DESERET EVENING NEWS MONDAY AUGUST 17 1908

Would Have Courts of Appeal De-

cide Cases on Merits and Not

On Technical Grounds.

ABUSE OF WRIT OF ERROR.

Committee Characterizes Unrestrained

Right to it as Such-Will

Submit Draft of Act.

New York, Aug. 16 .- Courts of ap-

peal will no longer decide civil or

criminal litigations brought before

them on purely technical points, but

will base their rulings on the merits

of the case, if the recommendations

peals and writs of error should not be based on reversible errors commit-ted by the court below, but upon the

merits as the case appears upon the

continuing, the report calls attention to the fact that the tendency of the courts in common law cases is to construe adherence to strict legal rules as the right of each party and to re-verse if there has been any infraction of these mules

verse if there has been any infraction of these rules. "This makes the trial of a case a game," declared the committee, "in which the one wins who plays the most skilfully ,the merits of the con-troversy having no part." The unrestricted right to a writ of error in criminal cases is characterized

the committee as a flagrant abuse

by the committee as a hagrant abuse in judicial procedure. The committee declares that the re-forms in civil procedure which it rec-ommends are not theoretical, but have been tried and adopted in England to the satisfation of the bar and the hearaft of litigants

the sanstation of the bar and the benefit of litigants. "So far as reform in criminal pro-cedure is concerned," says the re-port, "the grievance of which we complain has never existed in Eng-land, but the statutory provisions there are similar to those recommend-ed by us"

ed by us." The committee will submit the draft to an act to amend in the particulars concerned the judicial procedure of courts of the United States.

New York, Aug. 17.—The Empire handleap in its first running as a \$15,-900 guaranteed race and the feature of the week's racing at the Empire City

Racing association's Yonkers track, has taken at one bound the place with the long established and famous open events of the New York turf. The pe-

BE A STELLAR EVENT

EMPIRE HANDICAP WILL

ed by us.

ASSOCIATION

nominee on the plank in the

cratic nominee on the plank in the Denver platform relating to the guar-antee of bank deposits, and this topic will be discussed quite fully by him in his speech at Topeka Aug. 27. If the suggestion is followed, and there is reason to believe that it will be, every community in which a bank has failed during the past year or more will be given especial attention by the literary bureau. The sufferers from the failures will be sought out and provided with arguments, through which it is hoped to convince them of the soundness of the guaranty plank. Mr. Bryan today, as usual, attended morning services at the little Method-ist church in Fairview. In the after-noon, a number of automobilists from Lincoln, among them Mayor Frank W. Brown, rode out and paid neighborty visits to the Bryan family. When the party arrived, Mr. Bryan was out on his farm, but he was notified of the presence of his callers and quickly re-turned to the house. urned to the house. Matters political were not touched

As his visitors were leaving, some one As his visitors were leaving, some one suggested to him that he had room enough for a full golf course, but he expressed a preference for baseball, re-marking that the national game was a co-operative one, whereas playing golf one had to "go it" more or less alone.

KAISER PARDONS VOIGHT.

Is Tailor Who Impersonated Officer And Robbed Burgomaster.

Berlin, Aug. 16 .- William Volgt, no orious as "the captain of Coehenick," has been liberated from prison by order of the emperor. Voigt on Dec. 1. 1996, was sentenced to serve four years in prison. A few weeks prior to this he impersonated a captain of the grena-diers, produced a forged order author-izing him to take command of a detachment of 12 men, whom he met or the streets of Berlin, and proceeded to Bochenick, a small town near here, where he arrested the burgomaster and the treasurer of the town and took poson of the cash, amounting to about \$1,000.

OFFICERS SAVE NEGRO.

Huntington, L. I., Aug. 16.-A negro, who this afternoon attacked a white woman, resident of this place, is under heavy guard tonight in the local lock-up, after having been rescued by depu-ties from a crowd of angry citizens. Threats of violence were frequent. The negro will be removed from the jail to morrow.

RAILROAD LOSS BY FIRE.

Winnipeg, Man. Aug. 16.—The Cana-dian Pacific railway's engine house and four locomotives at Minnedossa, Man., were destroyed by fire this evening. The freight office, rolling stock and elevators were also destroyed. Minnedossa is a di-vision point, and the fire occurring at this season of the year will seriously af-fect traffic.

