

# The Daily Capital Journal

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## STANDARD OIL FINE CASE MUST BE RETRIED

## RECORD CROWD GREET'S S. P. DEMONSTRATION TRAIN AT SALEM

### DENIAL OF REHEARING BLOW TO INTERSTATE COMMERCE MEASURE

### UPPER COURT AGAIN DECIDES FOR ROCKEFELLER INTERESTS

(United Press Leased Wire.) Chicago, Nov. 10.—The United States court of appeals here today denied a re-hearing in the case of the government against the Standard Oil company, in which the fine of \$29,240,000 was assessed by Judge Landis.

The denial is another defeat for the government in the famous case, according to the counsel for the government, is a hard blow for the interstate commerce act.

The decision was rendered by Judges Groscup, Baker and Souan and sustains the former ruling demanding the case to the United States district court for re-trial. It is believed that Attorney-General Bonaparte will take the case before the supreme court of the United States on a writ of certiorari.

This was the second time the United States circuit court of appeals had acted in this case. The case was originally taken to the appellate court by the Standard Oil company after Judge K. M. Landis in the district court had fined the company \$29,240,000, following a trial replete with sensations.

A jury in Judge Landis' court had found the Standard Oil company guilty of accepting rebates from the Chicago and Alton railroad. The company had been indicted by two special federal grand juries on 125 counts, charging violations of the Elkins' anti-trust law which prohibits the granting or acceptance of rebates on oil or other products.

The trial began March 4, 1907 and lasted six weeks. United States District Attorney Sims represented the government and Attorney John S. Miller, Moritz Rosenthal, Virgil P. Kline, A. D. Eddy and H. W. Marr appeared for the Standard company.

The specific indictments upon which the United States authorities elected to make their fight numbered 1,482 and charged the acceptance of rebates aggregating \$223,000 from the Chicago and Alton railroad on shipments of oil from Whiting, Ind., to East St. Louis, Ills.

The trial ended in a verdict of guilty on each indictment and on each count in each indictment. The maximum fine was \$29,240,000 with the provision that it could be less should it be shown that the Standard Oil company of Indiana, a \$1,000,000 corporation, was not subsidiary of the Standard Oil company of New Jersey.

After conviction, and before he pronounced sentence, Judge Landis expressed a curiosity to have this latter point cleared up and he subpoenaed John D. Rockefeller and lesser Standard Oil lights to testify regarding the connection between the Indiana and New Jersey corporations.

On August 3, 1907, Judge Landis fined the oil company the maximum, \$29,240,000 in an opinion declaring the company unmerciful.

The Standard Oil company immediately took the case to the United States court of appeals, on a writ of error, averring that the trial court had erred in ruling that the number of offenses should be reckoned by the number of carload lots and not by the number of shipments; that the trial court had erred in ruling that ignorance of the law is not an excuse for violation of it and that the trial court had assessed an excessive fine and had gone beyond its power in hearing testimony after the judge had returned a verdict.

Last July, the appellate court handed down its opinion on this writ of error, reversing the trial court's ruling, and remanding the case to Judge Landis for re-trial. This opinion, written by Judge Groscup, contained what has been characterized as the most remarkable expression of an one court by another in the history of the American bench.

The opinion denounced Judge Landis as an unscrupulous, dishonest and had really condemned the Standard Oil company of New Jersey, when it was not even on trial. The

opinion, referring to Judge Landis' decision said:

"No monarch, no parliament, no tribunal of western Europe, for centuries has professed to have the right to punish except after due trial under all the forms of the law. Can that rightfully be done here, on no other basis than the judge's personal belief, that the party marked by him for punishment deserves punishment? If so, it is because the man who happens to be judge is above the law."

On August 14 last, District Attorney Sims filed a petition for rehearing of the case before the appellate court, alleging that the circuit court had misunderstood and misquoted the ruling of the trial judge and alleging further that the circuit court's ruling, if sustained, would make of the interstate commerce act, "a mere will-o-the-wisp of legislation, a phantom statute."

Today's ruling was on this petition.

### SCHWAB WOULD POOL SHIP-BUILDING INTERESTS

San Francisco, Nov. 10.—The failure of Charles M. Schwab of the steel trust, to visit his properties in Nevada, coming directly to San Francisco instead, has set afloat the rumor today that he has definite plans for the formation of a great non-competitive association of ship-building firms of the Pacific coast.

