IN FAVOR OF STANDARD OIL

Referee in State's Case Under Ant.-Trust Law Are Against Nebraska.

AMOUNTS TO DISMISSAL IN THE COURT

William Rhea Appeals from Sentence for Murdering Herman Zahn—Opinion Against Fraudulent Investment Companies.

(From a Staff Correspondent.)

LINCOLN, Nov. 6.—(Special Telegram.)—Referees A. S. Tibbetts of Lincoln and A. C. Wright of Omaha have submitted a repert to the supreme court recommending the dismissal of the case of the State against the Standard Oil company. This action is the one instituted under the anti-trust law by former Attorney General Smyth. The referees were appointed by the court over a year ago and they have since had the case under consideration for findings both as to law and facts. The principal evidence offered by the state was in the form of an affidavit by C. J. Smyth, in which allegations were made concerning the contents of the defendant company's books and records. The referees refused to accept this affidavit as evidence. An approval by the court of the referees' report will amount to a dismissal of the case. The court will consider the matter at tomorrow morning's session.

Report of the Referees.

The report of the referees was submitted to the court late this afternoon and is as follows:

To the Honorable, the Supreme court of the State of Nebraska: In pursuance of an order made in the above entitled action on the 9th day of June, 1900, by which the above entitled cause was referred to the undersigned as referees, to hear and determine the same, we do hereby respectfully report that in accordance with said order C. C. Wright took and filed the oath of referee on June 22, 1900, and A. S. Tibbetts took and filed the oath as referee August 2, 1900, and,

First—That upon notice to counsel of the respective parties, we met by appointment at Omaha, Neb., on September 9, 1900, to proceed to the hearing of said cause. Upon motion of attorneys for plaintiff we appointed George F. Corcoran to take and report the evidence and proceedings in said case and that we entered upon the hearing and trial and issues of said case and adjourned from time to time to meet at Omaha or Lincoln as was convenient to said counsel, and that the said cause was finally submitted to us at Lincoln October 31, 1901.

Second—And more fully reporting our proceedings, we do hereby report that on the 10th day of September, 1900, after proceeding with the taking of oral testimony, the honorable attorney general of the state of Nebraska filed a petition for the production of certain books and upon the same being fully argued, upon said day and the subsequent day, and submitted to us, the following order was made and entered:

Order is Denied.

"The referees state in their judgment that this is not a proceeding in a trial of the case and that the referees have no power to make the order prayed for in the petition, and the order is therefore denied, to which order the plaintiff then and there duly accepted. The said petition is herewith returned to this court, marked Exhibit A, and found in files of court."

That afterward in the hearing of this cause the defendants on the 28th day of June, 1901, upon the presentation of the deposition of George Rice to us, filed the objections or exceptions to the pretended deposition of George Rice, which said objections are marked Exhibit B and returned herewith, and the same was presented to the referees orally and upon briefs, and that we then overruled the said motions and objections with leave to further present the matter if it should be desired and that thereupon the deposition was offered in evidence and read to us, and that thereafter the defendant's counsel orally renewed their motion to exclude their deposition of George Rice for the reason stated in said objections, and the same upon being fully argued and submitted both orally and briefs and being fully considered by us, we sustain said motion and made and filed an opinion and order, the same being Exhibit C, which is herewith returned, to which ruling the plaintiff duly excepted.

Effort to Get the Books.

And upon the hearing of said cause we further report that upon the offer of the affidavit of C. J. Smyth, upon which the order of the court had been obtained directing the production of certain books and papers by the defendant company, the defendant objected to the introduction of said affidavit, for the reason that the affidavit does not give the contents of the books and papers mentioned and because the affidavit was not verified positively, but was shown to be upon information and belief, without stating the grounds of the belief, or the source of the information, and because it was incompetent, irrelevant and immaterial and not the best evidence. And the said objection was argued orally and upon briefs before us and after the consideration thereof we did sustain the said objections and filed a memorandum opinion, which is marked exhibit D and hereto attached, and to which ruling the plaintiff at the time excepted.

The plaintiff elected to stand upon the affidavit offered and upon the offered deposition of George Rice and thereafter the cause was fully submitted to us upon the pleadings and the evidence of the plaintiff and after hearing and considering the same we do find the following facts: That the evidence does not sustain the allegations of the plaintiff's petition.

And as a conclusion of law we do find that the plaintiff is not entitled to the relief demanded and the defendant is entitled to a judgment of dismissal in its favor, to which finding of fact and conclusion of law the plaintiff duly excepted.

