

YOUTHFUL HOUSE LOOTER CAPTURED

Officers Locate 12-Year-Old David Scott in Vancouver —Companion Missing.

David Scott, the 12-year-old negro boy who escaped with Clarence Coo and Oscar Grove from the detention home last Sunday and whom Clarence accuses of having tried to enter the Grove residence in University Park, several days ago, has been located in Vancouver and will be returned to the home in a few days.

Judge Gantenbein will deal with Clarence, Portland's smallest burglar, in the juvenile court this afternoon. Oscar Grove, the 11-year-old, whom Clarence says was with him when he entered the Grove residence early yesterday morning, has not been found. From some of the circumstances in the case the officers are inclined to doubt some parts of Clarence's story, and it is hoped that Oscar may be found to speak for himself. Clarence declares that Oscar was on guard while he ransacked the lower rooms of the house and hid down the banister to freedom at the first alarm without being observed by the Grove family.

GOVERNMENT'S CONTENTION IN REHEARING CASE.

(Continued from Page One.)

Chicago & Alton Railway company transported to East St. Louis, Ill., and St. Louis, Mo., 1,492 carloads of oil. In all the dealings between shipper and carrier each carload was treated as a distinct transaction and handled as a distinct piece of business.

The published and filed rates on this business were 10 cents per 100 pounds to East St. Louis and 19 and one-half cents to St. Louis. The Standard Oil company actually billed on the basis of six cents to East St. Louis and seven and a half cents to St. Louis.

These facts were admitted. The Standard Oil company interposed the claim in defense that the Elkins act was unconstitutional, that the tariffs had not been posted in two public places at the stations, and interposed many technical defenses.

On both a technical point involved in the trial up to this point the defendant is guilty as the rulings of the trial judge criticized by the court of appeals. In all other particulars his rulings are sustained.

The point on which the trial judge is reversed by the court of appeals relates to his ruling on the evidence and his charge to the jury with reference to ignorance on the part of the Standard Oil company of the lawful rate as a defense.

Court in Error.
The court of appeals in its opinion has not correctly stated how the judge ruled on this subject.

It is said in the opinion that the defendant refused to admit evidence to the effect that the Standard Oil company did not know what the lawful rate was. The fact is, and the record so shows, that all evidence tending to show ignorance on the part of the Standard Oil company was admitted for the consideration of the jury.

The evidence was largely that of the traffic manager of the Standard Oil company, Bokardus, who swore to a conversation with Hollands, the rate collector of the Alton, in which he said Hollands told him that the rate had been filed. The government met this testimony by a great array of circum-

GOURDIAN THE LOTTERY KING.



Louis A. Gourdian, the former "Lottery King" who escaped from the Government Hospital for the Insane at Washington. He is now in London, agitating the Union of the Royalists of the World, for the Purpose of Converting the United States into a Monarchy.

stances which tended to disprove it and the jury found in favor of the government.

The trial judge ruled that ignorance on the part of a shipper of what the lawful rate was could be interposed as a defense, but that it would not constitute a defense if it appeared that ignorance was the result of neglect on the part of the shipper or of willful failure on the part of the shipper to report to the source of information which was available.

The government contends that this is the correct construction of the statute on this subject. The court of appeals lays down the rule that it is necessary for the government to show beyond a reasonable doubt, as a part of its case, that the shipper actually knew what the lawful published and filed rate was.

The government contends that this is an impossible rule, that it is contrary to the purpose of the Elkins act,

A strange doctrine in Anglo-Saxon jurisprudence," and says that the proceedings of Judge Landis are in accordance with the rule of procedure pointed out by Mr. Bishop in his work on criminal law as one of the elementary principles of a civilized jurisprudence recognized from the earliest days.

At Issue With Court.
The government takes issue with the circuit court of appeals as to its proposition that a defendant cannot be fined more than the value of the property which he possesses, and states that this rule is an innovation in criminal law and if applied would destroy the enforcement of most statutes.

The government claims that the facts before the court of appeals justify the imposition of the penalty inflicted by the trial judge.

It appears from the record in the circuit court for appeals that the profit of the business of the Standard Oil company of Indiana, the corporation that Judge Landis fined, for the years during which the violation of the law for which it was convicted were committed and including the year in which it was fined, was \$2,382,208.80.

