

COURT ISSUES MANDAMUS WRIT

AUDITOR MUST SHOW CAUSE WHY HE DOES NOT PAY STENOGRAPHER MORE.

LEGAL POINTS INVOLVED

Supreme Court Stenographer Takes Action to Compel the Payment to Him of \$200 Per Month as Provided by Legislative Appropriation But Which He Has Not Been Receiving.

Helena, April 28.—The supreme court today issued a writ of mandamus, directed to H. E. Cunningham, state auditor, directing him to show cause on May 3 why he should not pay A. C. Schneider, stenographer of the supreme court, a salary of \$200 a month as provided by legislative appropriation. It seems that the refusal of the auditor to issue a warrant for more than \$150 a month was based upon the decision of the state board of examiners, whose action was explained by its members on the ground that while the general appropriation bill for the ensuing two years carries among other items \$2,000 annually for the stenographer of the supreme court, but it is the position of the board that an appropriation does not create an office.

The board believing \$150 a month to be a reasonable salary, so fixed the amount, and directed the auditor what to pay. This action is based upon what we believe to be reasonable compensation, comparison being made with like employment and the opportunity afforded for other emoluments, says the board.

FATHER OF ACCUSED TO TESTIFY

GENERAL PETER C. HAINS WILL TAKE WITNESS STAND IN MURDER CASE.

Flushing, N. Y., April 28.—General Peter C. Hains, the defendant's father, will be the first witness called tomorrow when the defense begins its attempt to establish the insanity of Captain Peter C. Hains, Jr., the young army officer, who shot and killed William E. Annis at the Bay-side Yacht club last August. When court adjourned today former District Attorney Young had completed his opening address for the defense, while previously the prosecution had finished its case.

General Hains will be followed by Major Hains, the captain's brother, and then by 30 witnesses, who will testify concerning Captain Hains' irrational acts following the revelation of his wife's alleged infidelity and her association with Annis.

MANGLED BY A TRAIN.

Special to The Daily Missoulian. Wallace, April 28.—John McFadden, a miner, was mangled by the Mullan special about four miles from this town tonight. McFadden, who was about 38 years of age, had been in Wallace drinking and started back to his work at the mines. The train struck him, cutting off both his legs and arms and terribly mangled the body. The coroner will hold an inquest tomorrow. Nothing is known of McFadden's relatives.

WESTON AT ST. LOUIS.

St. Louis, April 28.—Edward Paysan Weston, with 150 miles of his New York-to-San Francisco walk behind him, strode into the Missouri Athletic club here late today. Weston was in good condition and probably will leave St. Louis early tomorrow.

LOCAL OPTION ISSUE ALMOST CAUSES RIOT

Chillicothe, Ohio, April 8.—In a local option election characterized by disorderly scenes, at times bordering on rioting, Ross county today voted "wet" by 2,000. The city of Chillicothe gave a vast majority of approximately 1,800. Mayor Yaptie and the city administration led the wet forces. To restore order Company H of the Fourth regiment, Ohio National guard, was called out, and a large force of special deputies were sworn in. These, carrying wagon spokes, instead of rifles, stood guard in the disturbed quarter until the polls closed.

FORMER RULER TO BE KEPT PRISONER

ABDUL HAMID, DEPOSED SULTAN OF TURKEY, TO BE KEPT WITHIN WALLED HOUSE.

LIFE TO BE PROTECTED

Erstwhile Monarch Will Not Be Placed on Trial as Has Been Reported in Constantinople as He is Considered to Be Above the Law—Leaders in Uprising Are Executed.

Constantinople, April 28.—The former ruler of the empire, Abdul Hamid, will be kept a prisoner in a large house with a wall all around the grounds on the heights overlooking Saloniki. It was learned tonight. He is not to be put on trial, as has been widely reported in Constantinople, for he is considered above the law.