A. S. TIBBETTS,
C. C. WRIGHT,
November 5, 1901. Referees.

Statement of Expense.

Attached to the report is the statement:

In reporting the said case to this honorable body we show to the court that we have consumed in the hearing of said cause and considerations of the various motions and of the evidence forty days apiece and that in order to attend the meetings to suit the convenience of counsel we have expended costs as follows:

A. S. Tibbetts, $18.75; C. C. Wright, $54.75. And that the expenses of the stenographer, George F. Corcoran, in taking and transcribing the evidence is the sum of $300 99, his bill therefor being herewith returned. And that the costs have been advanced to each of the said referees by the plaintiff.

The case of William Rhea, who was convicted of murdering Herman Zahn near Fremont, was argued and submitted to the supreme court this afternoon. Technical errors are relied upon for a reversal of the judgment of the district court in Dodge county.

More School Funds Invested.

Treasurer Stuefer today purchased $9,000 of Douglas county refunding bonds. This investment reduces the uninvested balance of educational funds to $84,000.

Shuts Out Co-Operative Company.

An opinion was delivered from the attorney general's office this afternoon in which it is held that the Home Co-operative company of Kansas City can have no authority to do business in Nebraska. An application for a license under the building and loan association act was made recently to Secretary Royse of the State Banking board and because of the questionable nature of the contract which the company proposes to issue the attorney general was asked for an official ruling as to whether it could be classed as a building and loan association. Since that reference another company has attempted to transact business of a similar nature in this state. The opinion delivered, which was prepared by Assistant Attorney General Rose, treats of questionable investment companies as a class and in the particular case cited it is recommended that the application be not granted. It is estimated that many thousand dollars have been invested in these companies within the last year or two. Secretary Royse has had his attention called to two that attempted to violate the law and it is intimated that still others have proceeded likewise.

Text of the Opinion.

Following is the opinion in part:

The Home Co-operative company claims immunity from the laws under which building and loan associations are regulated in this state, and bases such claim on the assumption that its purpose does not come within the purview of our statutes, and that the Nebraska statute applies alone to corporations and not to copartnerships. In its circular the Home Co-operative company, under the picture of a palatial residence, announces its purpose as follows:

"The Home Co-operative company will furnish you the money to pay off your mortgage or buy a home in any locality and give you sixteen years and eight months to pay it back at the rate of $5.35 per month without interest. The purpose of this agreement is to enable the party of the second part to enable a home and the use thereof, by making small payments in installments, by co-operating with others who contract likewise, and to that end."

The purpose thus disclosed by the circular and the contract is one of the purposes of a building and loan association within the meaning of the laws of this state, and a foreign concern organized for such a purpose is amenable to our laws when it attempts to do business here, as an examination of the statutes will show.

The statutes speak for themselves and make it perfectly clear that they apply to all foreign concerns attempting to transact in this state "business in a form and character similar" to that authorized to be done by section 1 of the act. The statutes make it equally clear that it is immaterial whether such a concern is a corporation, a company or an association. The legislature framed the law so as to prevent evasion of its provisions by subterfuge in name, organization or method of doing business, and required foreign concerns like the Home Co-operative company to submit to the jurisdiction of the State Banking Board before attempting to do business in this state.

Having reached the conclusion that the Home Co-operative company cannot lawfully do business in this state without authority from the State Banking Board, the question arises: Should such authority be granted?

Plan Outlined is a Lottery.

After describing the company's plan of operation the opinion continues:

According to my understanding of the law a concern based on the plan outlined is a lottery and a fraud. Contracts containing the elements described are gambling contracts and are therefore fraudulent, contrary to public policy and unlawful. I am firmly convinced that the conclusion reached is justified by the rulings of the courts of this country. The Home Co-operative company contends that it is protected by the federal constitution in its right to make contracts in this sate. If I am correct in my opinion as to the character of the contracts issued by that firm its contention is inapplicable. Neither the federal constitution nor any other law authorizes persons or compahies to enter into or solicit contracts which are fraudulent, contrary to public policy and unlawful.

