SCHMITZ WINS OUT

Supreme Court Finds Fatal Defects in Indictment.

RUEF'S PLEA ALSO NULLIFIED

Seven Judges Unanimous in Holding That Facts Stated Do Not Constitute Crime.

San Francisco, March 10.—The Supreme court yesterday handed down a decision denying the application of the prosecution in the San Francisco bribery-graft cases for a rehearing after a decision by the District court of Appeals in the case of ex-Mayor Eugene E. Schmitz, convicted of extortion in the French restaurant cases. Without a dissenting vote among the seven justices, the court sustained the appellate court in its decision that the indictment upon which Schmitz was convicted was defective in that it did not aver that Schmitz was mayor; that Ruef, his co-defendant, was a political boss practically in control if the city; that as such they were in a position to exercise power and undue influence over the police commissioners, and that it did not show that Schmitz resorted to unlawful means in threatening to have liquor licenses withheld.

"The decision demonstrates," said ex-Mayor Schimtz, "that the highest court in the state believes what I have always claimed, that I was removed from office and railroaded to prison."

"The contention of the respondent that the appeal was prematurely taken," says the Supreme court, "has no merit. The court is unanimous in the opinion that the District court of Appeals was correct in its conclusion that the indictment was insufficient in that it did not show that the injury to the property threatened by the defendant was an 'unlawful injury.'"

This decision practically nullifies Ruef's plea of guilty to the same charge, invalidates the remaining four extortion indictments against the ex-mayor and Ruef, and will enable Schmitz to gain his liberty on bail after eight months' confinement in the county jail.

GREAT FEAT OF WIRELESS.

Message From Fleet in Pacific Is Received at Pensacola.

Washington, March 10.—About the last place that the Navy department expected to hear from the Atlantic battleship flotilla for at least six months was on the Atlantic coast, yet this is what happened. The Navy department today received a telegraphic message from its wireless station at Pensacola, which had been in direct communication with the battleship fleet, a most remarkable performance, considering that the wireless impulses were obliged to traverse the Gulf of Mexico, then cross overland the state of Texas, part of Mexico, and again cross several hundred miles of ocean.

An additional dispatch received at Pensacola from Admiral Thomas, dated on board the Minnesota at 8 o'clock last night, is as follows:

"The position of the fleet at this moment is latitude 14.37 north, longitude 102.01 west."

FLEET TALKS TO MARE ISLAND.

Wireless Communication at Distance of 2 600 Miles.

San Francisco, March 10.—The battleship fleet came into direct communication with Mare Island yesterday, the message being the first this coast has received from the warships. Communication was had by wireless for a distance of 2,600 miles, the message being from the battleship Maine of Evans' fleet. Yesterday morning the operator at the wireless station at Mare Island, in responding to the call of his instrument, was surprised to discover he was in direct communication with the Maine. Though 2,600 miles away, the message was clear. Communication was soon cut off on account of other stations interrupting.

Rebuild the Cliff House.

San Francisco, March 10.—Dr. Emma Merritt, executrix of the estate of Adolph Sutro, was given permission today by Judge Coffey to apply the $47,000 insurance money received after the destruction of the Cliff house toward the erection of a new building. The petition was opposed by Attorneys J. F. Bowie and Joseph Mayer, who represented four of the heirs. Bowie said the heirs he represented had no objection to rebuilding the Cliff house, but thought the heirs should have the direction of expending the money.

Chinese Hold Meeting.

Canton, China, March 10.—A monster meeting was held here tonight to resist the demand of the Japanese government for the release of the Tatsu Maru. The meeting was attended by a great number of prominent personages who vigorously asserted China's sovereign rights. A resolution was adopted to the effect that, failing the confiscation of the ship and her cargo, a boycott would be inaugurated against Japanese manufacturers.

Mutiny in Caracas Fails.

Caracas, March 4, via Port of Spain, March 10.—An uprising occurred here last night in a barracks, the soldiers killing their commander, General Mesa. The mutiny was quelled only after a number of soldiers had been shot.

REVISION ASSURED.

Extra Session to Be Called to Go Over Tariff.

