was the same tip that gave way today and caused his death.

Today when he started on his first flight, one of the wheels on the aeroplane, which runs along the ground, gave way and he had to have it replaced. As he prepared to start for his last flight a fox terrier, that had broken through the fence, stationed himself directly in front of the machine and barking frantically, refused to be driven away.

Johnstone Fooled by Altitude.

In discussing his flights in this rare atmosphere yesterday with a representative of the Associated Press, Johnstone declared he would attempt no "stunts" here as he considered it too dangerous. Evidently he believed he had solved the problems of this altitude when he departed from his determination.

Hoxsey's daring flight over the foothills seemed to fire him with a determination to outdo his teammate for the first spiral which he made safely was by far the most daring any of the aviators had attempted at this meet.

Hoxsey Makes Highest Flight.

The flights today were productive of the highest flight ever made in this altitude. Arch Hoxsey, the first of the Wright aviators in the air today, started out to explore the current of the upper levels. Circling around the course, he moved upward in gradually widening circles, until he was flying far over the foothills to the west and over the city to the north.

beautiful spirals and figure eights. He made a beautiful landing, coming to the ground after a flight of 27 minutes so-called he could hardly walk. While Hoxsey was soaring high above them, Brookings and Johnstone flew around the course, jumping imaginary fences, dipping and turning, with machines under perfect control.

Johnstone was first in the air for the second flight. He was followed a moment later by Hoxsey, but Brookings had not started his machine when Johnstone's plane crumpled and his fall put an end to all flights for the day.

Other Aviators Dazed; Won't Talk.

Seemingly dazed by the death of their teammate, neither Walter Brookings nor Archie Hoxsey could be induced to talk of the sad affair. Hoxsey hid himself away and could not be found tonight.

Brookings was seen by a representative of the Associated Press and begged not to be asked to discuss Johnstone's death. Johnstone's exceptional caution impressed everybody who saw him here. He seemed to love his machine and watched over it as if it were a child.

The impressive spectacle that Johnstone's desire to outdo Hoxsey, after the latter had made his wonderful flight for

AIRSHIP'S TOLL OF DEATH IS 18 IN TWO YEARS.

1908. September 17—Selfridge, Lieutenant Thomas H. U. S. A., killed in fall with Curtiss Wright, near Washington.

1909. September 7—Roost, Italian, killed in home in machine of own invention.

September 7—Lefebvre, E., killed in Wright machine at Jussey sur Orge, France.

September 22—Perber, Capt. Louis F., killed at Boulogne, France.

December 6—Fernandez, Antonio, Spaniard, killed at Nice, after motor exploded.

1910. January 4—Deisgrange, Leon, killed at Bordeaux, France.

April 2—Lelion, Herbert, killed at San Sebastian, Spain.

May 13—Michelet, Chauvette, killed at Lyons, France.

June 17—Speyer, Eugene, killed at San Francisco.

July 18—Kobt, —, killed at Stuttgart, Germany.

July 2—Wachter, Charles, killed at Rheims, in Antonette monoplane.

June 10—Holtz, Capitaine C. S., killed at Bournemouth, England.

August 2—Kinet, Nicholas, a Belgian, killed at Brussels.

July 23—Kinet, Daniel, Belgian, killed at Ghent.

September 25—Pillot, Edmund, killed near Chartres, France.

October 1—Hees, killed at Metz, Germany.

September 24—Chauvet, G., died as result of accident while crossing Alps.

November 17—Johnstone, Ralph, killed at Denver.

JOHNSTONE GAVE DEATH DARE

"Don't Worry About Me Being Injured," Said Man Now Dead.

KANSAS CITY, Nov. 17.—When Ralph Johnstone, who was killed in an aeroplane accident in Denver today, started to leave the home of W. M. Federmann, his uncle, here last Sunday, on his way to the scene of the aviation meet, Federmann said:

"I suppose I'll receive a telegram one of these days to come after your remains."

"Not mine," said Johnstone. "When I make a flight I have my plans well laid. Before I leave the ground I know exactly what I am going to do. Don't worry about me being injured."

