DESERET EVENING NEWS.

Friday, March 20, 1896.

MILEAGE GOES GLIMMERING

Sergeant-at-Arms Christopherson's Application for a Writ of Mandate Denied.

Members of the Council Can Only Charge $4 Per Day and Mileage One Way for Regular Sessions.

The Supreme court of this State has finally passed upon the mandamus proceedings begun by Sergeant-at-Arms Christopherson against County Clerk Shelton, with a view to compelling the latter to issue to him a warrant for $20 in payment of a mileage claim for attending a few open sessions of the county court. The opinion was formulated by Judge Miner and concurred in Chief Justice Zane, and contains the ruling of Chief Justice Merritt in the same point. The opinion, in substance, is as follows:

Section 100, page 38, first compiled laws of Utah, 1888, provides that the president judge and secretary shall each receive from county funds $4 per day for each day actually employed in attending to business pertaining to the county court, together with a mileage at the rate of 20 cents per mile, in going only, from their residence or place of business to the county seat, and return, for one session of the county court.

The duties of the county court are plainly defined by the statute. When these duties are performed by members of the county court, and in a manner and for a verified claim is presented to the county clerk, claims such services is entitled to work a warrant for the sum so paid by statute for such services.

The statute gives such officials $4 per day for each day actually employed in attending to business pertaining to the county court. This plainly fixes the only compensation that any officer can receive, and he is entitled to receive no fee or service. No provision whatever is made for expenses of traveling fees, while attending to the duties pertaining to the county court, except that the officers are entitled to receive mileage for one session of the court, and that is allowed to receive 20 cents per mile, going only, from their residence or place of business to the county seat, and return, for one session of the county court.

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The purpose of this statute was, not only to fix a fixed limit for compensation of a public officer to be paid by, or out of any authority employed in attending to the business pertaining to the county court, together with mileage, at the rate of 20 cents per mile, going only, from the residence of the officer, to the county seat, forward each session of the county court, of the county court. It is made the duty of the officer to attend to the business of the court at a fixed compensation per day. A public officer is bound to perform the duties of his office, for the compensation fixed by law, and he has no right to charge or receive any further compensation for his services as such officer. The rule should be rigidly enforced in all departments of the public service.

The success of the Legislature and the interests of our municipal corporations demand that more detail and particularity the duties assigned to public officers, and it requires but little argument to the minds of intelligent men what duties may and what may not be commanded strictly official, and, if so, those duties are much lessened by cause of justice it may lead to great abuse.

It is doubtless true that the business of the county is such as to require the attendance of the members of the court between the dates of its regular or special sessions, and committees may be appointed to attend to such business and report at the regular session, and such committees would be entitled to compensation for such services, at the rate of $4 per day for the time actually and necessarily employed, but without mileage or expense.

It is true that the Territorial court in Utah, in Cooney, v. Utah, 1 Utah, 100, held "such compensation could be allowed by per day, regardless of mileage." But the question of mileage was not embraced in that case in any manner, and the expression "together with mileage," as used, was dicta, and should not be followed and have been disapproved.

If the county court has the power to incur such expenses, and to allow such expenses for mileage, while attending to the ordinary duties pertaining to the county court, then it has the power to increase the per diem allowed by statute to any sum within the discretion.

Under the rule of construction of statutes, when the Legislature made provision for mileage while attending to official business of the court, it intended to exclude the allowance of mileage upon any other occasion than those would be necessary in attending to business pertaining to the county court.

It is evident from the facts recited in this case, that the services charged for by the plaintiff were rendered in good faith, under an honest belief, on his part, that he had a right to receive the same, and no criticism is intended to be passed upon his acts in making the charge.

We are of the opinion that the plaintiff is entitled to have issued to him by the defendant the warrant upon the treasury of said Salt Lake county, for the sum of $20, the same being the sum claimed in his bill filed in the district court, and that the defendant is not justified in attaching sections of the county code, and that the defendant properly refused to issue his warrant for the balance of the plaintiff's claim for mileage at 20 cents per mile for traveling and looking after public business, public buildings, as a member of the committee of the court, in addition to the sum of $4 per day allowed and received by him for such services.

The application for a writ of mandate is allowed as to the $20 claim, and denied as to the balance of plaintiff's claim.

GEORGE McKLAIN AGAIN.

He Spends Money Belonging to the Northern Light Company Instead of Paying Bills.

A man giving the name of John Brown was arrested by Officer Heagle last Wednesday evening charged with the offense of carrying a concealed weapon. The arrest was made at the instigation of Mr. Ireland of Colville, who claims to be Mr. McLain's father-in-law. Mr. Ireland, one of the owners of the Northern Light mine at Bingham, whose mortgage is now due, and yesterday.

Brown, who is some other than George McKlain, the recent manager of the Northern Light mine, has recently been having a high time at the expense of the mining company of which he was manager. Brown, or McKlain, is a tall man, with a face with glasses, with which he was in business some time at Bingham. In some of stories of the transactions, it appears that he assumed quite a prominent style and spent most of the money.

Last Monday he went to the home of Mr. Ireland, and finding the gentleman absent, he informed him that he needed $20 of the amount expected to pay his bills. The money was offered over to him and it was so old that would be previously indicated. Mr. Ireland followed through telephone gave orders to officers by Mr. Ireland, Officer Heagle arrested Mr. McKlain's arrest and he immediately came to the police station and has a talk with him, with the result that he compromised matters and there (Bernard) the revolver having gone to Ireland $10 and McKlain had a $10 in his possession at the time, the charge of carrying a concealed weapon was preferred against the reckless manager release from the more serious charge which he was arrested.

McKlain's downfall is said to be due to his associations with John McOmet, a woman of disrepute, whose whereabouts are at present unknown.

A Freight Rate Reduction.

The following Associated Press dispatch was received from Omaha last night: The Union Pacific has announced a reduction in rails and iron pipe from the Missouri river to Utah points. The rate on rails is 18 cents, iron and bars being 65 cents, and a corresponding reduction has been made on this pipe. The reduction, it is stated at the freight office, has been brought about by a combination of things in Utah. The lowering, it is believed will be followed by other lines. There is no further reduction anticipated.

Republican State Convention.

A call has been issued by the Republican State committee for a State convention to be held in this city on April 7th to elect six delegates to the national convention at St. Louis, June 16. There will be 552 delegates, apportioned as follows: Hawaii, 10; Alabama, 18; Alaska, 6; Arizona, 6; Arkansas, 18; California, 18; Colorado, 6; Connecticut, 18; Dakota, 6; Delaware, 6; District of Columbia, 6; Florida, 6; Georgia, 18; Idaho, 6; Illinois, 58; Indiana, 30; Iowa, 26; Kansas, 20; Kentucky, 18; Louisiana, 18; Maine, 12; Maryland, 16; Massachusetts, 32; Michigan, 28; Minnesota, 18; Mississippi, 18; Missouri, 34; Montana, 6; Nebraska, 16; Nevada, 6; New Hampshire, 8; New Jersey, 18; New York, 72; North Carolina, 18; North Dakota, 6; Ohio, 58; Oregon, 6; Pennsylvania, 64; Rhode Island, 8; South Carolina, 18; South Dakota, 6; Tennessee, 18; Texas, 18; Utah, 6; Vermont, 8; Virginia, 18; Washington, 6; West Virginia, 18; Wisconsin, 26; Wyoming, 6; Alaska, 6; Arizona, 6; Indian Territory, 6; New Mexico, 6; Oklahoma, 6; Utah