Fraudulent associations without capital are spreading out their agents to solicit contracts of investment, maturing at indefinite times in the future, requiring payments of installments at stated periods and making profits on investments dependent upon new business and lapses. These bogus concerns introduce themselves with high-sounding names and go about in the habiliments of legitimate enterprise. They have recently multiplied to an extent that is almost incredible. Their agents have been in nearly every part of the state and if they are permitted to proceed incalculable injury will result. Such unlawful concerns encourage lotteries and gambling. They rob legitimate life insurance companies of the fruits of capital, experience and enterprise. They divert money from savings banks and other conservative institutions which are the growth of the wisdom and business integrity of ages. They take with undiscriminating rapacity the mite of the widow, the small earnings of the cripple and the little sums accumulated by toil and privation in active life, for the protection of palsied old age and consign all these funds to the hazards of chance and fraud. I am of the opinion that the State Banking Board should not grant to the Home Co-operative company authority to do business in this state.

Governor Shaw Congratulates.

The following from Governor Shaw of Iowa is one of the many congratulatory messages received by republicans in this city today:

DES MOINES, Nov. 6.—Hon. E. P. Savage, Governor of Nebraska, Lincoln: The republican victory in Nebraska is of national significance and is an indorsement of your administration. I congratulate you. LESLIE M. SHAW.

ELK CREEK OLD FOLK DINNER

Mrs. Mary Cody Entertains Twenty Friends, All at Least Sixty-Five Years of Age.

ELK CREEK, Neb., Nov. 6.—(Special.)—Today being Mrs. Cody's 78th birthday, her daughter-in-law, Mrs. Z. T. Cody, prepared a dinner and invited a number of the oldest residents of the community to come and spend the day with her. Those present and their ages, were: Mrs. Nancy Sheldon, 72; Mrs. E. E. Dickerson, 67; Mrs. Mary Tibbets, 73; Mrs. Mary Ogden, 70; Mrs. Deborah Lawrence, 66; Mrs. Jane Simmons, 76; Mrs. Julia Lawrence, 66; John Dufack, 81; Andrew Phelen, 86; Mrs. Berlinza Phelen, 75; Mrs. Mary Cody, 78; Thomas Robinson, 77; Mrs. Eliza Brittain, 77; G. C. Brittain, 80; Mrs. Catherine Krouse, 70; John Krouse, 69; Victor Tracy, 69; Mrs. Martha Tracy, 66; Mrs. Sarah Berry, 65; F. H. Butler, 79. A number of others, some of them older than any present, were invited but were unable to come.

Pitchfork Wound Proves Fatal.

FRANKLIN, Neb., Nov. 6.—(Special Telegram.)—Jack Smith, who was badly hurt a week ago Tuesday by jumping off a load of hay onto a pitchfork, the handle of which entered his body ten inches, died last night from the effects of the injury. His suffering has been intense for the eight days since the accident and on account of the condition of the body it was necessary to bury him today.

West Point Huskers Rest.

WEST POINT, Neb., Nov. 6.—(Special.)—Snow fell yesterday and remains partially on the ground. The weather is cold and raw and indications point to a further downfall of snow. The wet weather has almost put a stop to cornhusking and is detrimental to the drying out of the corn already husked.

Vesta Woman Hurt in Runaway.

TECUMSEH, Neb., Nov. 6.—(Special Telegram.)—In a runaway here today Mrs. Maggie Hotaling, who lives near Vesta, was thrown violently from her carriage and her left arm was broken in two places.

Astounding Discovery.

From Coopersville, Mich., comes word of a wonderful discovery of a pleasant tasting liquid that when used before retiring by any one troubled with a bad cough always ensures a good night's rest. "It will soon cure the cough, too," writes Mrs. S. Himelburger. "For three generations our family has used Dr. King's New Discovery for Consumption and never found its equal for Coughs and Colds." It's an unrivaled life saver when used for desperate lung diseases. Guaranteed bottles, 50c and $1 at Kuhn & Co.'s. Trial bottles free.

PENSIONS FOR WESTERN VETERANS.

War Survivors Remembered by the General Government.

WASHINGTON, Nov. 6.—(Special.)—The following western pensions have been granted:

Issue of October 18:

Nebraska: Original—Franklin Overmier, Belvidere, $6; John Youngquest, Aurora, $6. Increase, restoration, reissue, etc.—Asa Greenfield, Sterling, $8; John Zeiss, Valley, $16; William P. Allen, Columbus, $12; John W. Sexton, Grand Island, $12. Original widows, etc.—Minors of James Clark, Verdon, $16.