Federmann said tonight he would go to Denver and bring Johnstone's body here. The dead aviator was born here 20 years ago. His parents are dead. An invalid sister, Miss May Johnstone, lives in Moberly, Mo. Johnstone's wife and two children, a boy and girl, are in New York.

Johnstone was a trick cyclist before he became an aviator. Fifteen years ago he used to entertain crowds on the street by giving performances on a disheveled, cushion-tired bicycle. Fortune smiled upon him and he became the possessor of a real bicycle with pneumatic tires.

A few days later, unannounced, he rode away and when next he came home he was in the employ of a vaudeville manager. He traveled extensively abroad, giving exhibitions on his bicycle. He met in Berlin the girl who later became his wife.

Six months ago Johnstone, through Roy Knabenshue, secured an engagement with the Wright brothers. They liked his work and a few weeks ago he signed a contract extending until January 1, 1912. Johnstone had the greatest confidence in his ability to keep the world's record for height. He said while here that if anyone broke the world's record, which he held at the time of his death, he would go even higher.

White Flies Despite Wind.

PHILADELPHIA, Nov. 17.—Graham White, the English aviator, inaugurated the Aero Club of Pennsylvania's aviation meet here this afternoon, taking up his Farman biplane into a 15-mile breeze. The wind was puffy and the aeroplanes careened at perilous angles as the aviator circled the track at Point Breeze, about 200 feet above the heads of the spectators.

BUTTE WEIGHTS SHORT

WORST ON RECORD, SAYS GOVERNMENT INSPECTOR.

Shortages Enormous and General Throughout Stores—Public Is Heavy Loser in Butter.

BUTTE, Mont., Nov. 17.—(Special.)—F. S. Holbrook, of the bureau of standards of the Department of Commerce and Labor, today in conference with Mayor Nevin said that after an investigation of foodstuffs sold by weights in the stores of Butte he found the worst short weights in any case yet in which he had conducted investigations.

The shortages are enormous. In fact, I never saw anything like it in all my experience," declared Mr. Holbrook.

Mr. Holbrook has been in Butte several days quickly conducting an inquiry and his presence today was disclosed for the first time. His announcement of the astounding conditions causing sensation among mercantile interests.

The public is being fleeced principally on butter, although short weights are general in the stores of Butte, according to Mr. Holbrook.

From Butte, Mr. Holbrook goes to Spokane, Seattle and Portland.

BIGGER FIGHT TO BE THRESHED OUT

Electrical Workers' Controversy Before St. Louis Labor Convention.

FRANK DUFFY TO BE HEARD

"Socialist" and "Regular" Divisions Each Claimers Actively for Recognition—Los Angeles Fight Is Up.

ST. LOUIS, Nov. 17.—The electrical workers' union controversy, which for two years has caused the bitterest international strife in the history of the American Federation of Labor, is to be threshed out finally tomorrow. Late this afternoon the convention made it a special order of business.

Frank Duffy, general secretary of the Brotherhood of Carpenters and Joiners of America, precipitated the debates which resulted in the special order, by requesting that his side of the controversy be heard before he returns to Indianapolis tomorrow night. After several acrimonious speeches, this permission was granted.

The electrical-workers are divided into two camps, the "socialists" and the "regulars," each clamoring for recognition by the Federation. The "regulars," numbering about 12,000, favor the Federation administration, but back of the 27,000 "socialists" is the almost unanimous support of the United Mineworkers, the strongest labor union in the world.

Los Angeles to Be Battleground.

Job Harriman, attorney for the strikers in Los Angeles, delivered an impassioned plea for support in the Los Angeles labor fight. He charged the union leaders with responsibility for the labor difficulties in the California city and declared the Los Angeles Times disaster was the result of a gas explosion, for which labor could not be held to blame.

The matter of aiding the Los Angeles trades unions in their fight is in the hands of a committee which will report next week. It is said the Federation delegates are almost unanimous in support of a proposition to make the Western city the battleground of the labor struggle in the United States.

Airship Makers Want Union.

Aeroplane building is recognized as a new branch of the American industry in a resolution presented to convention. The Carriage and Wagon Workers' International Union of North America, in a petition to the Federation, set forth the decline of the country and wagon building industry and stated that it was due to the automobile and the aeroplane.