ANXIOUS TO CARRY PRESI-DENT ON HUNTING TRIP

New York, Aug. 17.—Although it will be many months before President Roosevelt and his party start on their hunting trip to Africa, the question as to what route he will take is already agitating every big steamship line whose steamers leave this port. "The president's business" as the steamship call it, is eagerly sought, and the steamship lines are willing to go to almost any length to have the honor of almost any length to have the honor of transporting the president across the north Atlantic. While the steamship companies have been content with playing a waiting game, two of the passenger lines, it is said, have writ-

Heart Troubles

The heart may be weak just the same as the eyes, stomach or other organs. It often happens that a person is born with a weak



ten to the president offering induce ment and asking for the honor of carrying the hunting party on one of their steamers. Many of the lines would be willing

Many of the lines would be willing to tear out partitions and practically make over suites to accomodate the president and those with him. It is also believed that some of the steam-ship companies would even be willing to change the course of vessel in or-der to land the preident's party as some desired port. This, it is pointed out does not apply to vessels in the express service or carrying the mail, but to one of the slower steamers run-ning to the Mediterranean. The Hambut to one of the slower steamers run-ning to the Mediterranean, The Ham-burg-American line made over a suite for Secy. Taft's accommodation and it is known that the German line will make a strong bid for the Roosevelt party.

They Are Playing the Game.

Chicago, Aug. 17 .- While playing "soldiers and Indians." Edward Finerty, a 12-year-old boy of Gary, Ind., was shot and killed by John Gormley, a 15-yearold companion.

The boys, with a number of others, had divided into two groups. The Gormley boy with his party were defending the "fort" which at other times was the office of D. T. Finerty, father of the dead boy, and an undertaker in Gary. When the "Indians" under command

of young Finerty attacked the "strong-hold" of the troops, young Gormley flourished a revolver and snapped the nourished a revolver and snapped the trigger. It was not supposed that the weapon was loaded. There was a re-port and the Finerty boy fell with a bullet in the back of his head. The Gormley boy is being held by the police until the accident is investi-gated by the corner's jury.



SOLDIERS AND INDIANS.







GILES-MCALLISTER ADVERTISING AGENCY. 205-6 Atlas Block.

Riscults, bread or cakes-the liftle housewife can make any of them "just Gainty" with

KAYSVILLE FLOUR

which excells all others. All



of the committee of the American Bar association shall become law. The committee was appointed by the association at its last annual The committee was appointed by the association at its last annual meeting to draft proposed laws to pre-vent delay and unnecessary cost in litigation. Its report will be present-Itigation. Its report will be present-ed at the next annual meeting to be held in Seattle from Aug. 25 to 28. It opens with a statement that the existing evil which seems most seri-ous to the committee is the disposi-tion in many jurisdictions to dispose of appeals or write of errors, both in circl and grimted cases upon techs civil and criminal cases, upon tech-nical grounds and not to decide them upon merits. In the judgment of the committee the rule for deciding ap-

Victoria, B. C., Aug. 16.-The world's record for a week's catch by world's record for a week's catch by any coast whaling station was broken last week by the Kyuquot station to which 26 whales were taken by the steam whaler St. Lawrence. The best catch known heretofore was 22, a rec-ord also made by the St. Lawrence. The Kyuquot station has taken 234 whales since the season began.

ROADS AND AUTOMOBILES.

Effect of Latter on Former.

er Page, director of the office public roads of the United States, department of agriculture, commission-ed by President Roosevelt, is on his way to France to discuss with highway engineers of the world what the automobile is doing to the macadam thor oughfares and what should be don to counteract its destructive effects.

road material.