Iowa: Original—John Wasson, Columbus City, $8; Thomas F. Elliott, Preston, $6; war with Spain, Clifford P. Stevenson, Des Moines, $8. Increase, restoration, reissue, etc.—Alva H. Jarvis, Waverly, $8; Sanford M. Vosseller, Plainfield, $10. Original widows, etc.—Special October 21, Flora L. Alleman, Boone, $8; special accrued October, 18, Ida Smith, Subley, $8.

South Dakota: Original—Azro M. Bowles, Kimball, $8.

Colorado: Original — Ufford Bradley, Pueblo, $6. Original widows, etc.—Special accrued October 21, Sarah Noffsinger, Monte Vista, $8.

Montana: Original—Edson S. Wells, Butte, $6.

If It's a "Garland"

That's all you need to know about a stove or range.

DEFENSE IN SCHLEY CASE

Counsel Rayner Delivers an Eloquent Plea in Admiral's Behalf.

CLASH OCCURS WITH JUDGE ADVOCATE

Difference is Peaceably Adjusted, However, and Rayner's Argument Proceeds to Thrilling Peroration.

(Continued from First Page.)

among other things: "His vision was a divine inspiration. Sextants and stadimeters, compass bearings, government measurements and hydrographic plats were all dim and obscure in comparison with the miraculous power of his unaided vision, which lit up and illuminated the entire harbors of Cienfuegos and Santiago with the unerring precision of the morning sunbeams."

Mr. Rayner contended that there was no ground for censure in connection with Admiral Schley's conduct in the affair of May 31. He said he had done no more than to exercise the discretion allowed to a commander-in-chief under such circumstances.

Reverting to the blockade of Cienfuegos Mr. Rayner said Captain McCalla had admitted on the stand himself that he had disobeyed orders in not leaving Eagle off that port when he left for Key West. He did not, he said, mean to criticise Captain McCalla, but if he was not to be censured for disobedience of orders, why, he asked, should Admiral Schley be?

Mr. Rayner then came to specification No. 8, relating to the alleged withdrawal of the flying squadron from off Santiago at night. The evidence had shown, he said, that there was nothing in that charge. In this connection, he said, Captain Harber was the only witness who had testified that the Santiago blockade was not a success.

"Had I reflected for a moment," he continued, "that Captain Harber had just arrived from the gay festivities of a continental capital, I would have treated him with far greater deference. I would have modeled my style according to the manners of the best Parisian society and would have greeted him with the foreign accent and graceful gestures that are due to any one who has been suddenly transferred from the deck of an American ship to the elegant and fashionable circles of European diplomacy."

The court at this point took its usual recess for luncheon.

Brooklyn's Loop Explained.

After the recess Mr. Rayner discussed the ninth specification, which dealt with the loop of Brooklyn on July 3 and the possibility of colliding with Texas.

Mr. Rayner said he stood upon the testimony of Captain Cook, who, all things taken together, had the best opportunity to give all the information about the loop. What might have happened had Brooklyn turned to port was purely a matter of conjecture. The turn in the other direction was completely successful.

It was intimated that the turn to the south would have been to get away from the enemy, yet it was an indisputable fact that the turn had brought Brooklyn so close to the Spanish fleet and that it received thirty of the forty-three shots which struck the American ships. Captain Cook's testimony, he said, illumined this maneuver and he planted himself upon this testimony.

Mr. Rayner then discussed the testimony of Heilner and Hodgson, and in this connection ridiculed the chart prepared by the navigators of the ships in the battle.

In his evidence, said Mr. Rayner, Lieutenant Commander Heilner said Brooklyn passed across the bows of Texas less than 150 yards away, while on the chart which he helped prepare the distance between the two ships is given as 2,400 feet. Whether the engines of Texas were stopped of backed, Mr. Rayner said, mattered little.

This whole controversy about the loop seemed to have started to prove that Brooklyn ran away. When this failed an attempt was made to drag in the alleged danger to Texas. The testimony of Captain Cook, he declared, exploded both. Counsel on the other side, he said, would have to argue that Captain Cook's testimony could not be relied upon or abandon the specification about the loop and the danger of colliding with Texas.

Mr. Rayner then took up specification No. 10, concerning the Hodgson controversy. He said he would not undertake the task of extricating Lieutenant Commander Hodgson from his predicament. He read portions of Hodgson's testimony and again fell back upon Captain Cook's testimony as decisive of the point.

Cook Sees No Danger.

"Captain Cook had said," said Mr. Rayner, "that the danger of collision had never entered his head."

Referring to this testimony he said: "You cannot impeach him. If I had had my way I must say I think I would have rested this case when Captain Cook's testimony was done. I did not do so because the admiral wanted to take the stand in his own vindication."

