

RESTRAINING ORDER IS ISSUED IN MINING SUIT

Judge Averill of the District Court Accepts a Bond of \$10,000

ARTIST IN METAL WORK KILLS SELF WITH BULLET THROUGH BRAIN REMAINS ALL DAY UNDISCOVERED

James A. Lawrence, a metal worker of some renown, killed himself yesterday morning by putting a bullet through his brain while he lay in his bunk in Bray's plumbing shop on Erie Main street. The man must have committed suicide early in the morning and soon after retiring, as he was seen around town as late as 3 o'clock that morning on his way to his room. The bullet en-

tered above the left eyebrow and went directly through, lodging against the skull in the back without coming out through the flesh. Deceased was a man about 60 years of age and is supposed to have come from a family of some social standing as he was gifted with exquisite ideas relating to art creations and had often exhibited work that would have won high mention in metropolitan art museums. Some of his work was seen on exhibition at local stores during the Christmas holidays and the designs were esteemed by those who bought them as the equal of some of the highest priced works imported.

Little is known of the family of the dead man except that he has a sister, Mrs. John H. Adams, who lives at John Adams, a town in northern California near Chico. Lawrence came here in the early days and then left, returning about two years ago.

The finding of the body was suggested by the continued absence of the man during the day. He occupied a small bedroom on a raised platform or small gallery in the rear of Bray's plumbing shop. To reach the floor a ladder was used and when the room was occupied it was customary for the occupant to pull the ladder up out of the way of the rear door. The ladder was up all day and it was supposed Lawrence was sleeping, but toward evening his friends grew alarmed and peeped through a side window where they could see one arm extended and crooked in death rigor. They surmised the truth and sent for the coroner.

Lawrence was a member in good standing of the Metal Workers' Union. A message was received this morning from an undertaking firm at Chico, ordering the body to be shipped to that town.

MONTANA CITIES GIVE RESULTS OF LOCAL ELECTIONS

CHANGES IN THE LINE-UP OF OLD PARTIES IN THE NORTHWEST.

(By Associated Press.) HELENA, Mont., April 7.—Republicans elected the mayor, treasurer, and two aldermen. Missoula Socialists elected two commissioners and that city is under Socialist rule. Socialists were successful at Butte electing three councilmen, giving nine against seven of both other parties. The mayor is a Socialist. Lewistown women voted to remove hacks from the main street.

3,000 SALOONS DEPEND ON THE VOTES OF WOMEN

CHICAGO PUT TO THE TESTS BY ADDITION OF SUFFRAGISTS.

(By Associated Press.) CHICAGO, April 7.—The fate of 3,000 saloons outside Chicago depended today upon the votes of newly enfranchised women who enjoyed equal rights at the aldermanic election for the first time. A million extra ballots were distributed. The fear is that many of the women will spoil their first ballot.

DECATUR, April 7.—Town Clerk Lester was robbed of 3000 ballots by armed men. As a result Pana township was not able to vote on the liquor question. Vigorous attempts had previously been made to keep the "wet" and "dry" question off the ballot.

BUILDS GUILLOTINE FOR EXECUTION OF HIS ENEMIES

REBEL GENERAL FRAMES TO GET EVEN FOR HIS FAMILY DEAD.

(By Associated Press.) JUAREZ, April 7.—The guillotine confronts enemies of the constitutionalists in the state of San Luis Potosi. This was erected by rebel mechanic and the conception is by Del Oro on command of General Gutierrez, who seeks revenge for the death of relatives by the federals. The guillotine was tried on a lamb and worked fine.

TEMPERATURE REPORT
Highest temperature yesterday, 59; year ago, 47.
Lowest temperature last night, 27; year ago, 27.

