

KING IS IMPROVING.

The condition of King Manuel, sho was shot in the arm and the face at the time his father and rother were killed last Saturday, is

club has isseud a pamphlet entitied

New York, Feb. 4 .- The Jockey

appeal. The respondents resisted the appeal and moved its dismissal upon the ground that it was being taken by the state and that no appeal lies from ha-beas corpus proceedings because the or-der of discharge is not in any sense a final judgment. final judgment. PROCEEDINGS NOT CRIMINAL. The opinion of the supreme court holds that habeas corpus proceedings are not criminal in their nature, but are civil, being an effort to force the recogcivil, being an effort to force the recog-nition of a civil right. An opinion by Chief Justice Waite of the United States supreme court is clied in this connection, the opinion being found in 108 U. S., ex parte Tom Tong. Other authorities along the same line are add-ed. Habeas corpus proceedings, the opinion states, belong to the class known to the law as special proceedings and are statutory proceedings although and are statutory proceedings although the origin may be traced to the common law. There is provision made in which it is designated that the person receed three years. strained of his liberty shall appear as plaintiff and the person against whom the writ is asked to be directed shall appear as the defendant. It is not an appeal by the state, the opinion holds, and dismissal may not be obtained on With regard to the second ground, the opinion states, there is a conflict of opinions and in the opinion the conflict-ing opinions are overruled and the ap-peal is not to be dismissed upon this ground. The opinion then makes the issue on The opinion then makes the issue on the question as to whether the dis-trict court had a right to inquire into the evidence adduced at the preliminary hearing in the babeas corpus proceed-ing. The opinion states that the gen-eral rule is that the district court in a case of this sort must confine its ex-amination to the question of jurisdic-tion, that the porceedings were regular and that the magistrate acted within ter Lake. The 20 and that the magistrate acted within his jurisdiction. In case all require-ments are in accord with the provisions relating to these matters, then the prisoner must not be released. day.

son says: "I fear that the scarlet fever will get away from us unless I have some help from you."

aviradition proceedings. Officer Devit from Niagara, B. C., will remain here until some final decision on this matter person

Thaw spent last night in a private which he has been since he was tak-to the institution. He said today, en to the institution. however, that the slightly changed surroundings had not relieved him of the sleeplessness with which he had been troubled since he has been at the asytroubled since he has been at the asy-lum. Daniel O'Reilly was accompan-ied by Mrs. Evelyn Thaw, the prisoner's wife, when he visited the hospital to-day. After they had left and were about to return to this city Mrs. Thaw

The official organ in its issue of to-ay, declares that both the funerals the late king and crown prince will held on Feb. 9 at 10 o'clock in the aring at the royal pantheon of St.

ossible. The Marquis de Soveral, Portugues ster to Great Britain, has left here

London. hanges in the new cabinet have made. Only three members of the announced yesterday retained in the cabinet gazetted to-

they are Rear Admiral Francisco ang Nunez and Dr. Wenceslae de ereira Lima. Rear Admiral Ferrei-Amaral becomes minister of the lor and retains the post of prem-Dr. Lima is still minister of for-affairs; Manoel Antonio Moreira, n affairs; Manoel Antonio Autorna, , is minister of finance; Arthur Al-rto de Campos Henriquez is minister justice and worship; Jose Mathias anes retains the portfolio of minister ar: Admiral Augusto de Castilho inister of marine and colonies, and Count of Bertiandos is minister of works, industry and commerce. Henriquez was minister of jus-the Robeiro cabinet of 1903, and Moreira was minister of marine

Progressist-Dissidents voted toto support the new government on lition that all political prisoners be d, that the exiles be permitted to The to Portugal and their political is be restored, and that all existing continue and support to liberate cratic measures contrary to liberty e repealed.

### ON SPANISH FRONTIER.

Madrid, Feb. 4 .- King Alfonso and Queen Victoria are at present at Se-ville and will return to Madrid only in case the situation in Portugal be-comes worse and it should be desir-able for them to be near the ministry and parliament to facilitate the taking of steps necessary for the protection of steps necessary for the protection of papish inhabitants.

Heavy detachments of soldiers are on day and night on the Spanish frontier. 11 18

reported here that King Carlos It is reported here that king control life insurance to the amount of \$200,000 in an English company, and that he had another policy for \$22,000 in a Spanish insurance company.

## FRANCO WAS CONFIDENT.

Paris, Feb. 4.—The Petit Parislen de-clares today that on Saturday night at a meeting of the council of state in Lisbon, Premier Franco guaranteed to restore order if he was given full pow-or and allowed to deport 300 prisoners. He was aware, however, that his re-quest would not be granted, and he cou-nequently preferred to retire and leave the country, it is probable, the news-paper continues, that the influence of the British government invoked by Paris, Feb. 4 .- The Petit Parisien de-British government invoked (b) ausing the dictatorship of Franco to be discontinued.