No one, he said, had intended to attack Lieutenant Commander Hodgson, but the entire controversy was Hodgson's own fault. "There has been too much magazine discussion and too much gossip," he said. "Imagine such a conversation between the commanding officer of a great fleet and a subordinate officer at such a time. Even if the commodore had said, 'D—n the Texas,'" continued Mr. Rayner, "it would not have been such a serious matter, as it could not have been meant seriously.

"There are a hundred idle charges," he continued, "that you could bring against Admiral Schley, or any one else, if you ransack and pillage our careers. Upon this specification, I desire to say, the whole controversy had passed into history long before the specification was framed; that both of the parties to it were satisfied; that the honor of the navy is not in the slightest degree involved and the unblemished honor of Admiral Schley not sullied in a single place."

Mr. Wood and Mr. Potts.

Mr. Rayner then took up the first specification—Admiral Schley's conduct during the campaign. "Now, we come to Mr. Wood and Mr. Potts," he began. "Mr. Potts and Mr. Wood, Mr. Wood and Mr. Potts. (Laughter in the court.)

After reading the testimony of several officers as to the splendid bearing of Admiral Schley, Mr. Rayner read the testimony of Mr. Potts to the effect that the admiral appeared nervous; that he "got up and sat down."

"Lieutenant Potts," went on Mr. Rayner, "has covered himself with renown. His name will echo through the ages of undying fame. When Manila shall be forgotten and Santiago will be buried in oblivion the name of Potts shall live. Whenever an admiral or a commodore or a captain is engaged in the carnage of mortal conflict, beware of Potts. Beware of your looks. Be careful how you walk. Be careful how you sit down. Be reserved and reticent in your speech."

At this point Captain Lemly protested against Mr. Rayner's strictures of Lieutenant Commander Potts and his protest led to a dramatic scene in the courtroom.

Rayner Called to Order.

"Mr. President," said Captain Lemly, "I think counsel asked to be interrupted if he did not abide by the facts. Now he is not abiding by the facts. Lieutenant Commander Potts has never said that he was always scared when he was in battle. He is traducing the reputation of an officer who is well known to you, an officer of ability. He is not abiding by the facts.

"Many instances have occurred in which counsel has absolutely misstated the evidence and I think he should be compelled to abide absolutely by the facts, particularly when he is attempting to traduce the reputation of an officer. He has no right to speak in this manner of an officer who is above any such assault."

Mr. Rayner—And you have no right to traduce the reputation of Admiral Schley. I shall traduce the reputation of any person whom I think has not established his reputation. You said I have made a remark that he said he was scared.

Captain Lemly—There again he is inaccurate and is not stating the fact.

Mr. Rayner—I thought my brother had abandoned these tempestuous rages. If I made a misstatement and he had spoken to me about it quietly I would have taken it back.

Mr. Rayner then read from the evidence of Mr. Potts to prove his statement about the latter being scared.

"How does that suit you?" he asked.

"It does not suit," Captain Lemly answered. "I still say it is incorrectly stated, and may the court please, I do not think that counsel should say that this is an attempt to traduce Admiral Schley. I am here not because I wanted to be, but because it was my duty. I was ordered to come, and I think it was unjust and it shows how utterly unreliable he is in his statements."

Mr. Rayner—I do not think the court will permit, you must not make a statement of that sort, I will not permit it.

Admiral Dewey—No.

Insult is Returned.

Mr. Rayner—He is not only unreliable, but very offensive.

Captain Lemly—Counsel gets up and says that we are, in the discharge of a most painful duty, trying to traduce Admiral Schley.

Mr. Rayner—I have borne willing testimony to the impartiality with which he has tried his case and the delicate position he occupies. But I do ask my brother not to get up and contradict me and say that I am unreliable when I read the testimony that sustains me. I appreciate the position he is in. He has filled that position as well and faithfully as it would possibly be filled by any one. I have not said a word in criticism of his conduct. It is only when he refers to my traducing an officer that I have the same right to refer to his traducing Admiral Schley.

Admiral Dewey—The court, of course, will read all the testimony that has been given. We will be governed by the testimony. We know exactly what Lieutenant Commander Potts said. He said he was scared, but counsel did enlarge a little on it.

Mr. Rayner—Yes, I probably did enlarge.

Captain Lemly—And that said, I am sorry I made the remark.