It was thought wise to keep the deposed sultan in European Turkey, remote from the capital. His household will be administered upon a generous scale, and his life will be safeguarded as he earnestly besought when notified of his dethronement.

Abdul Hamid, with four wives, five daughters and two of his younger sons, two eunuchs and a comparatively large number of female servants, were taken from the Yildiz palace last night and started under an escort to Saloniki.

The constitutionalists want to get together sums of money that the former sultan is supposed to have abroad, not only because the government needs it, but because it is desirable that he should be deprived of all resources for another coup d'etat. Speculation places Abdul Hamid's wealth at anything between \$25,000,000 and \$200,000,000.

It was mentioned with pleasure today at the palace of Mehemed V that the American ambassador was the first of the foreign representatives to communicate his good wishes to the newly proclaimed sultan. The sultan sent his compliments and thanks to Mr. Leshman.

The city was illuminated tonight and general rejoicing continued. Although a holiday, court martials were held, and several of the principals in the mutiny of the troops were condemned. Later they were taken outside the walls of the city and shot. Sabah Edinne, the nephew of the sultan, who was arrested on suspicion of being implicated in the rising, has been liberated, and his release has caused a good impression.

Officially Recognized.

Washington, April 28.—Mehemed V, the new sultan of Turkey, was today officially recognized as the reigning ruler of that empire by the Washington government. This action followed official announcement of the accession to the state department by Klazim Bey, the Turkish ambassador. A dispatch, according to recognition signed by President Taft, was forwarded to Constantinople tonight. It follows:

"I offer to your imperial majesty my congratulations on your accession to the throne, with such universal acclaim voiced by the people's representatives and at a time so propitious to the higher aspirations of the great nation over which you rule as the august head of a constitutional government. I assure you of the friendship of the government and people of the United States who earnestly wish for your majesty's happiness and for that of the people within your dominions and I add my own wishes for your majesty's health and welfare."

Favorable Impression.

A favorable impression has been created in Washington by the remarks attributed to the sultan in his public utterances.

From the American standpoint the permanent improvement in the conditions in Asia Minor and other portions of Turkey where massacres of Armenians occurred, is the most important duty confronting the new government. Meantime to meet the situation in Asia Minor, the state department is arranging to put to the best use the American vessels now gradually approaching Gibraltar.

It is the intention to send the cruiser New York to eastern Mediterranean waters about the middle of next month.

ONE KILLED IN TORNADO.

Wichita, Kan., April 28.—A tornado at Douglas and other Kansas towns this evening killed one, injured ten and did much damage to property. The storm was the most severe at Douglas. There, Lewis Yers, 70 years old, was killed. A number of houses were wrecked.

IS CRUSHED TO DEATH.

Miles City, April 28.—Emil G. Bircher, a wealthy rancher of this section, was crushed to death by the overturning of his wagon during a runaway on a rock stretch of road near this city last night. Bircher's son, who also was in the runaway, had his arm broken. Bircher leaves a wife and 11 children.

ARRIVES AT KOBE.

Tokio, April 28.—The American squadron has arrived at Kobe, where it will remain a week. The British squadron will anchor at Yokohama tomorrow.

