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# WESTERN EVENING NEWS.

TRUTH AND LIBERTY.

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10 PAGES—LAST EDITION

TUESDAY NOVEMBER 27 1906 SALT LAKE CITY UTAH

FIFTY-SIXTH YEAR

## Uncle Sam Causes Big Stir In Coal Land Cases.

### INVESTIGATION IS NO CIPHER MAY

Attorneys for Big Corporations Were Subjected to Red Hot Fire Today.

### INCRIMINATING EVIDENCE.

Those Attempting to Prevent Its Introduction Clashed With Commissioner Clark.

Serious Accusations Made Against Railway and Land Office Officials—Under Sam After the Wrong Doors.

The opening session of the investigation before E. E. Clark, interstate commerce commissioner, appointed to probe the coal land scandals of Utah and Wyoming, in the federal courtroom this morning proved to be decidedly interesting.

Attorneys for the big corporations under fire in their attempt to stay the flood of incriminating evidence on the grounds that it was hearsay and therefore incompetent, got sat down upon hard, and just before the close of this morning's session Commissioner Clark sharply called Atty. E. M. Allison of the Utah Fuel company to order with the case remanded.

"I have lived 35 years in Utah and you can't intimidate me with any threats,"

The spectacle of a corporation attorney coming to the strenuous defense of the United States land office officials of the state of Wyoming and protesting against his name being besmirched also was not among the least interesting of the happenings.

### LURID LITERATURE.

But the real sensation was the reading of what Atty. Parley L. Williams contemptuously termed "lurid literature" before the commissioner. This came in the form of a statement made by one J. A. Smith of Denver, who sought to tear the mask from the conditions existing in Wyoming under separation away and show how the case was in the grasp of a monopoly. There was no mincing of words about the statement and some decidedly grave charges were boldly made.

Testimony also was introduced showing that the Union Pacific company sought to allow oil prospectors to develop the oil lands of Wyoming in place of coal. A trench which was filled with powder and a man placed in charge to blow this trench any attempt to move the trench. All this happened in Wyoming, barely 100 miles from Salt Lake, as the crowd flies.

By the time the investigation adjourned this morning Utah affairs had begun to be taken up by the next three days would be distinctly lively and interesting from the viewpoint of the common people.

### TODAY'S PROCEEDINGS.

Robert R. Spence, a land attorney from Evanston, Wyo., was the first witness called by the commission at this morning's session.

Mr. Spence testified he was counsel for A. J. Smith of Denver, who filed several protests against the issuance of patents by U. S. land office on tracts in Wyoming that bore coal. In December, 1905, witnesses saw him file extensive protests on behalf of his client which were in due season sent to the general land office, and for all he knew they were there yet. He said he wrote to the honorable secretary of the interior a private letter. In due season he was asked in response to file charges against the Union Pacific Railroad company and the Union Pacific Coal company, but without result, beyond the fact that a hearing was notified that there would be a hearing of the protests in due season when witnesses would be notified to appear with his client and witnesses, but to date he nor his client had not been called upon to present their evidence. He went on to detail another case in which he was at work on and stated that while he was in Omaha he learned that this investigation had been started.

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### AFFIDAVIT READ.

Mr. Marchand then read an affidavit sworn to and sent to the secretary of the interior in protest by A. J. Smith of Denver, wherein were detailed a number of things on the part of Union Pacific coal company, Mr. Smith specifically alleged fraud on the part of the interstate commerce commission, plays of the company, who had been the quarter sections, and that all Union Pacific coal company, who subsequently paid their "gray men" a sum in cash of \$200 for each acre. The affidavit further went on to charge Clark, Spence, and other U. S. officials with the fact that they had been the quarter sections, and that all Union Pacific coal company, who subsequently paid their "gray men" a sum in cash of \$200 for each acre. The affidavit further went on to charge Clark, Spence, and other U. S. officials with the fact that they had been the quarter sections, and that all Union Pacific coal company, who subsequently paid their "gray men" a sum in cash of \$200 for each acre.

### OBJECTION OVERULED.

Commissioner Clark at this juncture said that a monopoly could exist as the (Continued on page two.)

### SMELTERS WILL HAVE TO QUIT

So Says Manager Schofield of the American Smelting & Refining Company.

### IF INJUNCTION IS SUSTAINED.

Treatment of Sulphide Ores Will Be Rendered Impossible—Judge Marshall's Opinion.

The opinion was expressed today by a well known smeltering man that if the decree of Judge Marshall in the smelter smoke cases is sustained by the circuit court of appeals it will be the end of sulphide ore smelting in the Salt Lake valley, which will mean, of course, shutting down of every plant in the vicinity of Murray and Bingham Junction, and necessarily will follow the closing of many mines in the several camps of this state which supply ore of low grade to be shipped to a very great distance away.

Mr. Marchand then took up the subject of the discovery of oil in Wyoming. Mr. Spence said that oil was first discovered by the Union Pacific while boring for water at a coal camp near the Aspen tunnel. At the depth of 450 feet oil was encountered, and the well was plugged up. A wire fence was built around the well by the Union Pacific, and people were prohibited from investigating the find.

