DESERET EVENING NEWS WEDNESDAY MAY 26 1909



Attorney General Holds Action of Last Legislature to be Unconstitutional.



Statute as Passed and Approved Con tains Some Objectionable Provisions As Heretofore Pointed Out.

Atty.-Gen. Barnes returned an ad verse opinion today to the state board of land commissioners relative to the realization by the state university trustees of certain funds to be applied in crection of the administration building on the hill. The attorney-general having taken an unfavorable view of the matter it has been determined to take the case before the state supreme court in a friendly suit for settlement. The opinion as given the state land board is as follows:

"I am in receipt of your favor of May 14, signed by W. H. Farnsworth, sec-retary, wherein you submit to me a note in the amount of \$12,500 executed by the University of Utah to your hoard. This note is executed under the pro-

visions of chapter 124 of the laws of Utah, 1909, which is "An act authorizing the University of Utah to erect a central building at a cost not exceeding central building at a cost not exceeding \$250,000, and authorizing partial con-version of the University of Utah per-manent land fund into cash, the loan thereof and the method of repaying the same." Under the provisions of this act the university has executed the foregoing mentioned note, and has rc-quested this board for this amount of money, that is \$12,500, being part of the \$250,000 provided for by the above act. \$259,000 provided for by the above act. "During the session of the last legis-lature there was introduced a very ature there was introduced a very similar act as the one above mentioned. About the only difference between that proposed act and this act was in that it was therein provided the state would assume the indebtedness and an appropriation was made for \$12,500 each year to meet these notes which would be executed by the university. "I was at that time asked, by one of

To was at that time asked, by one of the legislators, to render an opinion as to the constitutionality of such act. I did vo, and in my opinion held that that portion of the bill which provided for the loan of the permanent fund of the university to the university for hullding purpose was not only an error building purposes was not only an eva-sion of the provisions of section 8 of the enabling act, but was also in direct conflict with the provisions of section 5 of article 10 of our constitution. "I further held in that opinion that

such proposed act which provided for an indebtedness to be assumed or con-tracted by the state would create an obligation against the state so as to affect the debt creating power of the state. Under section 1 of article 14 of state. Under section 1 of article 14 of mining companies had as much as a mining companies had as a much as a mining companies had as a much as a mining companies had as a much as a mining companies had as much as a mining companies had as much as a much as a mining companies had as a much as a much as a mining companies had as a much as a mining companies had as a much as a mu the constitution it is provided that 'the



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n the aggregate, at any one time, the amount of the territorial indebtedness assumed by the state,' and I held in that opinion that the \$250,000 loan would be an obligation assumed by the state, and therefore in conflict with section 1 of article 14 above confided of article 14 above quoted There is no doubt in my mind now, but that the act, the title of which is above quoted, and which is found in chapter 124 of the Laws of Utah, 1909, has the same objectionable features as the bill which was first proposed, and as to which I rendered the opinion above mentioned, and for the very rea-sons above mentioned. In my opinion this act is unconstitutional, and your

board has no authority to loan this money, or any portion of it, to the university. "The form of the note which has been executed by the University of Utah seems to be as provided for in this act. "I herein enclose letter from W. W. Riter, chairman of the board of re-

gents, under date of May 3, 1909, ad-dressed to your board, and also the note above referred to."

BOYS WILL BE BOYS.

BOYS WILL BE BOYS. And are always geting scratches, cuts, sprains, bruises, bumps, burns or scalds. Don't neglect such things—they may ro-sult serious if you do. Apply Ballard's Snow Liniment according to directions right away and it will relieve the pain and heal the trouble. Price, 25c, 50c and \$1, Sold by Z. C.-M. I. Drug Dept., 113 and 114 South Main St., Salt Lake City. B

TIBBALS ON MINING STOCKS. Y. M. C. A. Class Hears Well Known Mine Operator.

Prof. W. H. Tibbals lectured last night at the Y. M. C. A. on mining stocks. He said in part:

"The drama of the old alchemist has ome true in these latter days, for we are indeed turning the baser metals into gold. The prospector, the promo-ter and the capitalist are the three men who are doing this. The average cost of development of a mine in Utah is \$150,000, while some of the most pro-ductive ones have cost over \$500,000 ductive ones have cost over \$5,000,000 The securing of this necessary capital is an impossible task for the average prospector and here the promoter steps in. The cost of working up a market for a new mining stock is from 10 to 35 per cent of the selling price. "A few years ago only a few of the

on the Sait Lake mining exchange have a million or more capitalization. This change has come about because of the desire to get a large number of people interested and a larger cash outlay from each by keeping the cost per share low. Some companies or-ganize at low par value per share in order to keep down tax assessments. "The man who buys non-assessable stock is more liable to be the loser in a mining investment than the one who buys assessable stock. A time may arise when a mining property is jeop-ardized for lack of a little more cash which could be raised if more shares were assessable. If I had my way, every mining share would be assess-able. In buying stocks apply the rule laid down by Cecil Rhodes—buy a good stock when it is low and sell when a reasonable profit is assured; with the profit make more conserva-tive investments, and soon you will be rich. The problem, of course, is to know a good time to buy. The buying time is determined by your on the Salt Lake mining exchange to know a good time to buy. The buying time is determined by your courage. It takes courage to sell when a stock is still climbing. The stock that is safe as a rule pays low divi-dends in proportion to the investment. The average life of a mine is about seven years."

REST ROOMS PROVIDED.