TONOPAH MINES SEND OUT NEARLY \$200,000 IN BULLION

Tonopah sent out this morning over nine tons of bullion valued at \$192,500, and 25 tons of concentrates worth about \$7500. This is one of the largest shipments in the local record and comes close to making a new high water mark for the bullion producers of the camp. The individual shipments were as follows:

Mine	Bars	Lbs.	Value
Tonopah Extension	25	3,618	\$ 39,000
Tonopah Belmont	77	14,204	131,243
Montana Tonopah	1	1,786 1/2	22,000
Montana Tono. (concentrates)			7,500

Total \$199,743
This is part of the report for the closing half of March and the earnings represented by the figures all show a decided improvement over the production of the same period last year or during the last three months.

LARCENY CHARGED BY JURY

BANKERS AND MERCHANTS TO ANSWER BEFORE THE COURTS.

(By Associated Press.) NEW YORK, April 7.—Fourteen new indictments against Henry Siegel and Frank Vogel, heads of the bankrupt Siegel enterprises, have been returned in connection with the failure of their private bank and department stores. Grand larceny is charged.

JAPAN ON BRINK OF A CRISIS

INFLUENTIAL STATESMAN SAYS HE CANNOT PACIFY THE REFRACTORY.

(By Associated Press.) TOKIO, April 7.—The Japanese empire as been thrown into utter political confusion by the inability of Viscount Kiyoura to replace the cabinet formerly under the premiership of Count Yamamoto. The viscount informed the emperor he is compelled to abandon the task. Political groups and the navy are virtually on strike. Various progressive factions assert the constitution was not observed, while the navy demands advances for warship construction. The elder statesman, called the "surviving remnant of old Japan," have been summoned by the emperor.

SETTLING LAND GREAT PROBLEM WITH GOVERNORS

WESTERN GOVERNORS TAKE UP A NATIONAL CONSERVATION POLICY.

(By Associated Press.) DENVER, April 7.—What is declared will be the most far reaching effort ever made to resist government conservation of public lands, began with the opening of the western governors' annual conference with bills before congress designed to still further extend federal conservation policy, executive's of ten states convened with the avowed intention of proclaiming their right to a more easy settlement of the public domain. A leasing system is proposed.

WALK SPANISH IS THE DICTUM OF THE REBELS

POLICY OF EXPULSION IS DEFINITELY ADOPTED BY CARRANZA.

(By Associated Press.) JUAREZ, April 7.—The policy of expelling Spaniards from Mexico is a settled question with the rebel government. Spaniards in all new territory will be expelled the same as those at Torreón. Carranza is to investigate the rights of individuals on his return to Torreón. Rebels assert that in a majority of cases they have information of the adverse political activity of the Spaniards.

KING GUSTAVE OF SWEDEN MUST UNDERGO OPERATION

(By Associated Press.) STOCKHOLM, April 7.—A specialist has decided that an operation is necessary for King Gustave of Sweden for an internal complaint.

DISCOVERY OF INVASION MARKED DOWN BY THE BUTLER EMPLOYEES ABOUT THE FIRST OF JANUARY

The application of the Jim Butler Tonopah Mining Company for a restraining order against the West End Consolidated Mining Company was heard last night by Judge Mark Averill and granted returnable Monday morning at 10 o'clock, April 13th. The proceedings were exparte and of a routine character. The bond was fixed at \$10,000. The order restrains the West End from extracting ore from the West End-MacNamara ledge but specifically exempts the South ledge from interference.

The order was served on Manager Brady at 10:45 last night at the main office of the company, where Mr. Brady, in the presence of the sheriff, instructed Jack Ritchie, superintendent, to remove the men from that part of the mine.

Announcement of the hearing brought a full house to the court, every seat being occupied chiefly with mining and business men who were interested in the outcome as this was the first apex suit brought to a hearing in Tonopah. The table in front of the bench was packed with a young library embracing leading authorities on injunctions and apex litigation. The contentions were represented by E. H. Colby, of San Francisco, and Hugh H. Brown and J. H. Evans of Tonopah for the plaintiff while the defense was handled by Horatio Alling, of Oakland, Next Tuesday some of the leading authorities on mining law in the United States will be heard and Judge Linley, author of many able works on mining jurisprudence, will take charge of the case for the Jim Butler.