Washington, March 9.—Plans for the revision of the tariff have been agreed upon by the Republican leaders, including Roosevelt, Speaker Cannon, Senator Beveridge and Representatives Payne, Dalzell and Sherman, the three latter being members of the house ways and means committee, who will frame the new law.

An extra session of congress will be called immediately after the expiration of the present congress next spring and a bill will be drafted reducing some of the high schedules on steel and iron and equalizing others. If the Democrats are successful in the national election next fall, President Roosevelt will call congress immediately after the result is known, so that the tariff can be revised by the Republicans.

Senator Beveridge, who presented a measure providing for a tariff commission, had a conference with the president today. Later he conferred with Speaker Cannon and Representative Payne, Dalzell and Sherman. It developed that the commission plan is not acceptable, and it was agreed that a resolution shall be adopted by the present congress directing the secretaries of state, treasury, agriculture, commerce and labor and director of the census to gather such data as will be useful to congress in revising the tariff.

Representative Sherman, with the approval of Speaker Cannon, is circulating a petition among members of the house which requests the ways and means committee to sit during the summer recess for the purpose of gathering data to aid the members in framing a new tariff law. Many signatures have already been procured and the committee will sit.

DEMANDS ARE MADE.

Japan's Minister Presents Ultimatum to China.

Pekin, March 9.—Japan's ultimatum in the case of the Japanese steamship Tatsu Maru was presented to the head of the Chinese Foreign board today, and the board has the matter under consideration.

The Tatsu Maru was seized off Macao on February 7 by Chinese custom's cruisers on the charge that her cargo of arms and ammunition was intended for Chinese revolutionists, although consigned to a merchant of that place. The steamer is now being held at Whampoa, on the Canton river.

The irreducible minimum of the Japanese claims is the restoration of the steamer, as well as of her cargo, and the payment of a full indemnity. Action is demanded within a "reasonable time." In case of default or postponement, Japan, according to the terms of her ultimatum, will "take immediate action."

Japan expects a reply by tomorrow. She will not tolerate China's offer to investigate the case. She insists upon an apology for the hauling down of the Japanese flag on the Tatsu Mara and she will not accept mediation, affirming that China is in error and that the facts are incontrovertible.

Baron Hayashi, the Japanese minister to China, in delivering the ultimatum, made reference to Japan's sympathy for China in the matter of contraband traffic in arms and explained that China could not expect mediation so long as she did not admit the participation of the Portuguese.

INFECTED RATS ARE FOUND.

Citizens' Committe Authorizes Additional Expenditures.

San Francisco, March 9.—The bacteriological reports of the Federal health officers state that infected rats were found in nearly every district of the city last week, only the Sunset and Richmond districts being immune. The greatest percentage of infection is reported from the North Beach district and in the Western addition. In all buildings where infected rats were found, walls and floors were opened, and the places thoroughly fumigated. The citizens' health committee has authorized the Federal health officers to employ additional men, no limit being placed on the number. New gangs will be organized and an effort made to exterminate all the rats in the city within the next 30 days.

Bonus for Each Child.

Sydney, N. S. W., March 9.—The increase of population in the commonwealth is notoriously slow, and the legislators of Western Australia, where the inhabitants number only two to the square mile, have determined to take a leaf out of the book of the French. With a view to encouraging bigger families, an amendment has been inserted in the income tax bill by the state legislative assembly giving an exemption of $50 for every child up to the number of five in the family of a taxpayer. Five children is evidently the limit.

Prizes for Aeroplanes.

Paris, March 9.—M. Michelin has founded a world's challenge cup of the value of $20,000, to be competed for annually by aeroplanes. After the first races aeronauts will be compelled each year to fly double the distance made by the winner of the trophy the preceding year. The winning aeronaut, in addition to the cup, will receive $3,000. The trophy will be held by the aero club of the country of which the winner is a native.

Furnace Got Overheated.

Columbus, O., March 9.—That the fire in the Collinwood schoolhouse which cost the lives of more than 170 children was due to an over heated furnace is the substance of a partial report made to State Fire Marshal Creamer tonight by the three deputies who have been investigating the causes of the fire.