The members therefore asked that their charter be broadened to include the trades engaged in building those new agencies of transportation. The new name which the union desires is the Carriage, Wagon, Automobile and Aeroplane Workers' International Union of North America. The petition was referred to a committee which have been presented to the committee and which are causing discussion among the delegates as those proposing old-age pension measures and opposing increased freight rates.

The pension proposal is that Congress enact laws providing for pensions for married workers over 60 years of age who are without means and out of employment. The amount suggested is \$30 a month. The rate resolution sets forth that the roads are now making large dividends and calls for the appointment of a committee of five to investigate and set the matter before the public.

ARIZONA WILL BE WET

PROHIBITION AND SUFFRAGE ROUTED IN NEW STATE.

Constitution Being Framed Will Go to Voters, Minus Provision for Special Votes.

ESTRADA EXPELS RIOTERS

Anti-American Disturbers Are Banned From Nicaragua.

WASHINGTON, Nov. 17.—The Liberal leaders, alleged to be responsible for the anti-American riots at Leon, Nicaragua, were expelled from the country and President Estrada, according to a telegram received by the State Department from Thomas B. Moffatt, United States Consul at Bluefield, United States.

The men expelled are Zeledon and Maldonado Zelaya, Gomez and Barreto. United States Consul Chivares at Managua today telegraphed the State Department that he had completed his investigation of the anti-American outbreak at Leon, and that he believed the Government authorities now had the situation well in hand.

Charles Toller, the American boy who was injured in Sunday's riots, was shot by a soldier as a result of mistaken identity, the consul reports. For the boy did participate in the disturbance. The consul confirms the report that the trouble was inaugurated by the Liberals, who, incited by the incendiary utterances of Evan, insist upon holding anti-American demonstrations.

Dr. S. Pope Dead.

ROSEBURG, Or., Nov. 17.—(Special.)—Dr. S. Pope, for more than 25 years a resident of Douglas County, died at his home in Camas Valley yesterday, after a lingering illness. He was a native of Montana, and came to Roseburg in 1885. Here he remained two years, when he moved to Brockway, and thence to Camas Valley, where he has since lived.

SPROULE MADE PRESIDENT

Humble Beginning Ends in Head of Wells Fargo Express Company.

NEW YORK, Nov. 17.—William Sproule, chief of the traffic department of the Guggenheim Mining & Smelting interests, was elected a director and president of the Wells-Fargo Express Company today, succeeding the late Colonel Dudley Evans. Mr. Sproule is familiar with the traffic conditions on the Pacific Coast.

He is a native of Ireland and began life in the counting in a humble capacity with the American News Company. Frederick D. Underwood, president of the Erie Railroad, who has been managing director of the Wells-Fargo Company since the death of Colonel Evans, resigned today, but will retain his membership on the board.

It is reported that T. N. Schumacher, assistant traffic manager of the Harriman lines in Chicago, will succeed Mr. Sproule as traffic manager of the Guggenheim companies.

HUNT FATAL; MAN SUICIDE

Nimrod Mistakes Cousin for Deer and as Cousin Dies, Shoots Self.

BAULT, STE. MARIE, Mich., Nov. 17.—True Smith, 22 years old, was found today in the woods near here, dead from a self-inflicted wound. Nearby his cousin Samuel, 15 years old, lay dying from a shot believed to have been fired by True. Circumstances indicate that the latter mistook his cousin for a deer and, after realizing his mistake, took his own life.

THE GREAT SALE IN OUR CAREER Silverfield's FURS SUITS COATS MILLINERY Today—Third Day of Our Great 22nd Anniversary Sale EVERY GARMENT MARKED IN PLAIN FIGURES REMEMBER! Anybody Can Buy FIND JUST WHAT YOU WANT AND THEN CUT THE PRICE IN TWO

WET WEATHER SHOES FOR THE WHOLE FAMILY CUT PRICES GOODYEAR SHOE CO. Ladies' Genuine Felt Julietts \$4.85 Boys' Soild Leather School Shoes \$1.50