### DOM MIGUEL CAUTIOUS.

Vienna, Feb. 4 .- Dom Miguel De Braanax, he pretender to the throne of ortugal, has curtailed his stay in lareggio, Italy, and is now on his way ack to Austria. This step, it is be-cvod, is taken on the advice of rela-ves of the pretender, that he avoid ny action that could under these cir-umstancese in any way be uniscon-

"The Truth About Racing," which is intended as an answer to the various intended as an answer to the various criticisms against the sport which have been used by Gov. Hughes and others to advocate the abolition of bet-ting at race tracks in New York state. The pamphlet defends racing as a sport and calls attention to the fact that it has caused a great advance in horse breeding and has greatly increased the value of American horses. In describing the race tracks, the pamphlet says that the sport is one that is enjoyed by hundreds of thous-ands of people. Of those who go to

ands of people. Of those who go to the track 90 per cent, the pamphlet states, don't go for betting, but for the sport. The Jockey club, it is claimed, has done more than any other agency to close the pool rooms in the city of New York, and for that reason, the pamphlet says, the pool rooms are anxious to have local race tracks closed.

tracks closed. "The question of betting on horse racing is one of morals," continues the publication, "yet, the amendments asked for aim at an act which is not sought to be prevented in other fields. There is no more element of immoral-ity in betting upon a thoroughbred test of speed than is connected with election betting, wages on poker and bridge whist, or speculation upon the rise and fall in the price of stocks."

PENSION BILL.

# House Committee on Appropriations

Reports it Favorably. Washington Feb. 4 .- The house com mittee on appropriations today report-

ed favorably the pension bill for the fiscal year ending June 30, 1909. The bill as reported abolishes the pension bill as reported abolishes the pension agencies located at Augusta. Maine; Boston, Buffalo, Chicago, Columbus, Ohio; Concord, N. H.; Des Moines, De-treit, Indianapolis, Knoxville, Louis-ville, Milwaukee, New York City, Phil-adelphia, Pittsburg, San Francisco and Topeka and consolidates them in one central distributing agency at Wash-ington The bill reported carries a to-tal pension appropriation of \$150,859 000 which is \$174,000 less than the agg-egate estimates—the exact sums available by

estimates-the exact sums available by the constitution of the agencies.

# KIDNAPERS SENTENCED TO 12 YEARS' IMPRISONMENT.

New York, Feb. 4 .- Francisco Relecho

New York, Feb. 4.—Francisco Relacho and Comino Vareldo were sentenced to 19 years' imprisonment in the King's county court yesterday on a charge of at-tempting to kidnap Mrs Angela Arena at the insignation of a former suitor, who now lives in California. The men threat-ened Mrs. Arena sand announced to her that they would take her 14 force to her former suitor unless she consented to go peacefully. The two men were arrested after the police had overheard their threats. They were heavily armed and attempted to resist.

# FIRE IN A CHURCH.

### Calmness of Young Woman Who Sang . Through it Prevented Panie.

Viareggio, Italy, and is now on his way back to Austria. This step, it is be-fivez, is taken on the advice of rela-tives of the pretender, that he avoid any action that could under these cir-tives of the pretender, that he avoid any action that could under these cir-cumstancese in any way be miscon-strued. FRANCO HAS FLED. Lisbon, Feb. 4.—It is persistently rumored that ex-Premier Franco, who

# EXCERPT FROM OPINION.

In conclusion the opinion recites: "There is no statutory authority in this state whereby a court or judge, or ha-beas corpus, may review the evidence adduced before a magistrate in support of the criminal charge for the purpose of determining whether the evidence of determining whether the evidence was either competent or sufficient to warrant the magistrate in holding the accused for trial in the district court

accused for trial in the district court and in committing him for that pur-pose." Further, the opinion states, "The district court went beyond what the authorities justify. Where the rec-ord, certified to by the magistrate, af-firmatively shows what we have stated the record in this case discloses, and there is no attack on the truthfulness of the facts recited in the record, the court is powerless to go behind the.

of the facts recited in the record, the court is powerless to go behind the judgment of the magistrate." Winovitch is now believed to be out of the country, though he is charged with murder. Now the supreme court says that he should be in jail now awaiting trial. Thus far the opinion cannot affect his case, but it does es-tablish a precedent in matter of this kind and decides for the first time a case where the facts have been as they were in this case.

have been put to work on the case The banks in question are entirely sol-vent and the telephone messages have been sent with the evident intention of starting runs. It is the general opin-ion in banking circles that the rumors are being spread for the purpose of affecting the stock market. It is of course next to impossible to trace the sender of the messages but if he or they can be found, criminal prosecutions whi can be found, criminal prosocutions with follow. Sprending false reparts regard-ing a financial institution is a felony under the New York law and is punishable by a fine not to exceed \$5,000 and imprisonment for a period not to ex-

### CHAIR OF HUMANITY.

New York, Feb. 4 .- The trustees o Columbia university have appointed Prof. R. C. McRae to the chair of Humanity, a new department established under endowment of \$100,000, made to the university for that purpose. Prof. McRae will spend some time in famil-iarizing himself with humane societies throughout the world.