DOINGS OF THE SIXTIETH CONGRESS

Wednesday, March 11.

Washington, March 11.—President Roosevelt today, in a special message to the senate, calls attention to the fact that the senate committee has found that the charges of participation in the Brownsville riot, which caused him to dismiss companies B, C and D of the Twenty-fifth infantry, were substantiated, and asks the senate to pass a special law extending for one year the time within which those who establish their innocene may be reinstated. Such a bill will be introduced.

Senator Heyburn today secured the passage through the senate of his bill providing for the survey of all public land, reserved and unreserved, in Idaho, Oregon, Montana and California. Under the present system, the government only surveys land upon request of actual settlers. Mr. Heyburn says this system tends to retard development, and also retards surveys, as settlers don't like to go on unsurveyed land.

Washington, March 11.—Determined and persistent assaults on the postoffice appropriation bill in the house today resulted in amplification of that measure in many important parts, despite the protests of Chairman Overstreet and the committee.

The letter carriers finally won their long fight for $1,200 salaries, when an amendment by Goebel, of Ohio, granting the same was adopted. The house also allowed an additional $25,000 for clerks in third-class offices where the salaries of the postmaster range from $1,200, and $15,000 additional for contracts stations.

Altogether the appropriations carried by the bill were increased to the extent of $1,355,000.

Tuesday, March 10.

Washington, March 10.—The senate today ratified and made public six of the 13 treaties negotiated at the internationl conference at The Hague. The conventions adopted are those to which no opposition had been made.

The final reports of the committee on military affairs, in relation to the Brownsville affair, will be made to the senate tomorrow. Senator Warner will present the report of the majority of the committee sustaining the action of the president in discharging without honor a battalion of the Twenty-fifth infantry on the ground that the negro soldiers had done the shooting.

Washington, March 10.—Consideration of the postoffice appropriation bill was resumed by the house of representatives today. Although amendments were in order, the bill, when it was laid aside for the day, with 11 pages disposed of, had undergone no material change.

A noteworthy speech by Hamilton, of Michigan, upholding the right of the Federal government to control corporations and sustaining the president in his atittude toward them, was the feature of the days' proceedings.

Other addresses were made by Small, of North Carolina, and Finley, of South Carolina, each of whom attacked the proposition to increase the pay for ocean mail service on the ground that it was but a subterfuge for a ship subsidy.

Monday, March 9.

Washington, March 9.—The senate discussed at length Senator Frye's joint resolution providing for the carrying of materials for the Panama canal in American bottoms only. Frye advocated the adoption of the resolution, saying that at least 5,000,000 barrels of cement would be required in the work, and that so long as foreign vessels were permitted to compete, it would be impossible for the domestic ships to participate in the transportation because of the difference both in construction and operation. He said that in both these respects British built ships had an advantage of at least one-third.

An amendment by Foster, of Virginia, providing that the restriction should not apply to the Gulf ports or any part of the United States from which vessels of the United States could not be secured for the trade was accepted by Frye.

Fulton, of Oregon, and Bacon, of Georgia, sought to have the amendment extended to the North Pacific and South Atlantic coasts respectively, but were unsuccessful.

Resolutions of sorrow upon the announcement of the death of Representative Adolph Meyer, of Louisiana, were adopted, and at 4:20 p. m. the senate adjourned as a further mark of respect to his memory.

The house was in session but a few minutes, adjourning at 12:12 o'clock upon announcement of Mr. Meyer's death.

Saturday March 7.

Washington, March 7.—Bills to establish savings banks, introduced by Senators Carter, Knox and Burkett, today were considered by a subcommittee of the senate committee on postoffices and post roads consisting of Senators Carter, Burrows, Bankhead and Clay.

Postmaster General Meyer was before the subcommittee and outlined his views on the subject.

Mr. Meyer stated that, while the Knox bill was drawn in his department, he was not wedded to that measure and was very ready to approve amendments or provision to be taken from both the Burkett and Carter bills. The committee and postmaster general were agreed upon the plan for placing the funds to be secured by the postal savings banks in the various national banks of the country at a rate of interest large enough to pay depositors 2 per cent and to defray all attendant expenses.