Schwab, who has acquired the control of the Union Iron work, complained when he was in this city before that the Union Iron works lost money on nearly all of its contracts because of strikes and labor conditions. It is believed that, falling to bring about a combine, Schwab may endeavor to persuade his competitors to agree to a pooling of interests and a division of the business so that all can make profits.

Schwab arrived in this city last night, and today visited the Union Iron works on a tour of inspection. During his visit he declared that he will spend several million dollars in improving the plant and placing it in a position to do work equal in quality and amount to that turned out by any ship yard in the world.

While declining to express a definite opinion on the possibility of a greater enlargement of the navy and the construction of more battleships would be placed in position to take advantage of any increase in prosperity and would take its share of the work.

### MAGNATE UNITE TO GET ALL CALIFORNIA POWER

San Francisco Cal., Nov. 10.—The announcement that the Southern Pacific Railroad company is to obtain power for the electrification of its suburban roads from the great Western Power company has led to a serious rumors today that Harriman with the Rockefeller interests is fighting for the absolute control of all the power interests in this state.

The Great Western Power company is a Gould corporation and the announcement that it will furnish power for Harriman's lines indicates that Gould had to make more concessions for his peace with Harriman than it was thought that he had made.

The Standard Oil company and Harriman now control every electric power proposition in California with the exception of the Northern Electric & Motoring roads. These are believed to be owned by Hill who would like a footing on San Francisco bay and whose beliefs to be back of several new roads on the coast.

### Treasury Statement.

Washington, Nov. 10.—Today's treasury report shows: Receipts, \$1,423,555. Disbursements, \$1,760,000.

### SOUTHERN PACIFIC PACIFIC FARMERS GET A HEARTY WELCOME

### AMERICA'S GREATEST WARSHIP NORTH DAKOTA IS LAUNCHED

The Southern Pacific demonstration train pulled into the city at 11:15. The private car of Supt. Fields was left at Albany, six cars making up the train, three baggage cars, a sleeper, a day coach, and a stock car. The latter carried a couple of fine dairy cows. One of the cars was devoted to demonstrations in the science of agronomy, the testing and handling of soils, farm crops, etc. The horticultural car showed spraying machinery, and sprayed and unsprayed fruits. The dairy car showed all kinds of dairy machinery, milk tests, gasoline engines, etc. There was the record crowd at Salem. The turnout at Jefferson this morning was good. But here the crowd numbered thousands and was a splendid tribute to the enterprise of the people of Salem.

Schools Turned Out. The public schools turned out and marched in columns giving their school yells and the children poured through the cars and made notes on everything. All Salem schools are

(United Press Leased Wire.) Quincy, Mass., Nov. 10.—The North Dakota, America's greatest battleship, the first ship of the Dreadnaught type to be constructed in the United States was launched today at the yards of the Fore River Ship Building company before a company of distinguished men and women. Miss Mary Renton of Fargo, North Dakota, who had been chosen by Governor John Burke to officially christen the battleship, broke a bottle of champagne across her bows and the great ship slid down the ways amid the chattering of a great throng of people who had come from Boston and neighboring cities to witness the launching.

The crowd included Governor Burke and his staff and a delegation of navy officers and representatives of the state of Massachusetts and the city of Quincy. The North Dakota is now 60 per cent finished. All American records for battleship construction have been broken in the building of the North Dakota. All indications point to

## SOME IMPORTANT EVENTS

Ex-Senator Edward Carmack of Tennessee, was shot and killed yesterday at Nashville by Robin Cooper, a son of Colonel Duncan B. Cooper, who had been severely censured in the Tennessee, Carmack's newspaper.

By the prompt work of an agent at Duncan, Mont., in smashing a switchlock and side-tracking two runaway Pullman coaches, a terrible accident was averted, as the cars a short distance away would have crashed into the North Coast Limited train.

The Seattle school authorities sent 717 pupils home because they were not vaccinated.

It is said financial interests will insist that Secretary of the Treasury be retained in the cabinet.

Falling in her efforts to extort \$20,000 from Mrs. Lawrence Phipps, divorced wife of a Pittsburg millionaire, an unknown woman threw several sticks of dynamite, intended for Mrs. Phipps, at the detectives who arrested her.