JUDGE TAFT AND PARTY

Hot Springs, Va., Aug. 16 .- Candi-



A. Hannegan of Washington, went out

Recent Tests Have Shown it to be a Great Success. Paris, Aug. 16.—The naval lieuten-ants, Colln, Jeance and Mercer, 'the inventors of a wireless telephone ap-paratus which recent tests have shown to be superior to anything existing, achieved remarkable success with their new instrument yesterday, com-municating with the wireless station at Raz de Seine, department of Fin-isterc, a distance of about 310 miles. The officers are confident that they can make great improvements in the apparatus, enabling the exchange of conversation up to 600 or 700 miles. Lieut. Colin, the chief inventor, is a well-known wireless station in the Efficient in the world. Great Success. ient of Capt. Peter C. Haines, Jr., U. Ment of Capt. Peter C. Haines, Jr., C. S. A., who yesterday shot and killed William Annis, advertising manager of Recreation and Burr McIntosh's Monthly, was postponed today until tomorrow by Magistrate Mathew J. Smith in the First district court at

BRITISH NAVY. Hundred Million Pounds to be Raised

To Meet Its Necessities.q London, Aug. 16.-The British gov rnment, according to the Daily Tele

graph, contemplates raising a large loan in view of the growing naval toan in view of the growing navai competition abroad. It is stated that inanciers of the highest standing have undertaken to find \$500,000,000 on nominal terms to meet the necessities of the fleet for the next few years without disorganizing the annual bud-gets or casting a heavy burden upon the present generation. If such a plan is attempted it will be because it is impossible to forecast the future requirements of the navy unit

foreign shipbuilding programs have crsytalized, and the setting aside o this fund would be a declaration trans-lated into terms of cash, of the country's intention to maintain a two-

RECORD CATCH OF WHALES.

Commissioner Sent to France to Study

Washington, Aug. 16 .- Logan Wal-

President Roosevelt summoned Di-ector Page to the White House and inferred with him about this high-ay problem. He learned that an al-President Roosevelt summoned Di-rector Page to the White House and conferred with him about this high-way problem. He learned that an al-most incalculable amount of damage was being done, and then he informed the director that it was his wish that the United States be strongly repre-sented at the coming international road congress, which meets Oct. 11. and he asked for the names of two other experts. Mr. Page named Gol. Charles S. Bromwell, superintendent of buildings and grounds of the Dis-trict of Columbia, and Clifford Rich-ardson, an authority on bituminous ardson, an authority on bituminou

They were appointed and Mr. Page was made chairman of the delegation

WILL GO FISHING

date Taft and party will leave Virginia Hot Springs Friday, Aug. 28, for a week's fishing in Lake Erie, at the end



"Haines saw Harway first and walkng up to him pressed his revolver against his chest. Harway, thinking the whole performance **a jok**e, piayfulthe whole performance a joke, piayful-ly brushed the man's arm away. Haines by that time had realized his mistake and crouching down so as to get on a level with Annis, who as 1 saw was sitting- in the stern of the boat emptied his revolver into him. Annis was in his bathing suit, un-armed, defenseless and unprepared. With the firing of the first shot. Mrs. Annis, who with fully half a hund-red ladies and children, was on the pier watching the preparations for the usual Saturday afternoon races, called out shrilly 'Look out, Will.' Almost at the same time I rushed toward Capt. Haines but before I had gone two steps his brother. Thornton Haines, stood before me, a revolver pressed against me. 'Stand back.' he shouled. This is a matter between these two.' "By that time Peter Haines had com-

GAPT. R. C. HAINES

KILLS W. E. ANNIS

While He Was Shooting His

Brother Threatened to Shoot

First Man Who Interfored.

VICTIM ATTENTIVE TO WIFE

Scene of Tragedy Was Landing Stage

Of Eayside Yacht Club, Flush-

ing, Long Island.

Bayside, L. L. Aug. 15 .--- Capt. Peter

Conover Haines, Jr., U. S. A., son of

Brig.-Gen. Peter Conover Haines, U

S. A., retired, fired seven bullets from

a revolver into William E. Annis of

New York, owner and publisher o

New York, owner and publisher of Purr McIntosh's Monthly, and other magazines, late today, on the landing stage of the Bayside Yacht club. Flushing, and Annis, whom Capt. Haines' brother had accused of hav-ing been improperly attentive to the captain's wife, died in the Flushing hospital a few hours after the shoot-ing.

and yachtsmen, among whom y Mrs. Annis, witnessed the tragedy.

SCENE OF THE TRAGEDY.

SCENE OF THE TRAGEDY. Capt. Haines, accompanied by his brother, Thornton Jennings Haines, well known as an author and amateur yachtsman, walked to the landing stage of the club as Annis and a club member, named Harway, were dis-embarking from a boat, and at once opened fire upon Annis. Annis attempted to get behind Har-way, but Capt. Haines reached under Harway's arm and emptied his re-yolver upon his enemy.