Washington, March 7.—A part of the session today of the house was devoted to the consideration of private claim bills. The remainder of the day was given over to eulogies of the late Representative Slemp, of Virginia.

Friday, March 6.

Washington, March 6.—The army pay bill was passed by the senate today. The bill provides for army officers a graded increase of pay ranging from 5 per cent for lieutenant generals to 20 per cent for junior officers. It also provides that "the average pay of enlisted men of the army, as now established, be increased 40 per cent." This amendment, suggested by Culberson, of Texas, takes away the discretion of the president in fixing the pay of soldiers.

Scott read a letter from a banker who stated that army officers pay 3 per cent interest per month to have their salaries discounted because their incomes are so small.

An amendment was offered by Bacon, and adopted, giving six months' pay to families of officers and enlisted men upon their death.

Washington, March 6.—The house today passed the bill providing for the payment to the Roman Catholic archbishop of Manila $403,000 for damage done to church property during the Spanish war and the subsequent Philippine insurrection. The bill was debated for several hours.

The house today unanimously adopted a resolution to investigate the charges brought by Representative Lilley, of Connecticut, of corrupt influences upon members of the house naval affairs committee in connection with authorizations for submarine torpedo boats.

Thursday, March 5.

Thursday, March 5.—A marked tribute of respect was accorded the memory of the late Senator Redfield Proctor, of Vermont, by the United States senate today. The reading of the journal was only begun when Senator Dillingham, of Vermont, arose and, asking that it be dispensed with, referred in tones that indicated deep emotion to the great bereavement that had come upon the senate, the state of Vermont and the country by the passing of a man who for so many years had been in the public eye.

Mr. Dillingham moved the adoption of the customary resolution, and the vice president announced a committee consisting of Senators Dillingham, Daniel, Gallinger, Perkins, Taliaferro, Overman and Hemenway to attend the funeral.

In the house the proceedings were brief. While waiting for the official announcement of Senator Proctor's death, a couple of bills of minor importance were passed.

Mr. Haskins, of Vermont, presented resolutions of regret, which were adopted. After Speaker Cannon had announced the names of the committee to represent the house at the funeral, the house, as a further mark of respect, adjourned. The body will be accompanied by members of the family of the late senator and by the congressional committees to Proctorville, Vermont.

Only Seven Japs Came In

Washington, March 10.—The Pacific coast members of congress have been informed that only seven Japanese, and these not laborers, have entered the United States this year, which is regarded as showing the effectiveness of the new emigration regulation which Japan has formulated and undertaken to enforce.

There is an apprehension that some Japanese laborers have entered th country through Mexico, but it is learned that Mexico is negotiating with Japan for practically the same regulations that have been applied to the United States.

Buy Lower California.

Washington, March 10.—Representative Smith has addressed the secretary of state in a letter asking an opinion regarding the advisability of the purchase by the United States of part or all of Lower California, in Mexico, so that control of the Colorado river along the portions where it has broken its bounds, could be undertaken by the United States government. Smith urges besides the matter of the Colorado river, that the United States already conducts extensive operations at Magdalena bay in Lower California.

Fails to Find Sailor.

Washington, March 12.—An aerogram received here today from Lieutenant Gherardi, sent in charge of the tender Yankton to seek Fred Jeffs, who was reported stranded upon an unnamed island of the Galapagos group, in the South Pacific, seems to indicate that the search was fruitless. The aerogarm states the Yankton will reach Acapulco tomorrow, but makes no mention of Jeffs. Therefore it is presumed he could not be found.

Good and Evil in Roosevelt.

Washington, Mar. 11.—Senator Bailey, of Texas, in criticising the Aldrich financial bill on the floor of the senate today, took occasion to "slam" and praise President Roosevelt. "I have never before seen such a mixture of good and evil in a public man," declared the senator, referring to the president. "Before the public gets through praising President Roosevelt for some wise act he invariaibly makes a foolish move which turns praise into censure."