The supreme court has decided states have the right to pass laws preventing the co-education of whites and negroes.

carrying the course in agriculture and there is great enthusiasm. When the train pulled in to the depot all the steam whistles in the city joined in chorus.

Headed by Dr. James Withycombe, director of the Oregon Experiment Station, the professors who are in charge of the exhibits and who conduct the various demonstrations are: Professor F. A. Ewing, entomologist; Professor C. A. Cole, horticulturist; Professor H. D. Scudder, agronomist; Professor F. L. Kent, dairy husbandry; Professor R. W. Allen, assistant horticulturist and Harry Asbahr, horseman.

Up at Jefferson. Jefferson, the home of the prize Jersey Clars, who is an honored guest aboard the train, turned out about 500 people. The school children marched in columns, and to the beating of drums took their first lesson in practical farming on the rail. There was great enthusiasm over the work done by the different members of the faculty.

### FERRY BOAT DRIFTS HELPLESS ON BAY

San Francisco, Nov. 10.—The ferry boat Bay City of the Southern Pacific railway is out of commission today after a narrow escape from destruction on the shore of Yerba Buena island last night. The vessel has a broken propeller shaft and will not be in service for several days.

The Bay City left her slip last night to tie upon the Oakland side of the bay. She reached the vicinity of Yerba Buena island when the shaft snapped, and the craft became helpless. The boat began to drift with the tide.

Fortunately there were no passengers aboard and the bay was smooth. A deckhand put off in a rowboat for the Southern Pacific pier and the ferry boat Piedmont was sent to the rescue of her helpless sister craft.

her completion before the three-year time limit allowed by the act under which the money for her construction was appropriated.

The keel of the big vessel was laid December 16th last and by October 1st the ship was 54 per cent finished. Her builders hope to have her finished within two years after the keel was first laid.

The North Dakota is 510 feet long at the water line and 518 feet long over all. Her breadth is 85 feet 3 inches and her draft to the bottom of her keel is 27 feet. Her displacement is 20,000 tons and she will be propelled by turbine engines.

The North Dakota will have ten 12-inch guns arranged in five turrets, two in each turret. With a system of fire control, the guns can be concentrated with deadly effect on an enemy.

The Delaware, a sister ship to the North Dakota, is in process of building at Newport News, Va., and there has been a race between the two ship building firms.

### PORTLAND BOOSTERS AT ALBANY TODAY

The Portland delegation for Albany today to visit the Apple Fair and witness the dedication of the new passenger station of the E. F. Co. numbered 125 men and 25 ladies.

Salem will be able to do better than that Thursday, and if present plans are carried out will send at least two hundred. But every one will have to get in and boost to beat Portland.

### COOPERS TO WAIVE HEARING

### GARMAG SLAYERS BEFORE JURY

(United Press Leased Wire.) Nashville, Tenn., Nov. 10.—A special session of the grand jury has been called for tomorrow to consider the cases of Colonel Duncan B. Cooper and his son, Robin Cooper, who shot down and killed former United States Senator Edward Ward Carmack on the street late yesterday and it is expected that sensational testimony will be adduced.

It is understood that Colonel Cooper and his son will waive preliminary examination at the hearing this afternoon and that the case will go directly to the grand jury. Though Colonel Cooper did not fire a shot, but stood by, revolver in hand, while Robin killed Carmack, the father and son are charged jointly with the killing.

Governor Patterson, a warm friend of Colonel Cooper, issued a statement today tending to defend Cooper. It was on account of editorials written by Carmack based upon the relationship of Colonel Cooper, the governor and other political leaders, that the trouble between Cooper and Carmack arose.

The governor says that he was in conversation with Cooper yesterday a short time before the shooting and that Cooper gave no intimation that he expected trouble with Carmack. He says that Cooper did everything in his power to avert a tragedy.

It is said, however, that witnesses will be produced to testify in an effort to show that the killing was premeditated. It is reported that one witness will testify that Colonel Cooper's daughter telephoned to him yesterday, saying that her father had gone to kill Carmack and asking that he be found and disarmed.

The whole state is wrought up by the affair, as the fight for the nomination for governor in which Patterson defeated Carmack, was extremely bitter and involved nearly every citizen on one side or the other. The main issue was the liquor question, state wide prohibition having been favored by Carmack.