### TRAIN IS SNOWBOUND.

Flint, Mich., Feb. 4 .- The Pere Marquette passenger train, which left here on Saturday afternoon for Fostoria and intermediate points on the Flint River division of the road, was snow-bound for 48 hours, two miles this side of Ot-ter Lake.

passengers on the train tramped through the deep snow to neighboring farm houses where they were given shelter and food over Sun-

## UNCLE SAM'S MAILS.

### Letter Delivered Fifty Years After it Was Posted.

New York, Feb. 3.—After it had been more than 54 years in the mails, a let-ter was delivered yesterday to Mrs. Elizabeth B. Nichols of Newark, N. J. Yesterday morning Newark newspapers reported the fact that there had been received at the postoffice a letter adreported the fact that there had been received at the postoffice a letter ad-dressed to Miss Elfabeth Garthwalte, the postmark on which showed that it had been mailed in New Orleans on Dec. 30, 1854. The postmaster knew no one of that name and did not know what to do with the letter, which was addressed to her by her maiden name. The letter proved to have been written by Miss Fannie Brittin, Mirs, Nichols' consin, who tow lives in El Paso, Tex., and who attended school with Mirs. Nichols more than a half century ago, The ink inside the letter is so hadly faded that the letter is hardly decipher-able, but the address is plain. The enable, but the address is plain. velope was badly worn, but had held together. No one has been able to of-fer any explanation for the whereabouts of the letter during the years that have

## ARRESTED FOR MURDER.

elapsed since it was mailed.

# Minot, N. D., Feb. 4 .- Jerome McIntosh, a rancher of the Highwood dis trict, about 30 miles east of Great Falls NATHANIEL MCHOIS DEAD. New York, Feb. 4.—Nathaniel Nich-ols, an eminent civil engineer, died early today of apoplexy, at his home, been consulting engineer of that de-partment since that time, \*

Beatty says the state board can not enforce quarntine regulations where the courts dismiss cases brought under the law provided for their establish-ment. The only recourse left is to appeal to public sentiment.



### Man Suspected of Getting Another Man's Letter Must Stand Trial.

Commissioner Baldwin bound Bert Fisher over to the United States district court this morning. His bond was fixed in the sum of \$500, and being unable to furnish this sum he was taken to the county prison where he will be confined until his trial is held. The hearing was brief, beginning near 11 clock and being ended before noon. A good case was built up against the defendant and the commissioner's de-

sion followed swiftly. W. H. Hawes, the complainant, met rision.

W. H. Hawes, the complainant, met Fisher while both were coming to Sait Lake from idaho. At Ogden they had several drinks together and finally be-came rather worse for dissipation. The flowing bowl coaxed up a quick and thorough acquaintance, both men get-ting a room together upon reaching this city. While on the train, however, Hawes told Fisher he was going to receive a

While on the train, however, Hawes told Fisher he was going to receive a letter in Salt Lake which would have somewhere in the neighborhood of \$25 in it. This information started Fish cr's brain a'working, according to the evidence, and it is alleged he called at the postoffice and using the name of Hawes got possession of the money laden missive. Hawes threw off his stupor in time and calling at the post-office asked for a letter addressed to W. H. Hawes. The clerk told him a man by that name had called already. Hawes then started an investigation and after satisfying himself that Fish-er had used words dropped from a li-quor loosened tongue with great celer-ity and success had the suspect arity and success had the suspect

The hearing and binding over this morning were the first two steps o the resultant investigation.

# REPORT FOR JANUARY.

Receipts and Disbursements Shown by State Treasurer.

# The January report of the state treasurer shows the receipts to have been \$567,103.36, which with \$720,-666.70, balance on hand Dec. 31, makes a total of \$1,296,770.06. The disburse ments were as follows: General fund. ments were as follows: General find. \$124,:98.19; state district school, \$305,-285,01; fish and game fund, \$572.17; extermination of wild animals, \$5,-068.75; sheep inspection fund, \$42,000; forest reserve fund, \$1,329.08; reser-voir interest, \$4,192.10; reservoir prin-cipal, \$125,000; state school, principal, \$153,509,03; total, \$735,395,23; balance on hand, \$551,874.85. The last sum is appropriated among the various funds

STILL STEAL COAL.