Admiral Dewey—It is only one day more and I think we ought to get along peacefully.

Conclusion of Address.

Mr. Rayner closed as follows:

"I now have briefly presented this case as it appears to me in its general outline. Such a trial as this has never to my knowledge taken place in the history of the world. It seemed to my mind that this case had hardly opened with the testimony of Captain Higginson before it commenced to totter, and from day to day its visionary fabric dissolved from view. When Captain Cook, their last witness, was put upon the stand the entire structure collapsed and now, when the witnesses from our own ships and the gallant captain and crew of Oregon and Admiral Schley have narrated their unvarnished tale, the whole tenement, with all of its compartments, from its foundation to its turret, has disintegrated and lies here like a mass of blackened ruins.

"It has taken three years to reveal the truth. There is not a single word that has fallen from the tongue of a single witness, friend or foe, that casts the shadow of a reflection upon the honored name of the hero of Santiago.

"He has never claimed the glory of that day. No word to this effect has ever gone forth from him to the American people. The valiant Cook, the heroic Charles, the lamented Philip, the undaunted Wainwright, and all the other captains and every man at every gun and every soul on board of every ship are equal participants with Admiral Schley in the honor wrought upon that immortal day.

"We cannot strike down his figure standing upon the bridge of Brooklyn. There he stands upon the bridge of Brooklyn, his ship almost alone, receiving the entire fire of the Spanish foe, until Oregon, as if upon the wings of lightning, sped into the thickness of this mortal carnage. 'God bless Oregon' was the cheer that rang from deck to deck, and on they went, twin brothers in the chase, until the lee gun was fired from Cristobal Colon and the despotic colors of Spain were swept from the face of its ancient possessions.

Commander Praises His Men.

"'Well done; congratulate you on the victory,' was the streamer that was bent from the halyard of Brooklyn, and from that day to this no man has even heard from Admiral Schley the slightest whisper or intimation that he usurped the glory of that imperishable hour.

"The thunders of Brooklyn as it trembled on the waves have been discordant music to the ears of envious foes, but they have pierced with a ringing melody the ears of his countrymen and struck a responsive chord at the fireside of every American home. And, what is more than all which has been revealed in this case, as matchless as is his courage and as unsullied as is his honor, is his beautiful character and the generous spirit that animates his soul and the forgiving heart that beats within his bosom. Yes, we cannot strike him down. Erect he stands as the McGregor when his step was on his native heather and his eye was on the peak of Ben Lomond. His country does not want to strike him down, nor cast a blur on the pure escutcheon of his honored name.

"'For three long years he has suffered and now, thank God, the hour of his vindication has come. With composure, with resignation, with supreme and unfaltering fortitude, he awaits the judgment of this illustrious tribunal, and when that deliverance comes he can, from the high and exalted position that he occupies, look down upon his traducers and maligners and with exultant pride exclaim: 'I care not for the venomous gossip of clubs and drawing rooms and cliques and cabals and the poisoned shafts of envy and of malice. I await, under the guidance of Divine Providence, the verdict of posterity.'"

Mr. Rayner closed at 3:30 o'clock, having spoken about three hours.

The court then adjourned until 2 p. m. tomorrow, when Captain Lemly will deliver the closing argument for the government.

SAMPSON ASKS AN ERASURE

His Representative Calls on Court to Expunge Schley's Counsel's Unfavorable Reference.

WASHINGTON, Nov. 6.—E. S. Theall, acting on behalf of Stayton & Campbell, who were retained by Admiral Sampson to look after the latter's interest before the court of inquiry, today sent a letter to the court of inquiry protesting against the inclusion in the record of certain statements deemed to reflect upon Admiral Sampson's conduct at Santiago. The letter is addressed to Admiral Dewey as president of the court and is as follows:

"While fully cognizant of and abiding by the decision of the court that Rear Admiral W. T. Sampson, United States navy, is not a party interested, I have the honor to make the following request on behalf of the admiral:

"Arguments by counsel being matters of record in the case and receiving wide circulation with the public, it is respectfully submitted that argument by counsel upon matters regarding any official acts of Admiral Sampson which he has not been permitted to defend, and which the court by an expressed ruling has excluded from the evidence in the case, is eminently improper, and it is respectfully requested that the statement made by counsel for Admiral Schley in argument yesterday at the close of the afternoon session to the effect that Admiral Sampson permitted the Spanish cruiser Colon to lie in sight without attacking the harbor of Santiago, Cuba, from the time of his arrival on June 1, 1898, to about 10:35 a. m. of that day, be either stricken from the record in the case or evidence be introduced by which Admiral Sampson may be permitted to defend such a grave accusation involving his honor as a naval officer.