A BOOSTER WHO BOOSTS WELL

If there is a man in Missoula who knows any more about the west than anybody else in these parts, that man is James M. Rhoades. "Jim" has been over more miles of the great western region than any other man of his years and inches in this section of the world. He has traveled afoot, on horseback, behind a team of cayuses, in automobiles, in locomotives and about cushioned cars. He can tell you about the broad eastern plains of eastern Montana, the vast stretches of Colorado, the hills and the basins of Utah, and, if you want to extend your jurisdiction, he can tell you things that you never knew about the territories to the south, and then swing up through California along the coast into the northwest. His fund of information has been gained by actual contact with regions of which he talks; he has seen them all, has lived in most of them, and has studied their various conditions. But he has selected Missoula as his home, and here is his permanent abiding place. He lives in Missoula because he likes the city; he has chosen it after years of experience in other places, and, if you ask him, he will tell you in the real booster spirit why Missoula is better than any other place he knows of. His boasting is of the practical sort; he talks by the book; it is not a matter of hearsay with him, but the real facts. Mr. Rhoades is one of the most consistent boosters that Missoula ever had. He is at it all the time, and he works by system; there is nothing spasmodic about his boosting, and his is the sort that counts. He has been instrumental in bringing many people to Missoula, and he is ever engaged in the endeavor to interest more of them. He is a member of the executive committee of the chamber of commerce and his energy finds an outlet in the promotion of many plans that are for the good of the city. His is the boosting that has no come-back, and he knows what he is talking about and he talks about what he knows. As a type of the Missoula booster, Mr. Rhoades is good; he



works in his own way, and that is not always the way of some of the rest of the boosters, but it is always an effective way, and there is no quarrel over the method when the results are so plain. Mr. Rhoades' extensive acquaintance in the west and in Montana particularly makes him an especially desirable member of the booster family. He is the right sort. He knows Missoula well, and he has done his share to well, and he is that it is. And it is the record that counts.

LUMBER SCHEDULES EXHAUSTIVELY DISCUSSED

SIMMONS OF NORTH CAROLINA ADVOCATES REDUCTION OF PRESENT TARIFF.

Washington, April 28.—An exhaustive treatment of the lumber schedule of the tariff bill by Mr. Simmons of North Carolina was the feature of the session of the senate today. Mr. Simmons advocated the retention of the present tariff which, he maintained, was but a revenue rate. Several times the national democratic platform of 1908, which declared for free lumber, was injected into the discussion by republican senators and Mr. Bacon of Georgia remarked that he was not bound by declarations written into a platform at midnight by a few interested men. Mr. Burkett of Nebraska, whose home city is Lincoln, sought to state where the democratic platform actually was drawn, but Mr. Simmons refused to yield time to prolong the discussion.

Mr. Brown of Nebraska advocated a constitutional amendment for the collection of an income tax.

WOOL CROP ESTIMATED.

Butte, April 28.—A Cheyenne, Wyo., dispatch to the Miner states that estimates of the wool crop of that state for 1909 place the amount at about 35,000,000 pounds, with a value of approximately \$7,350,000, based on the price for clips at from 18 to 23 cents. Sheep shearing is now in progress, with a heavy clip in sight.

SURVEYORS AT WORK.

Great Falls, April 28.—Articles of incorporation have been filed for the Montana Western Railway company, which will build a railway line from Conrad towards the mountains through a new country that is being developed by the Conrad irrigation project. Surveyors are now at work.

FAILS TO APPEAR BEFORE THE COURT

New York, April 28.—For the second time within 10 days, Evelyn Nesbit Thaw failed to appear today in the city court for the supplementary proceedings in connection with a \$253 bill held by Elsie Hartweg, a milliner, who obtained judgment for that amount. A week ago when Mrs. Thaw failed to appear, Justice McAvoy directed her lawyers to produce her in court today, or to show cause why she should not be held in contempt. Daniel O'Reilly, appearing in her behalf today, said there was no doubt about the question of Mrs. Thaw's residence in the county at the time the summons was issued, and asked for a ruling. Justice McAvoy took the matter under advisement.

LEAGUE SEASON TO OPEN.

Denver, April 28.—If the weather is propitious it is expected that the Western league season will open tomorrow with the largest attendance at opening day games in the history of the league. Pueblo, Topeka and Wichita have declared a half holiday in honor of the opening of the baseball season and all business will be suspended for the afternoon.

SAFETY APPLIANCE RULES SHALL GOVERN

Special to The Daily Missoulian. Helena, April 28.—The state board of railroad commissioners and representatives of all the railroads in the state except two agreed today that the rules governing safety appliances adopted by the interstate commerce commission shall govern in Montana. It was also agreed that to carry out the state law relating to train reporting, notices shall be sent out the hours preceding the scheduled time a train should arrive at a station. The only roads not represented were the Burlington and the Butte, Anaconda and Pacific and it is understood they will agree to the arrangements made.

