

HUNTERS WHO WERE HUNTED

(Continued from Page 3.)

train, they were approached by Dr. Kolbus and asked if it was not true that their cases contained game. They gave evasive answers and a few denials and sought to ridicule the idea, but the warden insisted that they were carrying game and demanded that the cases be opened for inspection.

DEMURRED AND PROTESTED. They demurred and protested but, finally, when appealed to as gentlemen and good citizens to recognize the authority of the law without making it necessary to use force they gave up their cases and the keys to them. As the warden had suspected, very little game was jammed full of dead birds, native and English pheasants predominating.

It was contrary to the law to kill English pheasants in Pennsylvania last year. The United States law, the Lacey bill, makes it a penal offense to take out of any state any game killed in violation of a local law of that state. The warden notified the party that they were under arrest for violation of the Lacey law, and after taking their business cards and entering on the warden's stipulated bill before a justice of the peace at Milford, Pike county, allowed them to take the train for home.

They sent an attorney and bondsman to Milford a few days later, gave him for their appearance and proceeded to prepare a defense.

The case was set down for the Harrisburg session, but at the request of the defendants, was continued to Scranton. All were on hand, yesterday, and with them as leading counsel were ex-Attorney-General Kilpatrick, of Easton, who was the head of the state law department during Governor Beaver's term, 1887-1891, and who prior to that was president judge of the Third Judicial district; Attorney C. W. Bull, of Milford, assisted him.

GOVERNMENT'S SIDE.

On the government's side, assisting United States Attorney J. M. McCarroll, were Robert F. Snodgrass, of Harrisburg, and Hon. John S. Wise, of New York, former congressman from Virginia, son of ex-Governor Harry A. Wise, of Virginia, and a valiant officer of the southern confederacy. The United States government's special representative to attend the trial is T. S. Palmer, of Washington, who for years has been connected with the department of fish and game.

The flood-belted court attaches, jurors and litigants were all on hand yesterday, and the grand jury had been charged and sent out, the consideration of the Blooming Grove case was at once taken up. By noon-time four of the seven indictments had been returned true bills and the trial of the case was proceeding with the jury was drawn, and without waiting for a return on the other three cases, the four defendants first indicted were arraigned. These were Messrs. Smith, Kuser, Barry and Kuser.

Much to the disappointment of those who were looking on, in expectation of an interesting trial, the case has gone over. The defense entered a demurrer to the indictments, and, after hearing arguments for three hours, Judge Archbold decided to continue the case, and deliberate at leisure on the motion to quash the indictments.

Nineteen reasons were advanced in the attack on the indictments. General Kilpatrick spoke for nearly two hours in presenting and elaborating on these reasons, and made a remarkably interesting argument. United States Attorney McCarroll, General Wise and Mr. Snodgrass spoke in support of the indictment.

ONE OF THE REASONS.

One of the reasons assigned against the indictment was that the Lacey bill, on which it is founded, is unconstitutional because it attempts to impose a police regulation in a state, under the guise of an interstate commerce regulation, and thereby is an invasion of state rights. In replying to this argument, General Wise-ex-Confederate officer and son of a southern governor-turned to General Kilpatrick and said that, "strange, indeed, are the charges made by the whirlwind of time. General Kilpatrick gives me a new sensation. The grave alarm he voices over the consequences of the United States invading state rights calls for some comment. I will now proceed to defend the United States against the accusation of invading state rights."

Even the added dignity inspired by a silken gown failed to restrain the court from joining heartily in the general laughter.

In his argument attacking the indictment, General Kilpatrick said that if the defendants are indictable at all, it is for shipping game out of the state without having the packages plainly marked as to their contents, and on this count the indictment can not prevail, as the defendants did not complete the act of shipment. The law only contemplates the penalizing of a consummated shipment, the actual carrying of game out of the state, or the actual delivery of the same to a carrier. In the common law, the intent to commit an indictable offense is, itself, indictable. In the federal courts, however, intent is only an offense when particularly specified. These defendants might have prepared to ship, and had the intention of shipping up to this instance, because the law does not specifically make them such.