There was nothing spectacular about the hearing but there were several breezy interchanges between counsel which elicited laughter several times when Attorney Alling nettled Attorney Colby, an associate of Judge Linley. Mr. Alling was backed by a fund of good humor that never failed and his joocular references to different features brought out in the affidavits imparted a lively touch to an otherwise dry proceedings. During the hearing it developed that the plaintiff did not expect better than an ex parte hearing and the defendant stated that they had not been served with either a copy of the complaint or copies of the accompanying affidavits.

After the preliminary sparring in which counsel for both sides made their statements regarding the application the plaintiffs projected a surprise by offering the affidavit of Lewis R. Robins, civil engineer of the Jim Butler, denying the existence of an apex in the West End and describing the West End-MacNamara ledge as a blanket roll, anticline ledge traced continuously without break or interruption. The South vein was not disclosed in the workings, showing that the contract or deed of December 30, 1912, had nothing to do with the present case.

On submission of this affidavit Attorney Alling, for the West End, asked for time to submit counter affidavits as he was not prepared to rebut these statements but would be ready the following evening if the court granted adjournment.

Attorney Colby, for the Butler, protested against delay, saying his people were ready to put up bond for any amount. If there was going to be any delay he could not see any use for an alternative writ of injunction. He insisted on an immediate ruling on the application, which caused Attorney Alling to inquire: "Are you afraid of any affidavits we may make?" "We are not," was the sententious reply.

"Are you afraid of this preliminary order?" continued Attorney Colby. "Not if you are entitled to it," flushed back Alling. The order thereupon was entered after colloquy over the amount of the bond, which the court fixed at \$5000 and raised to \$10,000, when the

defense demurred at the bond being placed at less than the amount exacted in the Round Mountain case.

Opening the Hearing. Attorney Colby opened the hearing for the Butler company by reading the complaint and offering a number of affidavits in support. These were as follows:

Lewis R. Robins deposed that he had been surveyor for the Jim Butler for two years; that on the first day of January, 1914, he became aware that mining operations of defendant were extending underneath the Eureka and Curtis claims; that plaintiff broke into said workings from the seventh level of the Wandering Boy shaft on or about January 12, 1914, and subsequently made a second connection in another portion of the workings from the same survey of these workings; that they extended entirely outside of the vertical boundary planes of the West End and have crossed entirely underneath the Eureka and Curtis claims.

W. J. Pike, mine superintendent for two years, stated that defendant had mined clear across the Eureka and is now working in the Curtis claim; that plaintiff first became aware of this underground trespass through hearing drilling and blasting about the first of January, 1914. In conclusion complainant stated the West End is extracting 600 tons a day and piling 400 tons on its dump.

Frederick Bradshaw, general superintendent of the Jim Butler, made affidavit that he did not know of the trespass until January 12, 1914, and after an examination made a demand to be reimbursed for the ore extracted. Afterwards negotiations were in progress with a view to compromising the claim of plaintiff until March 30, whereupon defendant immediately resumed its mining operations.

Clyde A. Heller, president of the Jim Butler, in his affidavit, set forth the ownership of the Eureka and Curtis claims and stated that he had no knowledge of the trespass until January 20, 1914. He stated that he made a demand for reimbursement and then entered into negotiations until March 30, 1914, when all negotiations were terminated by defendant refusing to agree to terms upon which plaintiff was willing to settle. He added that the defendant had bulkheaded the places in the mine workings and would resist all attempts to penetrate the underground workings.

Position of the West End. In replying Attorney Alling for the West End stated that his clients rested on an agreement or contract drawn up between the two companies and signed by Clyde A. Heller and Frank M. Smith, the respective presidents. This gave the West End the right to follow the so-called West End-MacNamara vein which apexed 500 feet within the side lines of the West End claim and also the South vein into and through the adjacent claims of the Butler.