CAUGHT IN TRAP

Death March in Collinwood Schoo Led to Locked Door.

Cleveland, O., March 6.—Twenty-four hours after the disaster which caused the death of approximately one-third of the school children of Collinwood, the death roll numbers 164. Of these 137 had been identified at the Lake Shore morgue, while 27 bodies remain there in a condition of mutilation probably forever beyond recognition.

The work of digging in the ruins of the Lake View school house in further search for remnants of children still missing began with the break of day. Dawn found mothers and fathers waiting about the ruined building, after having spent the night in an effort to find their children's remains in the extemporized morgue. Little was brought forth during the day that would satisfy their longings, and it was believed last night that all the bodies that can be removed from the ruins have been taken out.

The coroner's inquest was begun yesterday, when a number of witnesses were examined without, however, developing any testimony that was beyond mere opinion. An investigation conducted by the Collinwood school board, which lasted far into the night, brought forth these facts:

That one of the inner doors at the West entrance of the school was closed and fastened, while children were piling up against it in the passage; that the partitions in the vestibule narrowed the exit by at least three feet; that the flames came first from a closet below the stairway at the East entrance; the closet contained lime and sawdust; three little girls had been found hiding in play in the closet earlier in the morning; there was but one fire escape and its use was never taught as a part of the fire drill.

SIDE OF RAILROADS.

Contend Low Lumber Rate Will Prevent New Construction.

Washington, March 6.—Argument of the Pacific Coast lumber case was resumed before the Interstate Commerce commission yesterday. J. D. Kerr, representing the Hill roads, frankly stated that the Northern Pacific and Great Northern have reached their capacity for handling traffic. He said as the development of the Northwest continued, traffic would grow. Therefore existing roads must increase their capacity or new roads must be built, but he declared no new roads would be built to haul lumber unless they had a guarantee of a rate that would be remunerative. If the old non-compensatory lumber rate is continued in effect, money cannot be procured and railroad building will stop, he said.

Mr. Kerr denied that the lumber men would be injured by an increase. They would still make a big profit, he declared. The Booth-Kelly company in Oregon, which is not operated under favorable conditions, could, on the basis of an advanced rate, still earn 31 per cent annually on its investment. Some companies could make larger profits, others not so much. Relative to the arguments that lumber cannot move into competitive territory under an advanced rate, Mr. Kerr showed that the St. Paul & Tacoma Lumber company, of Tacoma, paid 55 cents into this district for years and made good profits. This is higher than the proposed new rate.

WANT FOREST PRESERVED.

Wholesale Lumber Dealers Approve Policy of Government.

Washington, March 6.—The concluding feature of the 16th annual convention of the National Wholesale Lumber Dealers' association was a banquet at the New Willard last night.

The principal topic of discussion yesterday was forest preservation. The report of the committee on forestry declared that the lumber dealers realize the inevitable shortage in the timber supply which must be felt in the very near future and are doing more probably than any other agency to promote the cause of forestry. The report declares that with all the agencies at work they are hopeful that our forests will still be preserved. Repeal of the homestead law as applied to timber lands is advocated, but the general forest reserve policy of the government is approved.

Heney Given More Time.

San Francisco, March 6.—The prosecution in the bribery-graft cases this morning again asked for further time to answer the affidavits filed by Abraham Ruef in his motion for the vacation of his arraignment on the United Railroads trolley indictments, and was granted until Monday morning by Superior Judge Lawlor. Assistant District Attorney F. J. Heney gave as his reasons for not having the counter-affidavits completed that the prosecution was going over the entire matter thoroughly and carefully.

Would Classify Banks.

San Francisco, March 6.—Representatives of the San Francisco Savings Bank association appeared before the special legislative committee on banking laws today in order to make recommendations for the amendment of the existing laws. The chief recommendation was that laws be passed separating the three different kinds of banking known as trust business, commercial business and savings deposits, so they can be better regulated.

Restore Surveyor General's Pay.

Washington, March 6.—The senate subcommittee on appropriations today agreed to restore to the legislative bill the provision increasing the salaries of surveyors general to $3,000.