On this point the petition states: "We respectfully call the attention of the court to the statement of the Standard Oil company of Indiana on file in this case, referred to by the court in its opinion, and treated as proper for consideration in determining whether or not the penalty was excessive."

Statement of Profits.
That statement shows, with reference to the assets and liabilities and profits of the Standard Oil company of Indiana, the following:

Year.	Gross Assets.	Liabilities.	Profits.
1899	16,154,408	6,004,821	4,195,750
1900	16,677,018	2,735,595	4,981,571
1901	16,435,213	2,953,417	5,379,948
1902	12,724,672	2,205,520	5,115,806
1903	21,277,619	4,532,206	8,753,410
1904	20,087,700	3,055,437	7,792,059
1905	20,743,261	2,435,957	6,521,478
1906	27,502,083	3,178,162	10,516,082

The punishment therefore is no more severe than that inflicted upon a letter carrier who steals a letter and is sent to the penitentiary for three years, thereby depriving him of his earning capacity and costs upon the court to do so in case it adheres to the view that Judge Landis abused his discretion in imposing a sentence a fraction of his bank.

The government claims that on account of the size of the fine alone, there was necessity for a trial of the case, that the circuit court of appeals may itself name the fine which should be imposed and costs upon the court to do so in case it adheres to the view that Judge Landis abused his discretion in imposing a sentence a fraction of his bank.

Petition Concludes.
It is therefore respectfully submitted:

That the opinion of this court is based upon a misconception of the record with reference to the rulings of the trial judge as to the admission of evidence tending to show want of knowledge and willful failure on the part of the shipper as to the construction of the statute on this subject, and is thereby on which the case was argued and which the court should have admitted, that it was overcome by the evidence as to the facts and circumstances of the case, and that the evidence as an entirety was sufficient to show that knowledge or what in law was its equivalent.

That the interpretation of the statute

by this court imposing no duty on the shipper and permitting a defense of ignorance is made without regard to the negligence of the shipper and contrary to the language of the statute and to its purpose, and seriously impairs the efficiency of the act.

That the ruling stated in the opinion as to the basis for determining the number of offenses involves an erroneous construction of the statute and fails to take into consideration that the thing which is prohibited by the act is the transportation of property at the unlawful rate.

That the criticism of the trial judge for abuse of discretion rests upon a wrong assumption of what the trial judge actually did and assumes that he attempted to try and punish the Standard Oil company of New Jersey, when in fact, as appears from the record, the entire proceedings were directed against the defendant the Standard Oil company of Indiana.

An Innovation.
That the ruling stated in the opinion to the effect that a fine is excessive when it exceeds in amount the ability of the defendant to pay is an innovation in criminal law and if generally applied would prevent the practical enforcement of most criminal statutes.

That, in short, the opinion as it stands erroneously states material portions of the record does in relation to the trial judge's ruling in a new trial the rule of law to be applied, both as to knowledge on the part of the shipper, and as to the number of offenses which appear to be involved in the language of the statute and with the previous language of the presiding judge of this court, and with the great weight of legal authority, and if permitted to remain unmodified, will tend to encourage disobedience to law, to impede the enforcement of statutory statutes and largely to defeat their purpose.

For the reasons stated we respectfully request that a reargument of this case be granted.

The petition is signed:
CHARLES J. BONAPARTE,
Attorney-General

FRANK H. KELLER,
Special Assistant to the Attorney-General.

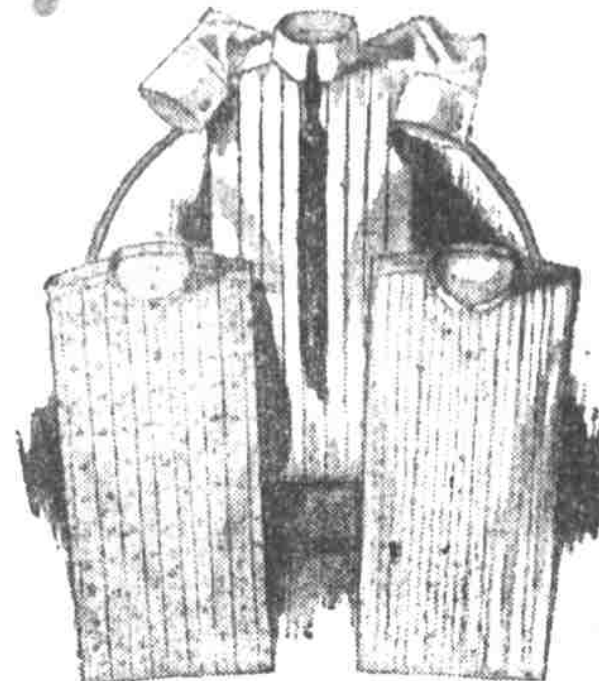
EDWIN W. RIME,
James H. Wilkerson,
Special Assistant United States Attorney.