This was supplemented by an affidavit from S. H. Brady, general manager of the West End, who stated he had occupied his present position for the last four years; that the West End had been diligently extracting ore from the Eureka and Curtis claims ever since December 30, 1912, and that all the officers of the Butler, including Bradshaw and Heller, who swore they knew nothing of this work, were fully aware of the fact; that they consented to the breaking down and extracting ore and that at no time did they challenge the right, dispute or deny the right to extract ore from the property at said depth. Warren P. Richardson, surveyor, who has been with the West End company for the last four years, made a similar affidavit.

On the strength of these affidavits Attorney Alling declared there was no ground for the suggested restraining order as defendants were acting strictly within their rights. He then caused a smile to pass around the chamber by intimating that he would file had been shown which defendant's acts could be said to invade or

in the undisturbed solitude of his sanctum and Linley, the able counsel for the other side. This comparison was instituted to answer a telegram Attorney Colby had read from his eminent associate and incorporated as part of his argument. This was to the effect that he, Linley, never knew an injunction to be refused. "In all my mining experience I never knew an application for an injunction backed with the showing the Butler can make having been refused."

Mr. Alling quoted from Linley's latest work where on page 2192 he wrote that a court should not grant an ex parte restraining order except in extraordinary cases. "Linley in his telegram states that he never knew of such an application being refused, but it makes quite a difference whether we are consulting Linley the attorney for the other side or Linley the author," dryly commented Alling.

Three Important Elements.

Counsel continued that an application for an injunction should embody three elements, namely: the right, the invasion and the irreparable character of the injury and the possibility of a multiplicity of law suits. He styled the injunction "the strong arm of equity" that should not be invoked unless under extreme conditions. He charged that the complaint was the veriest skeleton form of complaint in trespass and that it was chiefly notable for the avoidance of facts. Entering into a discussion of the requirements of the law he insisted that the owner of mining claims held two distinct estates; one arising under his patent to the surface and such veins or lodes as apex within his lines, the other from his common law right to such veins, within his ground that do not apex within his lines if no superior right by reason of apex elsewhere is shown. The first estate is absolute, unqualified and unconditional, the second qualified and conditional. He declared the allegations of the complaint to be insufficient in that it did not show absolute ownership of the disputed ores under patent right nor yet common law right outside the claim. He further claimed that there had been laches or negligence in filing suit by plaintiff despite the claim of great diligence or any protest against occupation after having known and permitted the extraction of ore to go on since January 20, 1914, when, if the affidavits are to be accepted, President Heller first was made acquainted with the facts. He caustically inquired what the active mine superintendent, Mr. Pike, was doing all this time when the terrible West End company was engaged in the awful depredations that are alleged to have resulted in the extraction of 25,000 tons of ore worth \$500,000. Mr. Pike, in his affidavit, said he learned of the extraction on the first day of January, and yet his immediate superior, Mr. Bradshaw, and his president, Mr. Heller, heard nothing of the news until three weeks later. Mr. Pike did not explain why he failed to notify his superior and then there was Mr. Robins, who admits having been surveyor in the Jim Butler for two years, suddenly waking up and finding that the West End had stolen 25,000 tons of ore.

In conclusion, he denounced the statements of counsel by asserting that Bradshaw knew of it. Heller knew of it. Warren Richardson said they did, and he was willing to believe that the extraction of 25,000 tons of ore could not have been done without the knowledge of the owners of the surface ground. Mr. Alling declared the plaintiffs had not proven the sufficiency of their allegations. In his final summary counsel for the defendant insisted that laches and acquiescence, concealment of material facts were shown and that a covenant is not to be broken by a court under and that no right in the plain chamber by intimating that he would file had been shown which defendant's acts could be said to invade or

violated.

Fifteen Days for Toll Talk

(By Associated Press.) WASHINGTON, April 7.—Fifteen days of public hearings beginning April 9th for the Sims' bill to repeal Panama tolls exemption was decided by the senate canal committee.