THE SHOOTING.

crowd of gaily-dressed women

THE SHOOTING. Immediately there was commotion on the clubhouse veranda. Mrs. An-nis fainted, and a dozen yachtsmen rushed to the float to the assistance of Amis. Before they could get to the side of the wounded man, however, T. J. Haines, the captain's brother, whilp-ned out a revolver and threatened to shoot the first man who interfered. "This is an affair between these two" he said, calmly. Annis had two builets in his abdomen, one in the arm and two in his legs. "Eapt. Haines and his brother, neither of whom appeared in any way disturbed, awaited the arrival of the police on the club float and then sur-rendered thmselves. "Capt. Haines is attached to Fort Haines is attached to Fort He is a graduate of the naval acad-my at Annapolis, but left the navy hi 1944, shortly after graduating. His fa-ther, Brig. Gen. Peter Conover Haines, is a West Point graduate with a dis-tinguished war record. During the conflict with the south he was sev-eral times breveted for gallant and meritorious service. Since then he has achieved prominence as an engineer, flats improvements and numerous works of harbor detense. He was mance and fortifications and of the Nouragua and Isthmian canal com-mine of on the board of ord-nance and isthmian canal com-mine of on the board of prod-mance and isthmian canal com-mine of on the board of prod-nance and isthmian canal com-mine of on the board of prod-mance and stamian canal com-mine of on the board of prod-mance of the polymeter, taking part in

missions. In 1898 he was appointed brigadier general of volunteers, taking part in both the Cuban, and Porto Rican cam-paigns. He attained the rank of brigadier general of regulars in 1903, and was retired July 6, 1904.

HAINES FAMILY SKELETON. Washington, Aug. 15.-Both Capt. and Mrs. Haines have friends in Wash-



After the postponement of the case

The housewife who

doesn't use

HUSLER'S

FLOUR

is the one who has

never tried it.

. Haines and his brother were more handcuffed and taken to the ensy county jail, where they were apt. Haines Queens given a large and comfortable cell on

The second neor. Charles H. Roberts, who helped to pull Annis out of the water after he had been shot and who was prevented from going to his assistance by Thorn-ton Haines' leveled revolver, said to-day in recounting the incidents of yes-terday's shorther.

day in recounting the incidents of yes-terday's shooting: "Applies was seated at the tiller of his sloop bringing her to the float. Louis Harway who was in the boat with Annis was forwarding her off

is a matter between these two." By that time Peter Haines had com-pleted his work. Annis with six bui-lets in him arose from his seat in the boat and attempted to step irom it to the float. One of the bullets had lodged in his knee, however, and as he stood up his leg gave way under him, and he toppled over into the bay. Wounded to death as he was, Annis still had the marvelous grit to try to swim to the float. He took two strokes and this brough him near enough for me to

float. He took two strokes and this brought him near enough for me to grab him and pull him upon the float "Thornton Haines still stood with his weapon in his hand, and for a time re-fused to surrender it. "Annis, who was moaning faintly, stretched out on the float, turned to eter Haines and said: .

"'Captain, you have made a horrible mistake."'

mistake.", "Peter Haines hesitated a minuto and replied. 'I may have, but I don't believe it.' Annis then turned to our Swede boatman and saked: 'John, have the got cowards like this in your coun-ter?". try "The others on the float hau been trying to get some explanation as to the cause of the shooting from the

WIRELESS TELEPHONE.

- Washington, Aug. 15.-Both Capit-nd Mirs. Haines have friends in Wash-ington whi have kept close track of an application for divorce filed by the for-mer last June, and they recall the fact that Capt. Haines eloped with his wife a Miss Claudia Libby, of Winthrop, Mass., in 1900, when she was a school girl of 16. So far as is known here, they have lived happily together until last May, when Capt. Haines returned from a trip to the Pacific coast on a summons from his brother, who claimed to have made discoveries of improper conduct on the part of Mrs. Haines, At that time Capt. Haines summoned his father, Brig. Gen. Haines, to New York, who upon re-turning stated that his daughter-in-law had made a confession to him that convinced him of the correctness of the son's position. The couple have three abldees who eres in the custody of son's position. The couple have three children who are in the custody of Gen. Haines.

two brothers. Finally Thornton Haines, who had filled a pipe and was com-fortably smoking, said: "Twe been trying to keep him from doing this for some time."