NOTICE OF LOCATION IS FILED

MILWAUKEE RECORDS PAPERS INVOLVING SEVERAL MILES OF RIGHT-OF-WAY.

Special to The Daily Missoulian. Kalspell, April 28.—The Milwaukee officials today filed notice of location on seven and forty-three hundredths miles of right of way, continuing north from the northern extremity of the land against which condemnation actions have been filed.

Each day records the filing of a few deeds by both the Milwaukee and the Great Northern. The depth of the snow in this district has caused the engineers to secure additional skills for handling supplies, and these are being pulled over the snow by men instead of horses, it being found that men can make better headway than the quadrupeds.

At the close of a reception today of President Ingersoll of the Milwaukee, it was intended to take the visiting official on an auto ride, but a rising blizzard ending the program of this feature of the entertainment.

The Great Northern officials are looking over land surrounding the Big Fork on Flathead lake. It is believed that they contemplate securing this ground before the Milwaukee can get hold of it.

GRADING COMMENCES ON NEW RAILROAD

Livingston, April 28.—The first work on the new Shields river railway began this morning when 300 men and as many teams began operations just east of Livingston. Another large crew of men will begin work at Myersburg, a point about 40 miles north of Livingston, and will push construction work toward this city. It is the intention of the company to have the grading completed to Myersburg by September 1, and it is said that trains will be operated on the new road by October 15 this year.

ELEVATOR DESTROYED.

Buffalo, April 28.—The elevator of the Husted Milling & Elevator company was destroyed by fire early today, together with 200,000 bushels of grain. Loss \$800,000; fully insured.

MILLIONS OF ACRES WILL BE MADE AVAILABLE

BALLINGER DESIGNATES LANDS THAT COME UNDER 320-ACRE HOMESTEAD ACT.

Washington, April 28.—Approximately 157,176,800 acres of land in various western states to which the 320-acre homestead bill applies have been designated by Secretary of the Interior Ballinger as coming within the provisions of the act. The area of land designated in each of these states is as follows:

Oregon, 7,004,160; Washington, 2,576,960; Utah, 7,044,480; Wyoming, 9,221,760; New Mexico, 14,334,560; Nevada, 49,512,960; Arizona, 26,657,280; Colorado, 29,160,000; and Montana, 19,564,560.

It was stated at the department today that approximately 40 per cent of the area designated in Nevada is now held by individuals through "some color of title" and it is believed that a larger percentage in Washington and Oregon are so held. Were all of the lands designated suitable for entry there would be about 452,000 homesteads. The lands in question are not susceptible of irrigation from any known source of water supply. The regulations under which entries for these lands are to be made recently were approved.

Diagrams showing the lands subject to entry will be furnished the local land offices as soon as possible and applications to enter will then be received.

ROBBING THE MAILS.

Ogden, April 28.—Ren Sallor, a postal mail clerk running between Salt Lake City and Malad, Idaho, was arrested here tonight and will be charged with robbing the mails. Marked money from letters posted by inspectors was found in Sallor's possession at the time of his arrest. He made a confession to the officers.

WILL MAKE OFFER FOR PRIZE FIGHT

Goldfield, Nev., April 28.—A mass meeting of 1,000 citizens tonight decided that Goldfield should offer \$50,000 for a fight between Jack Johnson and James J. Jeffries, to take place in the latter part of September during the session of the mining congress. Before the meeting adjourned \$40,000 of the amount had been pledged and the further decision reached that should \$50,000 prove too small a sum to attract the big fighters, any sum within reason will be offered. When the subscription list is completed the money will be placed in the John S. Cook bank, and a formal offer will be made to the fighters.

