

The Ismay Journal

Devoted to the Interests of Ismay and Vicinity.

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Number 42.

Out of Town Customers...

Mail Orders to us for anything you need in Dry Goods, Clothing and Shoes.

We will guarantee to sell you better goods at less price than any store in the country. We must close out these departments as fast as possible.

Here's hoping you may win a prize and that your New Year may be a happy and prosperous one.

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Miles City, Mont. Square Dealers
"All the year round"

I Have Leased the

J. D. Foster Livery Barn

and will conduct the same during this winter

Headquarters for Tee Dee Stage Line

I solicit your patronage

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The Mutual Life Insurance Company of New York

If you love your wife and babies protect them against want by buying a little good Life Insurance. No company is as solid as THE MUTUAL LIFE OF NEW YORK.

John de Carle
District Manager for Custer County,
MILES CITY, MONT.

Only the Best Trees

Are used in the manufacture of the Lumber we sell.

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Fine enough to use in the construction of a millionaire's palace. Experienced carpenters and builders recognize the importance of good Lumber. You'll find the majority of them are our customers.

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Write Your Friends Once a Week by Sending them the Ismay Journal. It Will Only Cost You \$2 a Year.

JUDGE SANNER RENDERS DECISION IN GLANDERS CASE

FINDS THAT THE MACKAY HORSES WERE DISEASED—THERE IS NO CAUSE OF ACTION FOR DAMAGES AGAINST THE STATE—CASE IS OF STATE-WIDE INTEREST—THE JUDGE'S DECISION IN ITS ENTIRETY.

The decision of Judge Sydney Sanner in the celebrated glandered horse case, in which D. C. Mackay sought damages from James T. Stanford et al, will be of widespread interest. The independent herewith gives the opinion of Judge Sanner in its entirety: "This matter came before the court on November 23rd, 1910, for hearing upon an order sued out by the plaintiffs against the defendants requiring them to show cause why they should not be enjoined from destroying certain animals alleged by the defendants to be infected with glanders, and upon defendant's motion to dissolve the temporary order issued herein restraining them accordingly. The matter was submitted on the single question whether the said horses or any of them were in fact diseased or infected with glanders; it being conceded by plaintiffs counsel that if said animals were so diseased or infected, they were valueless and should be destroyed. Witnesses testified on behalf of both parties but the greater weight of the testimony was to the effect that the said animals were infected with glanders. Upon the plaintiffs' suggestion that their said property should not be destroyed without reasonable certainty of their diseased condition as claimed, and that the Mallein test properly applied would demonstrate whether or not said animals were so diseased, the court appointed A. D. Knowles, a veterinary surgeon of Livingston, Montana, as its special officer to apply said test to the said horses in the presence of W. S. Swank, a veterinary surgeon of Miles City, Montana, representing the plaintiffs, and to return into court on the 24th day of November, 1910, at 5:00 p. m. and testify concerning the results thereof.

"The said hearing was resumed on November 25th, 1910, at 5:00 p. m., the said A. D. Knowles testifying that the said test had been applied to each of said animals as directed by the court and had resulted in the typical re-action of glanders in each instance and that all the said animals were unquestionably diseased with glanders, and further that said test had been pronounced by the plaintiff, D. C. Mackay, and by his representative, W. S. Swank, to be satisfactory, so that the said animals had been killed on that day by order of the said D. C. Mackay. Neither the said plaintiff nor the said Swank were present at the resumption of the hearing upon November 25th, but upon suggestion of counsel for the plaintiffs, who was present, the court declined to dispose of the matter until plaintiffs could be heard if they desired to be heard in respect to the same and for that purpose the hearing was adjourned to the 3rd day of December, 1910.

Upon the said 3rd day of December, 1910, said hearing was resumed, the said W. S. Swank testifying to the effect that said tests had not been pronounced by him to be satisfactory and the said animals had not, to his knowledge, been ordered by the said Mackay to be destroyed, whereupon the court, for the purpose of ascertaining whether or not the injunction order herein had been willfully violated, ordered a further hearing of this matter on December 19th, 1910, at which time said hearing was resumed and witnesses testified concerning the destruction of said animals, from which it appears that said animals were killed by an employe of plaintiffs' under the immediate direction of said A. D. Knowles, with a weapon furnished for that purpose and at a place designated by said D. C. Mackay. Dr. Knowles testified that his presence at the killing, as well as the failure to hold any autopsy, was due to his understanding that Mr. Mackay was satisfied with the test and had ordered the horses killed as valueless and dangerous to him. Mr. Mackay on the other hand, testified that he was not satisfied with the test, had never expressed any satisfaction with it and did not order the horses killed; but that he did furnish the weapon and designate the place, under a misapprehension that if Dr. Knowles deter-

mined that there was a glanders re-action from the test, he had the power to destroy the animals forthwith without further order of the court. In view of the fact that there is still an issue in the pleadings which the plaintiffs may desire to have tried, the court will express no opinion further than to say that there was nothing in the proceedings before the court justifying Mr. Mackay's misapprehension, and that it is quite clear the horses were not killed in willful violation of the restraining order herein.