### Notwithstanding Warnings and Finings, Sons of Hellas Parloin.

In spite of the fact that a number of Greeks have been arrested for stealing coal from the Rio Grande Western raliway company, and in spite of the fact that after each conviction Judge Diehl has imposed a heavier fine, the stealing

goes on. The Greeks are employed by the company and apparently think they have a perfect right to help themselves to coal. They have been warred numerous limes but the warnings seem to do no

good. This morning another arrest was made. A man giving the name of George Putum was arrested and placed under \$25 honds. He will be tried before Judge Dichl.

# DECREASE IN GRAZING PERMITS

Grazing permits on the Salt Lake and Wasatch forest reserves show a marked lecrease this year. Supervisor E. H. decreases this year. Supervised is the Clark has sumbitted his report and says 600 head of horses and cattle on the Salt Lake and 3,000 head of livestock on the Wages' is ranges are the total. This is nowhere near the maximum and permits will be granted at the discretion of the supervisor until the limit is reached.

# EARTH'S MOVEMENT.

### Demonstration by a Repetition of

### Foucault's Experiment.

New York, Feb. 4.—Foucault's dem-onstration of the movement of the arth was repeated in New York yes-erday when a cannon bail weighing 40 pounds suspended by a slogle wire of feet long, from the dome of St. Paul's chapel at Columbia university. Paul's charel at Columbia university, was set swinging. A fine camel's hair brush attached to the bottom of the ball passed over an ink pad as the ball swung and clearly marked its course on an eight-foot dial on the chapel floor. Although it was thought that there was a slightly elliptical movement of the glent pendulum, it was not enough to interfere with the success of the experiment and the works of the brush upon the dial plainancess of the experiment and the marks of the brush upon the dial plain-y revealed the rotation of the earth on is axis. The experiment will be re-peated next Friday and again a week from tomorrow. The experiment was from tomorrow. The exper-first tried in the Pantheon i 1851 by Professor Foucault.

# FOREST RESERVE CLERKS.

# Examinations to be Held March 4 to

## Fill Twenty Vacancies.

(Special to the "News.") Washington, D. C., Feb. 4.—There will be a civil service examination March 4. at the following places to fill 20 existing vacancies for clerk in the forest service. The galaries are \$900 to \$1,250. Utah—Salt Lake City, Logan, Idaho—Bolse, Moscow. Wearing -Chevenne, Lasamie Sheri-

said: "What a terrible place it is. I think "What a terrible place it is, I think it is awful. I would be crazy myself if I stayed there a week. If the law-yer's don't make a move to get Harry out right away, I shall do something myself. During the day he has to sit with all these unfortunate people and I don't wonder he becomes excited."

### FIRE ON ALL SUSPECTS.

Sebastopol, Feb. 4.—Owing to the recent attacks by revolutionists on sentries on duty at the arsenals here, Rear Admiral Wiren today gave orders for all sentinels to fire without challenging upon all sus-pects found in the vicinity of the arsenals or the store houses between the hours of 6 p. m. and 6 a. m. Patrols are also instructed to fire at any persons who at-tempted to escape. tempted to escape.

IS MONUMENTAL GRAFT

County Attorney Thus Designates Efforts of Commissioners to Have Private Phones Paid for by Public.

County Commisisoner John C. Mackey has had a private telephone in his residence for 26 months and the county has been asked to pay \$90 for the connection. County Commissioner J. E. Clinton has had a telephone in his home under similar conditions for nine months and has asked the county to pay the bill, amounting to \$13.50. When the bills went to the county auditor, he questioned his powers with reference to their payment and communicated with the county attorney for an opinion regarding the matter. County Atty. Willard Hanson has replied to Mr. Heginbotham, denominating the affair as a monumental graft in principie worked on a small scale. The commis-sioners will be asked to reimburse the county for the bills paid and failing to de so suit will be brought to recover amount.

Hanson's letter on the subject

the amount. Mr. Hanson's letter on the subject is as follows: In relation to your communication whether or not the county is liable for the inclosed bills, being for the private telephones installed at the residences of Commissioners Mackey and Clinton. I wash to state the following: The commissioners have only power and authority as is conferred by law and are-nuited to no special privileges. If county commissioners can install private telephones at public expense, then other public officers are entitled to the same privilege and such privi-leges may not stop at telephones, but any private convenience could thus be obtained at public expense, and public office develop into a monumental graft. While in the present case the amount. It necessarily small, the princ ple is int-same as though an unimited are inpersonal and the county is not liable