TAKES ANOTHER PRIZE.

New York, April 28.—In addition to winning the amateur billiard championship of the United States, H. A. Wright of San Francisco annexed another prize today. He and Clarence Jackson of Chicago had tied for the single high average with 15-24 each during the tournament and in the playoff this afternoon Wright won by a score of 400 to 198. The winner's average was 26-10-15 and his high runs were 85, 52 and 48. Jackson's average was 13-3-15.

UNIQUE SCENE IN CALHOUN TRIAL

ACCUSED MAN ADDRESSES COURT DENOUNCING PROSECUTOR'S CONDUCT.

IGNORES HIS ATTORNEYS

Man on Trial in Connection With Bribing of Supervisors Arises and Enters a Protest Against the Language Used by Mr. Heney—A Lively Tilt Is Precipitated.

San Francisco, April 28.—The unusual spectacle of a defendant addressing the court and jury while his attorneys remained silent in their chairs, was presented today during the trial of Patrick Calhoun, president of the United Railroads. At a critical juncture in the proceedings, after there had been presented to the court an allegation touching the good faith of the jury, Mr. Calhoun, ignoring the appeal of A. A. Moore, his chief counsel, arose from his chair and said:

"I am on trial for my liberty, and as a citizen I desire to enter a protest against the remarks of the district attorney, which I designate as misconduct. They are contrary to every rule of law practiced among English-speaking people. The prosecution is attempting to establish a controlling influence over this jury by reference to an allegation that a man has been making cabalistic figures at my desk. I think the reference is absolutely absurd and irregular."

Assistant District Attorney John O'Gara precipitated the extraordinary climax by an interruption during the examination of James F. Kelly, the fourth member of the Schmitz board of supervisors to be called as a witness in the case.

"I desire to call the court's attention," said Mr. O'Gara, "that a young man seated at the defendant's table has been laughing and smiling at members of the jury whenever he conceived a point to have been scored in the defendant's favor, and that he has been snarling at portions of the testimony of this witness."

"That is absolutely false," said John J. Barrett, one of the attorneys for the defense. "Mr. O'Gara bases his accusation upon a report made to him a moment ago by one of the men who sit there all day long, looking menacingly in our direction."

Mr. O'Gara's reference was to Jerry Geisler, a law clerk, who sits at the table provided for attorneys for the defense, and Mr. Barrett, as he spoke, designated William Otto, one of Francis J. Heney's bodyguards.

"That may be so," said Mr. Heney, entering into the debate. "But I happen to know that Rudy Fischbeck, a well-known saloonkeeper, was brought in here a few days ago by Mr. Barrett and that he was making signs to one of the jurors while court was in session."

"That is false, also," interrupted Mr. Barrett. During Mr. Calhoun's remarks Judge Lawlor made no attempt to interrupt until after Mr. O'Gara had made objection, when Judge Lawlor expressed a belief that any statements made by the defendant, except through his counsel, were improper.

STORM WRECKS BANK.

Des Moines, April 28.—A wind storm approaching a tornado in violence wrecked the Bank of Chisholm, at Chisholm, tonight. The wind tore down telegraph and telephone poles for miles southwest of here. Lightning and hail did much damage to property in Perry, Ottumwa and Creston.

AWARDS BIG JUDGMENT.

Butte, April 28.—In the federal court today, Judge Hunt ordered judgment for \$28,000 in favor of the Utah Construction company against the St. Paul railroad for work done on the Montana Central road between Leonard and Lewistown. Unless the St. Paul appeals, the road will be sold at sheriff's sale. This is a link in the St. Paul's transcontinental system.

TRY TO SIGNAL MARS.

Fort Worth, Tex., April 28.—A message received here today from Robert W. Wood, professor of astronomy of Johns Hopkins university, agrees to the establishment of an observatory at Stamford, Texas, which will be used in an effort to communicate with the planet Mars.

WILL HUNT LIONS.