Some employees of the Union Pacific Coal company then dug a trench and filled it with powder, and this mine was left in charge of a man named Williams, who was instructed to touch the powder and blow it away. The mine of the American Consolidated Oil Co., which had been incorporated by Spence and associates to develop the property under the placer act, approach with well-boring apparatus to the property.

After vainly appealing to the officials for aid, the oil company eventually secured the services of the sheriff of the county, and the mine was ordered fired. An employee of the company touched off the trench with the result that a big hole was blown in the ground, making the approach to the property on the side hill impossible.

### CROSS-EXAMINATION.

At this juncture Parley L. Williams took a hand in cross-examination and drew from witnesses that many of his statements were based on hearsay.

The attorney then asked if "all this lurid literature your client signed and which has been read here, was drawn up by you?" He wrote the document that cast aspersions on the characters of certain government and corporation officials.

Mr. Marchand arose at this juncture and asserted that nothing could be accomplished by Mr. Williams' line of cross-examination.

Mr. Williams took a decided opposite view. He wanted to show that witness was filling up the records with a lot of hearsay evidence.

Mr. Marchand then stated that witness' experience as related with the United States land office were anything but hearsay; as to other matters he admitted that the testimony was of a hearsay order.

Mr. Allison then took a hand and tried to get witness to admit that the Wyoming oil fields had been abandoned because there was not sufficient oil to justify exploitation.

### PLENTY OF OIL.

Both witness and counsel got rather warm under the collar, the former stoutly maintaining that the old fields had not been abandoned and there was plenty of oil in Uintah county, Wyo.

Witness wanted to tell counsel why the oil fields were not developed, but counsel side-stepped. He drew from Mr. Spence, however, that he had a lot of oil stock for sale cheap.

Witness on direct examination stated that Pres. Butler of the American Consolidated Oil company stated to him that just as soon as his company could get the foot of the Union Pacific railroad over their necks they would resume operation. Witness said the local rate of the Union Pacific was \$1.00 per car.

Mr. Williams took umbrage at this statement and asserted that there had been a commodity rate in effect at that time.

"Yes, undoubtedly," said Mr. Marchand, "the railroads have a habit of putting in rates just before an investigation."

With this parting shot the limelight was shifted. Witness was excused and the investigation of the methods of the Utah Fuel company, Denver & Rio Grande and kindred corporations in the state was resumed.

### LANDS UNDER ENTRY.

Witness detailed the fact that he had held coal lands near Sunnyside, Utah, and had hardly started before Atty. Allison arose and objected. He affirmed that there was nothing in the investigation now being held that permitted an inquiry into the manner of the acquisition of coal lands. "If," said counsel, "the inquiry went into the manner of acquisition of lands the company would be compelled to call witnesses on every entry, a proceeding that would consume months." Counsel affirmed that the commission by so doing would infringe the public mind against individuals, who, according to the public press, were now being investigated with the object of criminal prosecution.

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### GOV. CUTLER TO GENERAL NAYLOR

Lively Passage of Letters Between Them Anent Resignation.

### COMMUNICATION IS COMING.

Generally Understood That the Position Has Been Offered to Another Person—No Definite Settlement.

A lively passage of letters between Gen. Naylor and Gov. Cutler is the result of the former's resignation as adjutant-general of the National Guard, for the reason as stated by Gen. Naylor, he was unable to put into operation plans for its expansion.

Following the publication of the letter in which he tendered his resignation, Gov. Cutler sent Gen. Naylor the following:

"Nov. 24, 1906.  
Adj.-Gen. R. C. Naylor, National Guard of Utah:  
Dear Sir—In one of the Salt Lake papers this morning I see what purports to be a copy of a letter written to the governor, conveying your resignation as adjutant-general of the N. G. U. If you wrote the letter of which this purports to be a copy, I have not seen the original, and thus not aware of the nature of its contents, until I saw the copy in the paper; and you will greatly oblige by sending the letter to me. Yours very truly,  
"JOHN C. CUTLER, Governor."

### LETTER IN REPLY.

Adj.-Gen. Naylor sent this reply, with enclosure, to the governor:

"To His Excellency, the Governor of the State of Utah,  
"Sir—Herewith I enclose a copy of my letter of resignation as adjutant-general of the National Guard of Utah, with the request that it be accepted at your convenience.  
"This letter of resignation was mailed to you on Nov. 21, and the enclosure containing the enclosure was returned to me unopened on the 22nd, with the postmark on your official envelope containing it bearing the date of Nov. 22, 2:30 p. m.  
"This, therefore, is the second time it has been forwarded to you, and, as stated above, I request that you accept it at your convenience.  
"RAYMOND C. NAYLOR, Adjutant-General."