Ten Fail to Pass.
Pendleton, Or., Aug. 21.—Out of 20 teachers taking the examinations here this week, 10 failed to pass. Difficult questions and the introduction of new subjects into the examination questions are given as the causes for the large percentage of failures.

COFFEE
Why doesn't your grocer moneyback every-
thing?
Can't get the goods or
the money.

Your grocer returns your money if you don't like Schilling's Best, we pay him.

A. B. Steinbach & Co.



Early Fall Display of Men's Furnishings

OUR SHIRT OFFERING FOR SATURDAY will be more interesting than ever. Several new lines of Cluett Shirts just received, many of them being in exclusive patterns, in both light and dark effects. . . . \$1.50

COMPLETE SHOWING OF THE POPULAR MON-ARCH BRAND SHIRTS, light and dark patterns, coat style, detached and attached cuffs. . . . \$1.00

NEW FALL NECKWEAR, comprising all the new effects, beautiful weaves and colorings. . . . 50¢

We are sole agents for HOLEPROOF SOX—sold with a six months' guarantee.

How Syracuse Woman Took Her Wrinkles Out in Three Nights

AFTER MASSAGE AND BEAUTY SPECIALISTS HAD FAILED

"MADE ME LOOK 20 YEARS YOUNGER"

Says Cincinnati Lady Who Tried It—"Now Past 40, but My Complexion Is Smoother and Better Than in Girlhood," Writes a Kentucky Woman Who Used This Wonderful Process for Removing Wrinkles.

The Discoverer Offers to Give Particulars Free of Charge to All Who Write Her Within Next Ten Days—Exact Promise of Secrecy—Treatment Very Simple and Absolutely Harmless—May Be Used Without the Knowledge of Your Most Intimate Friend.

Ever since woman's beauty held sway over man and brought her power, influence and wealth, she has sought a way to stay the processes of old age and banish deep lines and furrows from the brow.

Chemists, beauty doctors and skin specialists have for centuries past vainly tried to fathom the sealed secrets of nature and find a way to keep the beauty of youth in a woman's face and form.

Harriet Metcalf has no exception to the general rule of women. Trouble and marks upon her face. She saw the beauty of her youth giving way to the heavy imprints of coming age. Her first resort was to facial massage, then next to beauty specialists, but all in vain. The wrinkles seemed, if anything, to grow deeper and deeper. Massages even appeared to stretch the skin. Her wrinkles came. She had spent all the money she could afford to spend, and was ready to give up in despair, when one day a friend made a happy suggestion.

"I had given her a brilliant idea. She set to work on the thing herself, and after several months' hard labor and almost endless experimenting she succeeded in producing a wrinkle remover entirely different from anything she had seen or heard of. She tried it on herself, and lo and behold! it worked a wonderful transformation in a single night. She tried it a second night and her wrinkles were practically gone. In all and her wrinkles had entirely disappeared and her skin was soft, rosy and smooth."

Many others also have used this remarkable process with wonderful results. Mrs. Moran Elmer of New York city writes: "Your treatment removed my wrinkles in one night. Mrs. Turnman of Seattle, Wash., says: 'My wrinkles are all gone, yours cannot express how grateful I feel to you for what your treatment has done for me.' Mrs. A. M. Brooks of Howe, Texas, writes: "Your treatment is the first I ever tried that really had the desired effect in banishing face lines. I am 63 years old, and yet many say I do not look more

Government Contention.

The government contends in the petition that the record as to what evidence was admitted, but also misstates the evidence. It is not nearly so severe as the minimum penalty of five years in the penitentiary imposed upon a banker who misapplies the funds of his bank.