"It is further most earnestly and most respectfully requested that counsel in the future be restricted to the evidence adduced as regards the official acts of Admiral Sampson and not be permitted to include those matters expressly ruled out by the court and which the admiral has not been permitted to defend, nor to introduce accusations against the admiral in the record by indirect means, which were deemed improper by the court by direct means."

The Food-Drink

Malt-Nutrine is especially beneficial to thin-blooded people. It gives life, purity and richness to the blood—energizes the entire system. Prepared only by the Anheuser-Busch Brewing Ass'n, St. Louis, U. S. A.

FOR THE LAMBS OF WYOMING

Experiment Station There Tests Relative Merit of Alfalfa and Wild Hay as Food.

BELLE FOURCHE, S. D., Nov. 6.—(Special.)—The experiments that have been conducted at the experiment station of Wyoming in sheep raising have been watched with unusual interest by sheep growers of the Black Hills. The conditions are practically the same for both states. The experiments were made primarily for the purpose of seeing what growth can be made by lambs on the prairie hay with corn as feed. Two separate experiments were made, one using alfalfa and corn for food and the other wild hay and corn, a comparison being made. It was found that the lambs fed upon the alfalfa and corn made more flesh, but it was also ascertained that the wild hay and corn put on sufficient flesh to make money on market feeding.

The sheep were turned out on the range and are given only the crudest kind of shelter in order that the conditions might be as nearly like the range as possible. It has not been the custom generally for sheepmen of the Hills to feed either wild or tame hay during the winter unless the weather is cold or stormy, but the experiments of Wyoming may change this somewhat. Instead of the sheepmen sending their young stock east for fattening purposes they can hereafter put up enough wild hay or alfalfa and can ship in corn, which will more than pay when fed out as a supplement to the range feed. The sheep industry in the Black Hills is rapidly gaining, standing next to the cattle business now.

Troop H Leaves Fort Meade.

FORT MEADE, S. D., Nov. 6.—(Special.)—This morning Troop H of the First United States cavalry started overland for Fort Keogh, Mont., where it will be permanently stationed hereafter. This leaves but one squadron of the Thirteenth cavalry at this post. Troop H is in command of Lieutenant A. I. Chapman.

Sale Under Scavenger Tax Law.

PIERRE, S. D., Nov. 6.—(Special Telegram.)—The sale of property under the scavenger tax law was begun here today. Buyers are numerous, but there is not much competition, property going at the minimum of 30 per cent of the taxes. The sale will continue for several days.

Snow and Cold Wave at Huron.

HURON, S. D., Nov. 6.—(Special Telegram.)—The rain this morning turned to snow, which has been falling almost incessantly all afternoon. It is the first snow of the season. The weather is colder tonight.

Deep Snow in Pierre.

PIERRE, S. D., Nov. 6.—(Special Telegram.)—A driving snowstorm prevails here today and indications are for a fall of several inches.

No menu is complete without Cook's Imperial Extra Dry Champagne in it. If not on ask for it.

RISING BREAST

And many other painful and serious ailments from which most mothers suffer, can be avoided by the use of "Mother's Friend." This great remedy is a God-send to women, carrying them through their most critical ordeal with safety and no pain. No woman who uses "Mother's Friend" need fear the suffering and danger incident to birth; for it robs the ordeal of its horror and insures safety to life of mother and child, and leaves her in a condition more favorable to speedy recovery. The child is also healthy, strong and good natured. Our book "Motherhood," is worth its weight in gold to every woman, and will be sent free in plain envelope by addressing application to Bradfield Regulator Co. Atlanta, Ga.

MOTHER'S FRIEND

DO NOT NEGLECT YOUR KIDNEYS

Because if Kidney Trouble is Permitted to Continue Fatal Results are Sure to Follow.

Thousands Have kidney Trouble and Never Suspect It.

To Prove what Swamp-Root, the Great Kidney Remedy, will do for YOU, every reader of the "Bee" May Have a Sample Bottle Sent Free by Mail.

Weak and unhealthy kidneys are responsible for more sickness and suffering than any other disease, therefore, when through neglect or other causes, kidney trouble is permitted to continue, fatal results are sure to follow.

It used to be considered that only urinary and bladder troubles were to be traced to the kidneys, but now modern science proves that nearly all diseases have their beginning in the disorder of these most important organs.