Mrs. Charles H. Eastman, of this city to whom former Senator W. Carmack was speaking just before he was killed yesterday by Robin Cooper, blames herself for the death of Carmack.

"I wish I had been anywhere else in the world," she said today. "If I had not been there, Senator Carmack would have had a chance for his life. If I had not been talking to him, he would not have been taken by surprise and could have fought for his life."

Mrs. Eastman called the killing a dastardly murder. It is said this afternoon that Carmack's friends will attempt to show that the Coopers lay in wait for the former senator.

Harry A. Folk, a witness, said that he saw Robin Cooper standing at the corner talking to two men and that as he rounded the corner he heard the shots and ran back to the scene.

### NOTORIOUS DESPERADO WORSTED AT LAST

(United Press Leased Wire.) Butte, Nov. 10.—"Paddy" Rodgers, the last member of a notorious gang of desperadoes that terrorized Butte and vicinity for years and who killed three of his victims during his career, figured in scores of daring hold-ups and escaped from jail three times, is in jail here today after one of the fiercest battles he ever fought with his captives. He was worsted when he, with a companion, held up a drugstore here last night.

### BRIGHT YOUNG SALEM LAWYER GOES TO ROSEBURG

George Neuner, Jr., left today for Roseburg where he will take a place in the law firm of Coshaw & Rice who have about the largest practice in central Oregon. Mr. Neuner is a graduate of Willamette law school, and has been one of the bright and popular young men admitted to the bar at Salem.

### EXCITEMENT IN GERMAN REICHSTAG

### KAISER ATTACKED ON ALL SIDES

(United Press Leased Wire.) Berlin, Nov. 10.—Demanding that Chancellor Von Buelow introduce a bill limiting the Kaiser's personal power and reciting a long list of what he termed indiscretion on the part of the emperor, Herr Wasserman, leader of the National Liberals, today made a sensational attack on the monarch of Germany during a sitting of the Reichstag. He declared that reactionary forces were at work in the German empire that made the country more benighted in many ways than Turkey and Russia.

When Wasserman had finished, Herr Weimer followed with a harsh criticism of the emperor and Paul Singer, leader of the Socialists followed him with an attack in similar vein.

There was the wildest excitement when the speakers denounced Wilhelm and the Reichstag applauded again and again. The government ministers regard the situation as critical, and fear that a ministerial government similar to that of England will follow the agitation aroused in the German parliament.

When the Reichstag resumed its sittings this morning there was an air of intense excitement because of reports that Chancellor Von Buelow would be called upon to make an explanation of his attitude regarding the famous London Telegraph interview. The Socialists here announced 24 meetings about the city for the purpose of protesting against what they termed the "Kaiser's absolutism" and the visitors' galleries of the Reichstag were crowded with people.

Waserman opened the debate for the National Liberals. He was applauded loudly when he arose and the audience listened to his remarks with intense interest.

"We want to state plainly and publicly to the world," said Herr Wasserman, "that we are not afraid of yellow perils or any other perils, but the danger from an international policy based on the sudden moods of the Kaiser is incalculable."

"Germany's fate must no longer depend upon one man's impulsive temperament. The idea of personal absolutism is undermining our national security."

This statement was greeted with a burst of applause and some hissing.

Herr Wasserman declared that the Kaiser's reign had been characterized by a number of unwise and regrettable acts which would have been prevented if the emperor had submitted to the control of responsible ministers. He recited a lengthy list of utterances of the emperor which he termed indiscreet and stated that they had been injurious to Germany.

Wasserman concluded his remarkable speech with the declaration that the emperor's acts were stimulating the growth of Republicanism throughout the empire.

"The Kaiser's last indiscretion has aroused the German nation until the people are boiling over with indignation at his personal regime," he said. "Germany must cease to be a stronghold of reaction that is more benighted than that found in Russia or Turkey," he declared.

Wasserman ended by demanding that Chancellor von Buelow give the Reichstag a definite guarantee that the emperor will henceforth remain more in the background in international affairs and demanded that von Buelow introduce a bill limiting by legislation the personal power of the emperor.

When Wasserman sat down, the crowd went wild with applause. Herr Weimer's attack on the emperor was similar to that of Wasserman. He spoke harshly against what he termed "the personal rule of the emperor."