The government claims that on account of the size of the fine alone, there was necessity for a trial of the case, that the circuit court of appeals may itself name the fine which should be imposed and costs upon the court to do so in case it adheres to the view that Judge Landis abused his discretion in imposing a sentence a fraction of his bank.

The government strenuously contends that the effect of the construction of the statute announced by the court of appeals is to nullify the interstate commerce act, to wipe the law off the face of the earth, and to place the enforcement of the law at the discretion of the courts, and to place the condition of railroad discriminations and favoritism which existed prior to its passage.

Cites Armour Cases.
The government claims that the court of appeals has no right to place this construction upon the statute in the face of the evidence. Every question involved in this case has been expressly left open by the supreme court in the Armour company case, recently decided by that court.

The precise question involved in this case was whether the supreme court in that case it was not intended by the supreme court, however, because it was not involved but was left open.

The government contends that by laying down this basic rule and practically nullifying the law the court of appeals should be held in accordance with the statute for this question to the supreme court for its decision, that no court short of the supreme court should undertake practical application of the interstate commerce act to wipe the law off the face of the earth.

The petition states before the government is required to try this case under the rule of construction laid down by this court, it is not manifestly fair and just in the interest not only of justice in this case but in the interest of a fair and definite construction of this important statute, that judgment be taken of the highest tribunal of the nation.

The government contends that the court of appeals in its opinion has laid down an erroneous rule for determining the number of offenses.

Groscup's Opinion.
The government contends that each shipment is the basis of a distinct offense, and that in this case each carload was a separate offense.

The circuit court of appeals has held that there is but one offense for each shipment of freight.

The government contends against this the opinion of President Judge Groscup in the case of United States v. Hanley, 22 Fed. Rep. 672, in which the trial judge laid down an exactly contrary rule to the one which he laid down in the Standard Oil case.

The government contends that the rule laid down by the court of appeals is contrary to the principles of the Elkins act, and leaves it to the shabby and carrier to select for how many offenses they will be prosecuted and how much they shall be fined.

The government contends in the petition that the court of appeals has done a great injustice to trial Judge Landis in misstating what he did in connection with the imposition of the fine on the Standard Oil company.

The circuit court of appeals in its opinion charges that Judge Landis attempted to fine the Standard Oil company of New Jersey, and imposed the large fine for the reason that he was satisfied that the Standard Oil company of New Jersey was not a "foreign offender."

The government shows in the petition that Judge Landis never referred to the Standard Oil company of New Jersey in this connection, and that the language used was used in connection with the Standard Oil company of Indiana, and that nowhere were the proceedings directed or pretended to be directed against the Standard Oil company of New Jersey.

The government claims issue with the court of appeals that Judge Landis proceeding in this case "amounted to

FALL OPENING TOMORROW—SATURDAY, AUGUST 22d

YOU WILL CHOOSE YOUR HAT



The United Special
The Best Hat in the World For

\$2.50

100 Styles—Thirty Shades and Colors.

The Mallory Cravenette Hat
We Are Special Agents.
The only waterproof hat in the world.

\$3.50

Every Hat Guaranteed.

THE UNITED HAT STORES CO.

SEVENTH and WASHINGTON STREETS - OPPOSITE IMPERIAL HOTEL - Expert Salesmen at Your Service

OUR LAST SALE DOLLAR-A-WEEK

Came to a quick ending last Saturday Evening, but just as advertised and because all the pianos—one hundred—were sold. This six-dollars-a-month sale is liable to close soon, and for that very same reason, so now we ask all who contemplate taking advantage of our special easy terms to do so this week and avoid disappointment.

COME DOWN THIS AFTERNOON if possible, or tomorrow by all means. Your savings run from \$125 to \$200, according to the piano selected. This actual real cash is worth coming to save, even if you live a couple of hundred miles out of the city.

REMEMBER THE TERMS—\$6 CASH AND \$6 A MONTH
Take any of these—until all are sold. \$185 for Best \$325 Pianos.
Pay \$138 for Best \$265 Pianos. \$243 for Best \$400 Pianos.
\$144 for Finest \$275 Pianos. \$294 for Our Best \$500 Pianos.

And a Store Full of Other Equally as Good Pianos at Smallest Known Terms and Prices
EILERS PIANO HOUSE
The House of Highest Quality
353 WASHINGTON STREET