Your other organs may need attention—but your kidneys most, because they do most and need attention first.

If you are sick or "feel badly," begin taking Dr. Kilmer's Swamp-Root, the great kidney, liver and bladder remedy, because as soon as your kidneys are well they will help all the other organs to health. A trial will convince anyone.

The mild and immediate effect of Dr. Kilmer's Swamp-Root, the great kidney and bladder remedy, is soon realized. It stands the highest for its wonderful cures of the most distressing cases. Swamp-Root will set your whole system right, and the best proof of this is a trial.

14 West 117th St., New York City, Oct. 15th, 1900.

Dear Sir:

"I had been suffering severely from kidney trouble. All symptoms were at hand; my former strength and power had left me; I could hardly drag myself along. Even my mental capacity was giving out, and often I wished to die. It was then I saw an advertisement of yours in a New York paper, but would not have paid any attention to it, had it not promised a sworn guarantee with every bottle of your medicine, asserting that your Swamp-Root is purely vegetable, and does not contain any harmful drugs. I am seventy years and four months old, and with a good conscience I can recommend Swamp-Root to all sufferers from kidney troubles. Four members of my family have been using Swamp-Root for four different kidney diseases, with the same good results."

With many thanks to you, I remain,
Very truly yours,
ROBERT BERNER.

You may have a sample bottle of this famous kidney remedy, Swamp-Root, sent free by mail, postpaid, by which you may test its virtues for such disorders as kidney, bladder and uric acid diseases, poor digestion, when obliged to pass your water frequently night and day, smarting or irritation in passing, brick-dust or sediment in the urine, headache, backache, lame back, dizziness, sleeplessness, nervousness, heart disturbance due to bad kidney trouble, skin eruptions from bad blood, neuralgia, rheumatism, diabetes, bloating, irritability, worn-out feeling, lack of ambition, loss of flesh sallow complexion, or Bright's disease.

If your water when allowed to remain undisturbed in a glass or bottle for twenty-four hours, forms a sediment or settling or has a cloudy appearance, it is evidence that your kidneys and bladder need immediate attention.

If you have the slightest symptoms of kidney or bladder trouble, or if there is a trace of it in your family history, send at once to Dr. Kilmer & Co., Binghamton, N. Y., who will gladly send you by mail, immediately, without cost to you, a sample bottle of Swamp-Root and a book containing many of the thousands upon thousands of testimonial letters received from men and women cured. Be sure to say that you read this generous offer in the Omaha Morning Bee.

Swamp-Root is pleasant to take and is for sale the world over at druggists in bottles of two sizes and two prices—fifty cents and one dollar. Remember the name, Swamp-Root, and the address, Binghamton, N. Y.

"A HAND SAW IS A GOOD THING, BUT NOT TO SHAVE WITH."

SAPOLIO

IS THE PROPER THING FOR HOUSE-CLEANING.

FIRE SALE STILL ON

One More Week of Exceptional Bargains.

Vehicles, Bicycles, Wagons, Automobiles, Going at Cost and Less.

$125 Light Timpkin Top Buggy	$85.00
$100 Light Timpkin Top Buggy	$60.00
$125 Timpkin Mountain 1 1-8 Buggy	$75.00
$70 Fish Bros. 3 1-4 Wagons	$56.00
$65.00 Fish Bros. Delivery Wagons	$45.00
$110 McFarland Surreys	$65.00
$125 Englar Phaeton	$75.00
$100 Timpkin Stanhopes	$70.00
$50 Orient Bicycles	$32.00
$50 World Bicycles	$29.00

These are only a few sample bargains selected at random—the store is full of bargains. Sundries at reduced prices.

Graphophones and Records.

A carload of Graphophones, Records and Supplies at prices ranging from $5 to $150. These goods were received since the fire. Every instrument and record is guaranteed to be absolutely perfect. Come in and hear our daily concert, all day and evening.

Jan. 1st we move into the old Bennett Building.

H. E. FREDRICKSON

15TH AND DODGE STS., OMAHA.

HOWELL'S Anti-Kawf

Takes no second place as a cough cure. It makes no promise that it cannot fulfil. If you have a cold or cough, get a bottle of Anti-Kawf and whenever your throat is sore or you are inclined to cough, take a small dose and hold it in your mouth a bit before you swallow. It will heal the mucous membrane, cure the cold and stop the cough. 25 cents a bottle.