AS TO STATE RIGHTS.

Then General Kilpatrick assailed the constitutionality of the Lacey law, characterizing it as an invasion of state rights. The state must police its own citizens, he went on to say. The federal government has no authority to make police regulations for a state or to aid a state in local police regulations. The Lacey law attempts to aid in state police legislation, under the guise of its interstate commerce powers of legislation, and in doing so, is guilty of an improper exercise of federal legislative power.

The law is also unconstitutional, he argued, because it offends against the federal bill of rights. A federal law which denies to people of New York any right which is not denied the people of Pennsylvania is a discrimination against the people of one state in favor of those of another, and therefore unconstitutional.

United States Attorney McCarroll led in the argument, in support of the indictment, in a brief, but clear logical and interesting speech. The Lacey law, he said, is purely within the scope of federal legislative authority, for it is nothing more or less than a law regulating interstate commerce in game.

That the defendants are guilty of an

indictable offense, even though they failed to ship the game out of the state and had only prepared to carry it out, follows from the fact that the evasion of the provisions that the packages containing game to be taken out of the state must be plainly marked, is the offense which the law particularly forbids. The defendants were guilty of an evasion of the law and the indictment charges an evasion. The thing prohibited is the concealment of the identity of the game.

IN DEFENSE OF THE LAW.

In defense of the constitutionality of the Lacey law, Mr. McCarroll quoted the decision of the supreme court in the case of Gear against Connecticut, in which it was decided that the state, as trustee of the people of the state, who own the wild game of the state, can regulate how it shall be taken so that it can be preserved as a food supply for its own people, even if such regulations discriminate against citizens of other states. He also averred that there should be no question as to the power of the federal government to recognize this right in its framing of an inter-state commerce regulation for the transportation of game.

In opening his argument in favor of the indictment, Mr. Wise said he would like to know from the other side just when the defendants should have been arrested. According to General Kilpatrick they were not guilty of an offense until they had crossed the state line with their game. After they crossed the line, they couldn't be arrested.

After reviewing the game laws from their very inception and explaining that the purpose of the Lacey law was to make it impossible to sell game in one state out of season by representing that it came from another state, Mr. Wise entered upon an elaborate defense of the constitutionality of the Lacey law opening with the bit of humor related above.

"The states," he said, in dwelling upon General Kilpatrick's alarm over the invasion of state rights, "will never attempt secession or a new career of violence by reason of the Lacey law, for this law is begot of the very confession that the federal government has no state rights in the matter of regulating hunting."

MORE MARINES ENLISTED.

Quartette of Young Men Sent to League Island Navy Yard.

A quartette of young men were enlisted at the local marine recruiting station, 134 Wyoming avenue, yesterday, by Major G. Barnett, and sent to League Island Navy Yard, Pa. They are: James Leonard, Joseph Full, Francis Parsons and Harry Brennan, all of this city.

The marine corps is about to be increased by this term of congress, and for this reason many young men are making application to enlist, as there will be plenty of promotions for young men who have a military desire, and who can behave themselves, as the law provides for the promotion of worthy enlisted men to second lieutenants.

Marines are taught in a strict school, where discipline and duty are the watchword, and when sent to sea have a fine opportunity to see all parts of the world. An increase of pay is given when serving on land in foreign lands. The marines have good quarters and food, also libraries and all kinds of games for men attached to their barracks in our navy yards.

D. L. & W. Board for Today.

The following is the make-up of the Delaware, Lackawanna and Western board for today:

TUESDAY, MARCH 4. Extra East-8 p. m., Hoboken, Newark; 10 p. m., W. J. Mosler; 11 p. m., Hoboken, Newark.