BROTHER KILED A MAN.

"Among the other developments today in connection with the case was the revelation that Thornton Jennings Haines, brother of the slaver of Annis 17 years ago killed a man at Fort Monroe, Va. After a hard fought trial

he was acquitted. Admiral Evans, at the time in com-mand of the fort, was a witness. At that time Haines was known at Thornon J. Haines.

bildren who are in the custody of Jen. Haines. STORY OF EYE WITNESS. New York, Aug. 16.—The arraign-New York, Aug. 16.—The arraign-

The Only Breakfast **For Little Ones**

On summer mornings-Mapl-Flake and fruit. The maximum of nourishment with the minimum of heat.

And how children like it. The maple flavor is so enticing that they'll want it every morning.

Mapl-Flake

The Food with the Maple Flavor

Another expensive thing that we do is to cook

our wheat in pure maple syrup. But that gives it a flavor which all people like. It leads children to prefer the food that is best for

Please order a package of Mapi-Flake now-

serve it tomorrow morning. Mix it with fruit, if you have the fruit. Serve it alone if you don't.

Don't go longer without knowing how good a food we have made for you. You will wish you

Meat is not the food for bot for 30 minutes in a heat of 400 de weather. It produces too much grees. heat.

Whole wheat is the ideal food for days like these. No other cereal can begin to take its place.

But it takes 96 hours to prepare wheat rightly. That is the time that we spend on it.

First, we steam-cook the wheat half the food value is lost. Half or six hours. Then we cure it of that which should nourish simfor six hours. Then we cure it for days.

Then each separate berry is flaked so thin that the whole heat of our ovens can reach every atom. Then we toast those thin flakes

ad known it before



juices can get to them.

ply ferments and irritates the stomach lining. So we spend 96 hours to get the whole wheat into the shape that is best for you

A ANS ALTER STOR

The result is a food easily and

wholly digestible. The particles are

so separated that the digestive



Sept. 5 or 6, to remain until election day. The announcement of the itinerary which is to conclude the candi date's pro-campaign vacation was made today. Mr. and Mrs. Taft will be the guests of the Middle Bass club.

of which time he will go to Cincinnati

be the guests of the Middle Bass club, the headquarters of which are the Middle Bass island, a short distance out in Lake Erie from Put-in-Bay. The club claims distinction for hav-ing had as members Presidents Hayes. Garfield and McKinley, and being the host on a number of occasions to Pres-ident Cleveland. The visit of the Taff corts, uses granged by Charles T Well. party was arranged by Charles T. Wel-is, of Toledo, president of the club, and Representative J. Warren Kelfer a member of the club. Mr. Taft is fond a member of the club. Mr. Taft is fond of fishing, and has been induced to be-lieve that the change for a week from the mountains to the lake will put just the proper edge on his condition of fitness for the front porch work he is to do in his native city. Arrangements are being completed for the one political event in which

Arrangements are being completed for the one political event in which Mr. Taft is to participate before leav-ing here, the rally of Virginia Repub-licans next Friday. John A. Noon and H. T. Vooheese, of Staunton, Va., in charge of the arrangements, have in-formed Mr. Taft that the railroad ex-variant alone will bring 5.000 Vircursion alone will bring 5,000 Vir-ginians to the mountains to hear Mr Taft speak.

Three trainloads are expected from Charlottesville, but the Shenandoah valley is expected to furnish most of the visitors from Augusta, Highland, Bath, Rockingham, Shenandoah, Page, Bath, Rockingham, Shenandoah, Page, Rockbridge and Boletourt counties. The famous Stonewall brigade band, organized in 1875, will come from Staunton. Two of the charter mem-bers, Charles E. Hayes and Robert. A. Himilton, are still with the band and will be here Friday. This band made a pilgrimage to Cauton, Chio, in 1896, and attended the inauguration of President McKinley afterwards. Following his usual custom, Mr. Taft transacted no business or field no political conferences today. With Mrs. Taft he attended services at St. Luke's Episcopal church.