From all the evidence presented, the court finds:
(1). That the said animals, to-wit: The animals described in paragraph 3 of plaintiff's complaint, at the time of the commencement of this action and at the time the restraining order and the order to show cause herein was issued, and on the said 25th day of November, 1910, were each and all infected and diseased with the disease known as glanders;
(2). That said animals were on November 25th, 1910, killed and destroyed.
And the following conclusions of law are drawn:
(a). That the plaintiffs should have nothing by this proceeding;
(b). That said restraining order should be dissolved.
Wherefore it is ordered that the restraining order heretofore issued herein, be and the same is hereby dissolved. Costs will be awarded to neither party.
Done in open court this 30th day of December, A. D., 1910.
SYDNEY SANNER,
Judge.

ISMAY NAMES ITS COUNTY OFFICERS

ANTICIPATING A COUNTY SEAT SEAT PEOPLE OF MILWAUKEE TOWN GET TOGETHER.

ENTHUSIASTIC MEETING

Big Lobby Will Go to the State Capital in the Interests of Cause—Situation in This County at Present is Complicated.

(Miles City Independent.)
In conformity with the requirements when petitioning the legislature for the creation of a county seat the people of Ismay met the other evening and named officers for the proposed new county of Burt. From what the independent can learn there was a large representation at the meeting, there being delegations from every section of the proposed new county. By unanimous consent it was agreed to name the new county Burt in honor of George W. Burt, of Ismay, who has been quite a factor in the development of that particular section.
In the division of the offices Ismay gets two, a commissioner and a sheriff and the rest goes to the outside. The men nominated are as follows:
Commissioners—R. L. Anderson, Ismay; Wynland Wood, Knowlton; H. L. Struckmeyer, Mildred.
Treasurer—R. H. Highbe, Westmore.
Sheriff—Mat E. Jones, Ismay.
Assessor—W. H. George
County Clerk and Recorder—H. L. Brockway.
Clerk of Court—C. E. Stevens.

Westmore.
Superintendent of Schools—Frank Cass, Ismay.
County Surveyor—G. B. French, Mildred.
Public Administrator—Frank Shaw, Ismay.
Coroner—Dr. G. A. Lewis, Ismay.
Should the people of the proposed new county of Burt be successful in getting their measure through the legislature the set of officials for the first year must be named in the bill and it was for this reason that the people took action at this time.
The office of county attorney was left open for the time being, but a Miles City man may have it if he will consent to live in Ismay, in the event of the division scheme carrying.

MEETING IS CALLED BY SECRETARY MARTIN

Secretary Martin Martin of the Montana state fair, has sent out notices to all secretaries of chambers of commerce and commercial organizations, as well as others interested in county fairs for the coming season, to meet at Helena on January 10. The purpose of the meeting is to discuss and fix dates, premiums, purses and racing stakes, and to provide the best possible attractions for the fairs of the state this year, hoping to avoid conflicts in dates and a closer harmony that will result in more efficient and educational fairs.
There will also be some matters of legislation discussed pertaining to the improvement of the present laws under which such work is carried on in Montana. Secretary Martin asks particularly that a representative of the Western Montana Apple show be present. The meeting will be held at the office of the Montana state fair, in the Kohrs building.

The following patents have been granted to Montanans: Henry E. Thompson, of Wisdom, sliding tool; Frank Searle, of Ennis, shelter or sleeping tent; Henry T. Devitt, St. Helens, track shifting machine.

The First National Bank.

Capital Stock - - \$35,000

Ismay, Montana.

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You will always find us willing to help you wherever we can in the development of your business.

Directors and Officers

R. L. Anderson, President.
David Bickle, Vice-President.
James Hunter, William Fulton.
J. H. Price, William G. Lang.
E. J. Armstrong, Cashier.

MONTANA LEADS IN COPPER PRODUCTION

The activity in the production of copper, lead and zinc from primary sources in the United States was greater in 1909 than in any previous year.

Complete figures have just been issued by the United States geological survey. The total output of copper from smelters was 1,092,951,624 pounds. The total quantity of refined copper, including domestic and foreign ores, was 1,391,021,454 pounds, an increase of 253,059,046 pounds over the previous year.

The total quantity of lead, smelted or refined, in the United States in 1909 was 457,045 tons. The apparent con-

sumption of lead by American industries was 370,013 tons.

The total production of zinc was 256,760 tons, while the consumption was 271,274.

In the production of copper Montana led all states, with Arizona second, Michigan third and Utah fourth. The United States produced 38 per cent of the zinc.