WEDNESDAY, MARCH 5. Extra East-1:20 a. m., J. H. Masters with Baker's crew; 4 a. m., A. H. Bone; 6 a. m., Hoboken, Newark; 8 a. m., E. J. Haller; 9 a. m., Hoboken, Newark; 10 a. m., W. J. Mosler; 11 a. m., H. Doherty; 1 p. m., T. M. Lander; 2 p. m., Hoboken, Newark; 3 p. m., Van Wagoner; 5 p. m., Hoboken, Newark; 6 p. m., C. W. Dunn.

Summit, Etc.-6 a. m., J. Henigan; 8 a. m., Fommeller; 10 a. m., Nichols; 2 p. m., Thompson; 4 p. m., Carrigan; 5 p. m., M. G. Kinley with Golden's crew. Pullers-6 a. m., Wilner; 7 a. m., S. Finerly; 8 a. m., Houser; 11:45 a. m., Moran; 9 p. m., C. Bartholomew; 7:30 p. m., Nansen; 9 p. m., W. H. Bartholomew; 10 p. m., Lamping.

Hellers-7 a. m., Gaffney; 7 a. m., Singer; 10 p. m., L. Couler; 6:45 p. m., Lattimer; 8:30 p. m., McGovern.

Extra West-8 a. m., M. Carney; 10 a. m., William Kirby with Wall's crew; 11 a. m., John Gannon; 11 p. m., C. Kinney; 4 p. m., A. E. Ketchum; 11 p. m., O. Randolph. NOTICE Larkin with J. Gabagan's crew run No. 52, March 4.

Murphy and crew run No. 54, March 4. Murphy and crew No. 56, March 5. W. D. Warfield and crew run 11:30 p. m. extra, March 4. A. Gerrity and crew run 8 a. m. extra, March 5. M. Gandy will run 7 p. m. extra with P. J. Neale's crew, March 4.

L. D. Lattimer will run 6:45 p. m. helper, March 4. C. McGovern will run 8:30 p. m. helper, March 4.

Pneumonia always results from a cold or from an attack of the grip, and may be prevented by the timely use of Chamberlain's Cough Remedy. This fact has been fully proven in many thousands of cases. Sold by all druggists.

RAILROAD TIME TABLES.

Lehigh Valley Railroad. In Effect, Nov. 2, 1901. Trains leave Scranton. For Philadelphia and New York via D. & H. R. R. at 6:38 and 9:38 a. m.; 2:15, 4:27 (Black Diamond Express), and 11:30 p. m. Sun- days, 7:45, 9:15, 11:30 p. m. For Harrisburg, Harrisburg and Philadelphia, 6:38 a. m.; 1:55, 3:27 p. m.

For Tunkhannock, Towanda, Elmira, Baka, Chicago and principal intermediate stations, via D. & H. R. R. at 8:10 a. m. and 5:50 p. m. For Geneva, Rochester, Buffalo, Niagara Falls, Chicago and principal intermediate stations, via R. R. at 12:05 p. m., 2:25 (Black Diamond Express), and 4:27 p. m. Sundays, 8:15 and 11:30 p. m.

Pullman parlor and sleeping on Lehigh Valley Parlor cars on all trains between Wilkes-Barre and New York, Philadelphia, Buffalo and Susquehanna. BOLLIN R. WILBUR, Gen. Supt., 26 Cortland street, New York. CHARLES E. WOOD, Gen. Pass. Agt., 25 Cortland street, New York. A. W. SONENMAYER, Div. Pass. Agt., South 4th street, Scranton. For tickets and Pullman reservations apply to city ticket office, 69 Public Square, Wilkes-Barre, Pa.

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RAILROAD TIME TABLES Delaware, Lackawanna and Western. In Effect Nov. 3, 1901. Trains leave Scranton for New York-At 1:40, 2:15, 2:20 and 3:25 p. m.

New Jersey Central. In Effect Nov. 17, 1901. Stations in New York, foot of Liberty street and South Ferry, N. Y.

Pennsylvania Railroad. Schedule in Effect June 2, 1901. Trains leave Scranton: 6:38 a. m., week days, through vestibule train from Wilkes-Barre.

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