Episcopal church.

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DEMOCRATS WILL FIGHT FOR NORTHWESTERN STATES

Chicago, Aug. 16 .- A fight to swing the northwestern states into the Demo-cratic column is being outlined by the cratic column is being outlined by the Democratic national committee and Chairman Mack is contemplating a trip to the west to raily the leaders of the party along the Pacific coast to vigor-ous action. Reports received at Demo-cratic headquarters here indicate, the leaders say, that Montana, and other states in the mointain region, are form-by a promising battleground for the bemocrast. Join H. Atwood, head of the speakers bureau, said tonight that he would be prepared to send many well known speakers into the western terri-fory to wage a lively campaign in ey-ery debatable district Chairman Mack expects to make his meetiden irre durburthe butters in the ory to y ry deba Chairm estern eptembe Nationa Mack expects to make his during the latter part of Den of

1 Committeeman Martin J. Town left here tonight for there he will open the national tomorrow aight in New York tech under the auspices of the ominittee. wante. Buffalo sampaign with a ational

MONTANA NATIONAL GUARD.

Tacoma. Aug. 16.—The Montana na-tional guard arrived at Camp Stanley today. The guard comes into camp the best organized, best equipped and al-together the best appearing citizens soldiery thus far seen here. The little regiment brings a full military hand of 28 pleces, each man a professional musician.

long established and famous open events of the New York turf. The pe-culfar conditions attending racing this season and the reduction in the value of prizes whereever reduction was pos-sible, at courses, since the enactment of the anti-betting law have directed special attention to the big event of the Yonkers meeting. From all promises this race, the big prize it will produce, will justify the promisence that the first running of the prize it will produce, will justify the prominence that the first running of the Empire City as a great handleap has achieved. The very best horses in training in America are included in the 73 horses that were handleapped for the big fixture which will be run on the big fixture which will be run on Saturday. The most conspicuous entry from any one stable is that of James R. Keene, with Ballot, Colin and Celt, all named and weighed high, but of the three, the top weight of the handi-cap, with 121 pounds, is the only one intended for the race. Colin still be-ing on the shelf at Sheepshead Bay, while Celt resumed training after a chile Celt resumed training after a t-up too recently to leave any hope of is being fit to race soon. Others of the notable horses that are

Others of the notable horses that are at Empire City in waiting for the \$15,-000 are Jack Atkin, Charles Edward, Frank Gill, Dr. Gardner, McCarter, Hessian, Tileing and Master Robert. Still left from Saratoga are Dandellon, King James and Fairplay, and from these a field might be picked that would outrank the best of the season, entirely aside from the possibility of the lighter weights of the race.



Fairview, Lincoln, Neb., Aug. 10.-suggestion, novel in its character and garded by Democratic leaders as one alculated to strengthen the party in the comparison will be acted upon by the Democratic National committee upon the occasion of the visit of Wil-liam J. Bryan to Chicago next week. Much stress is being laid by the Demo-

heart. Then again disease, fevers, over-exertion, anxiety, nervousness, rheumatism, etc. weaken the heart. The result is shortness of breath, palpitation, pain in the heart, or in some of the nerves of the chest or abdomen. The heart should be strengthened with a tonic, and for this nothing equals Dr. Miles' Heart Cure.

Dr. Miles' Heart Cuire. 'I had LaGrippe last fall as I thought in a mild form. I was weak, tired feeling, and short of breath could hardly go about, and a good deal of the time sort of an asthmatic breathing and extremely nervous. I began taking Dr. Miles' Heart Cure and Nervine and now I feel so much better in every way. I am so thank-ful that I began taking this medicine, and shall not hesitate to tell others how much good it has done me.'' MRS. F. J. NORTON, Freeville, New York. Your druggist sells Dr. Miles' Heart Cure, and we authorize him to return price of first bottle (only) if it fails to benefit you.

Miles Medical Co., Elkhart, Ind



CLEANING?

Send it to the REGAL and be

sure that it will be cleaned right

(Incorporated). Capital Surplus

Absorbed the Salt Lake Branch Wells-Fargo & Co.'s Bank

Established 185



brought the crowds.

see you here inspecting our attractive lines of household furnishings.

H. DINWOODEY FURNITURE CO.

Everything new and snappy.