Nairobi, April 28.—The members of the Roosevelt party will start tomorrow from the ranch of Sir Alfred Pease on their first hunting trip after lions. The remainder of the Roosevelt camp moved this afternoon from Kapiti Plains to the Pease ranch.

A NEW TELESCOPE.

Flagstaff, Ariz., April 28.—Dr. Percival Lowell is adding one of the largest telescopes in the country to his observatory here, at an approximate cost of \$20,000. It will be a 42-inch lens used mainly in securing better photographs of Mars and other planets.

HARGIS IS GUILTY.

Irvine, Ky., April 28.—The jury in the case of Beech Hargis, who was tried on a charge of killing his father, James Hargis, returned a verdict of guilty and he was sentenced to life imprisonment today.

MERGER TRIAL BRINGS OUT SECRETS

INTERESTING CHAPTER IN UTAH RAILROAD LEGISLATION IS DISCLOSED.

FORMER SENATORS SPEAK

Story is Told of How Union Pacific Was Permitted to Change Articles of Incorporation and Law Was Passed Later Preventing Other Roads From Doing the Same Thing.

Salt Lake, April 28.—An interesting chapter in the Utah railroad legislation was touched upon when two former state senators were examined at the Harriman railroad merger hearing today. Stephen M. Love and George N. Lawrence were the witnesses. Both referred incidentally to the fact that in 1901 the legislature passed an act under which the Union Pacific Railroad company amended its articles of incorporation and, at the same session, passed a bill to codify the railroad laws of the state which repealed the first act and prevented any other railroad following the example of the Union Pacific.

The attorneys did not go into the details of this legislative history, and the further testimony of the witnesses referred to other matters. Mr. Love told of the inequalities in the prevailing freight rates and Mr. Lawrence recalled the assurances given by the promoters of the San Pedro, Los Angeles & Salt Lake road to the senate committee, of which the witness was a member, that the road was to be a competing line.

Joseph A. West, formerly chief engineer for the Utah Pacific, Kenneth Kerr, former railroad editor of the Salt Lake Tribune; J. B. Oglesby, former traffic manager of the Union Pacific, and Fred E. Ulmer, a civil engineer, were questioned briefly. The government brought out testimony that the San Pedro line was conceived as an independent project, and also placed upon record a description of the San Pedro right of way. It was a right of way dispute between the San Pedro and the Oregon Short line that culminated in the traffic agreement which the government now attacks as a violation of the Sherman anti-trust law.

SUSTAINS OBJECTIONS OF STATE

JUDGE LYNCH MAKES AN IMPORTANT RULING IN THE POOL ROOM MATTER.

Butte, April 28.—District Judge J. K. Lynch this afternoon sustained the objections of Deputy County Attorney James H. Baldwin to the proof of corporate existence of the Interstate Telegraph company, in the action brought by that concern to secure an injunction restraining the sheriff and the county attorney from interfering with their business, and the matter has again been continued until Monday to give the Interstate company a chance to secure further proof from Salt Lake.

In sustaining the objection made, Judge Lynch stated to Lawyer Mackel that the infirmity of his paper was that the certificate of the secretary of state of Utah did not certify that the certificate of the keeper was in due form.

Mackel then introduced the laws of Utah applying to which Baldwin objected, Judge Lynch overruling this objection, however, saying that he wanted to get through with this matter.

OFFICIALS RE-ELECTED.

New York, April 28.—The board of directors of the New York Central & Hudson River Railroad today re-elected President W. C. Brown and all the other officials of the company for the ensuing year.

WILL ACCEPT PROPOSAL.

St. Petersburg, April 28.—Russia has decided to accept the American proposal to revise the treaty of 1832.

SHOULD NOT RAISE MONEY BY SUCH MEANS

New York, April 28.—"If the widows and orphans of army men should need money, it should be provided by army men themselves, not by social studies, afternoon teas and theatrical entertainments."