RUEF ACCUSES HENEY

Makes Serious Charge of Subornation of Perjury.

ALLEGES UNDUE INFLUENCE USED

Declares His Testimony Was Obtained Through Misrepresentation—Wants to Change Plea.

San Francisco, March 7.—This morning at 10 o'clock Abraham Ruef will, through his attorneys, Henry Ach, Frank J. Murphy and M. C. Chapman, present to Judge Dunne a motion to allow him to withdraw his plea of guilty entered on May 15, and substitute a plea of not guilty in the case brought on indictment No. 305, one of the French restaurant extortion cases. To support his motion Ruef will file affidavits of a sensational nature, the substance of which was given out tonight.

In filing the motion Ruef states that the plea of guilty was improperly and inadvisedly tendered and that the defendant is not guilty of the offense charged, and that he was induced to enter the plea of guilty by virtue of an agreement and understanding with the district attorney, William H. Langdon, the assistant district attorney, Francis J. Heney, the special agent of the district attorney, William J. Burns, and the financial backer of the district attorney in this prosecution, Rudolph Spreckels, and because of the agreement and understanding of the judge presiding in this department of the Superior court, Judge Frank H. Dunne, that the plea of guilty should subsequently be withdrawn and the plea of not guilty substituted, and the cause dismissed against the defendant.

The motion also will state that the district attorney has heretofore consented to the withdrawal of the plea of guilty and that this plea was obtained from the defendant by fraud, coercion, duress and false pretenses. The motion will be presented to the court on March 12.

LEAVE SCHOOL WITHOUT PANIC

Singing "America" 2,000 New York Children Reach Safety.

New York, March 7.—A special call was sent into fire headquarters from the public school on One Hundred and Ninth street, between Amsterdam avenue and Broadway.

The children were marched from the school without panic or disorder. They were assembled in the yard and sent home. Parents who rushed to the building were prevented by the police from closing in the exits and sent away. The fire was on the top floor of the building, which is five stories high.

The 2,000 pupils in the building were engaged in their morning singing exercise when the fire gong rang and they continued to sing "America" as they marched out of the building. There was no sign of panic at any time.

SECRETS OF TORPEDOES.

Bliss Company Says Employe Has Stolen Brass Models.

New York, March 7.—The E. W. Bliss company, manufacturers of projectiles, secured the arrest last night of William Esser, a mechanic, of Brooklyn, who, it is charged, has stolen the brass models of the principal parts of torpedoes now in process of secret manufacture for the government.

Detectives engaged on the case assert that other arrests will be made of men who will be charged with offering for sale to other governments secrets of projectile manufacture. The Federal authorities would be interested in the prosecution, it was said, though just how was not made clear.

William Esser was held in $1,000 bail when arraigned in court today. No representative of the government appeared againgst Esser.

Petition Czar for Mercy.

St. Petersburg, March 7.—M. Tschaikovsky, who is awaiting trial for revolutionary utterances, was visited today by physicians, who are to determine the state of his health. Mme. Tschaikovsky will present to Premier Stolypin an English petition in favor of her husband, signed by 300 leading clergymen and members of the nobility. This is the petition that Count Benkendorff, Russian ambassador in London, declined to forward to St. Petersburg. It will be followed by a general English petition.

Teach Girls to Gamble.

San Francisco, March 7. — Police Judge Smith, of Oakland, this morning sentenced August Salmin, who was convicted last Tuesday of selling pools on the horse races, to pay a fine of $300 or serve 150 days in jail. Judge Smith, in passing sentence, remarked that gambling is entirely too prevalent in Oakland. He said that only a few days ago he himself stepped into a cigar store and saw there two young girls studying the "dope sheet."

Illegal Fencers Fined.

Helena, Mont., March 7.—United State Judge Hunt today imposed rather severe penalties on four well known Northern Montana stockmen and ranchers who pleaded guilty to illegal fencing. The fines and imprisonment follow: Joseph and Frank Laird, ten days and $250 each; Nelson Bingham, 48 hours and $200; James, Bingham, 48 hours and $100.