### AN IMMEDIATE REPLY.

Gov. Cutler on receiving the letter immediately wrote a reply to Gen. Naylor. The text is as follows:

"Salt Lake City, Nov. 26, 1906.  
"Raymond C. Naylor, Esq., Adjutant-General, National Guard of Utah:  
"Dear Sir—As a communication purporting to be your letter of resignation from the position of adjutant-general of the National Guard of Utah, and asking that the resignation be accepted on Jan. 1, 1907, or before, has been published in the daily papers of Salt Lake City, I am forced to think that you have written your resignation and have not yet received it. I think you will be glad to hear that I have accepted your resignation, and your resignation will thereupon receive immediate consideration.  
"I desire to refer to a few items referring to this matter, and I shall take the liberty of calling your attention to them in this communication. On the afternoon of Nov. 21, the day your resignation was received, I was in the presence of a third party who heard the governor explain his plans for the reorganization of the National Guard, and the governor stated that he planned to include a change in the office of adjutant-general, and the acceptance by you of the position of brigadier general. In the presence of the third party referred to, you stated that you were not accustomed to the detailed work required of the adjutant-general; that you felt yourself incompetent to do the work satisfactorily, and would therefore prefer a position where you would be relieved of this class of work, and have the time to devote to the purely military duties of the guard. You had previously stated that you could not devote the necessary time to the duties of adjutant-general, on account of the meager pay attached to the office. And finally, you will also remember that on the date given above, in the presence referred to, you requested that in the letter written that afternoon, offering the position of adjutant-general to another person, it should be stated that the offer was made upon your recommendation, because you would prefer the position of brigadier general and would be pleased to accept that offer.  
"In view of these facts, I think you will agree with me that the publication of copies of your resignation in the papers, and the coupling of your resignation in the terms used, is a very serious breach of faith on your part. And before I shall be convinced to the contrary, a very satisfactory explanation will be required.  
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The offer of the position to another person, referred to by Gov. Cutler, was made in a letter to C. S. Burton, adjutant-general for six years under Gov. Wells. It is not thought probable that he will accept. Gen. Naylor, it is thought, will reply today to the letter sent him by Gov. Cutler under date of yesterday. Gen. Naylor declares that he had no knowledge of the way in which his letter of resignation reached the press, and that he did not give it out for publication. He says, however, that he insists on its being accepted.

### DECISIVE ACTION.

Decisive action is to be taken by the governor's office, in straightening out the present situation in the National Guard. It is a well known fact that certain organizations, which were once powerful in the guard, have for a long time been "committing suicide" as the men express it, by not doing any more duty than the law compels, and by failing to recruit their strength.

### ORDERS WERE ISSUED.

Orders were issued Adj. Gen. Naylor

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### BIG SENSATION IN GRACE BROWN CASE

Prosecution Offers in Evidence Unborn Child Secured at The Autopsy.

### DEFENSE OBJECTED STRONGLY

Counsel Declared Purpose Was to Make the People's Case Spectacular as Possible.

Dr. Douglas Mimmely Disclosed Condition Usually Found in Bodies of Those Drowned.

Herkimer, N. Y., Nov. 27.—With interest heightened by the declaration of medical experts that Grace Brown was drowned before she fell into the waters of Big Moose Lake, there was a larger crowd than ever at this Gillette murder trial today. More than a thousand persons were turned away and those who got seats were on hand as early as 7 o'clock to secure them.

The exhibit was admitted for the defense. The case before the jury was the case before Thanksgiving and the case will not go to the jury before Wednesday of next week. The defending counsel are doing everything in their power to shut the contention on the district attorney as advanced to the jury through the medical experts called to the stand.

A sensation was created in the courtroom when the prosecution offered as evidence the unborn child taken from the body of Grace Brown at the autopsy. Dist. Atty. Ward offered the exhibit and met immediate objection from the defense.

"It has no bearing on the case and is only offered as a means of making the people's case spectacular," said Mr. Douglas, who occupied the witness stand, swearing he assisted in its removal from the body found in Big Moose Lake.

Mr. Douglas today gave several comparisons between the conditions usually found in drowned bodies and the conditions found in the body of Grace Brown.

"The liver in cases of drowning is livid, in this case it was pale. In cases of drowning, the hands become muddy and the finger nails dirty. They were clean in this case. There is water in the pleura cavity in cases of drowning; there was no such water in this case. No watery fluid flowed from the lungs in this case, as is customary in drowned persons. In this case, when the lungs are filled with water it has a tendency to depress the diaphragm."

On re-examination, Dr. Douglas was asked if the three days that Grace Brown's body lay before the autopsy, were not sufficient to allow the water to collect in the lungs of a drowned person, to escape. He said there were means by which the water might leave the lungs.

Dr. George H. Smith corroborated the testimony of Dr. Douglas. Dr. Douglas, who presided here today by testifying that Grace Brown came to her death from blows. The defense scored a point when Rev. Cutler, before the jury, made the statement that Gillette was the first to speak of the drowning of Grace Brown, after his arrival at Arrowhead. Rev. Frost refused to swear to that statement again today.

### TRAIN ROBBER

### AN ARMY DESERTER.

Kansas City, Nov. 27.—