At a meeting of the committee on rest rooms of the Women's Auxiliary of the G. A. R., it was decided that the rooms be run in conjunction with res-laurants. The Lion House, Odeon hall, taurants. Congregational church, Presbyterian church, Eighteenth and Sixteenth ward chapels, have already been secured as meeting places for the tired visitors, while several other places are under consideration. Hostesses will be in constant attendance at these places. next meeting of the committee will be at the Commercial club, May 31, at at the C 5 o'clock.



L. D. S. U. Seniors While Away the Hours With a Program Filled With Fun.

The senior class exercises of the L. D. , university were given last night in Whitney hall, before a large audience. The audience was an appreciative one and the program was received with much approval. This was especially rue of a character song and dance giv-

en by Margaret Whitney and the class In this hit the class represented the freshmen in pinafores, and the sophomores in shirt waists. The juniors were caricatured and the seniors appeared in afternoon attire, with Gainsborough hats and parasols.

The living pictures met with much approval, among the best, if not the best, being "When grandma danced the minuet," represented by Alice Elder. The play of the evening was a bur-lesque on "The Merchant of Venice," which was excellently staged. The costuming was pleasing and effective and the parts were well taken. In this burlesque the faculty and the juniors came in for a large share of the satire. Wil-son McCarty, as Shylock, made a hit with his Jewish accent. Armed with his scissors, which he was constantly sharpening, he went about determined to shear a "pound of hair from the scalp nearest the brain" of the delinquent Antonio. The climax came in the court room scene when the professor who photographed Antonio's head by

means of an X-ray machine, discovered that he had no brain. With the cessation of all work at the

university yesterday, the students have given way to pleasure. This afternoon they are enjoying themselves at Wandamere. Field sports is the order of the day until evening when the day will be finished off with a dance. In the classes yesterday farewells were said by some of the teach-ers, B. S. Hinckley of the commercial ent, commended the students industry and faithfulness. A.

A Fact

SPECIAL!

Shidzuoka, Japan, May 25, 1909.

Bought cream of crop Tea. Frank J. Hewlet. The above cablegram just 🛓

received from Japan. Shidzuoka is the center of the Tea growing district, and Mr. Hewlett was right on the spot and got the first choice of the first picking of 💲 Uncolored Japan Tea.

MANAGER PYPER HOME.

Captures Some Splendid Attractions For the Salt Lake Theater,

During the coming theatrical season Salt Lake is destined to see some splendid attractions. Such is the word brought back from New York by Manager George D. Pyper of the Salt Lake

ager George D. Pyper of the Salt Lake Theater on his return from a month's absence in the east, where he has been looking after future bookings. Mr. Py-per is only tarrying a few hours in Salt Lake because he has been called to Seat-tle on tonight's train to superintend the placing of the Smithsonian exhibit from Utah at the Y-A-P exposition which opens next week. "It looks good for next season," said Mr. Pyper this morning. "Many of the attractions which are booked for Salt Lake Theater are for a solid week, something not heretofore attempted in many instances. The Fiske and Belasco attractions. of course, have their con-tracts to fill, but as soon as they expire the Salt Lake Theater will get them in addition to the Klaw & Erlanger produc-tions."

addition to the Kinw & Erhänger produc-tions." Mr. Typer was caught on the street where he had not a list of bookings with him but off hand he rattled off a number which included winners of the first diass. The new bookings start with July of this year and include such attractions as "The Merry Widow," "Servant in the House," Dustin Farnum in "Cameo Kirby," Blanche Bates in "The Fighting Hope," "The Third De-gree," "The Traveling Salesman," "Gen-tleman From Mississips," "The Soul Kiss," Savage's English Grand Opera company, Joe Weber with his big show and others.

DEATH OF MRS. EMMA CLOUGH.

After an illness of a few hours, Mrs. Emma Clough died suddenly at the home of her daughter, Mrs. C. E. Finance of and daughter, mis. C. E. Finance, 365 G street, at 11:40 o'clock last night. Death was due to heart disease. For several months Mrs. Clough has had trouble with her heart and two previous attacks left her dan-gerously ill. For the past few weeks she had been better and was apagent. she had been better and was apparent. ly recovering. Mrs. Clough was the widow of Alfred Clough, who died seven years ago. She came to Salt Lake 14 years ago and has since made this city her home. She was among the pioneers of Kansas and Colorado. She was 70 years old on her last birthday which

was in March. Mrs. Clough is survived by eight children, who are, George A. Clough, and E. J. Clough of Arlington, Oregon; B. W. Clough, H. T. Clough, W. H. R. W. Clough of Arington, Oregon; R. W. Clough, H. T. Clough, W. H. Clough, Mrs. Harry M. Cushing, Mrs. Harry S. Harper and Mrs. C. E. Flandro. The funeral arrangements have not been completed, but the ser-vices will probably be held Sunday.

INVITED TO LEAVE TOWN,

B. Edwards and James Kelly, two itinerant speculators, were given an op-portunity and an invitation by the po-lice department to quit this city. They were picked up by plain clothes men at the race track yesterday and today ad-mitted that their regular line of "work" is picking pockets. They declared that they had turned no tricks while here and were assured that their departure would be for their best interests. They accordingly left the station and when last seen were seeking the north yards.

FIRM FINANCIAL BASIS

Big Improvements Planned.

The acceptance by the Board of Di-rectors of the Erie Railroad Company, of the provisions of the Public Servico Commission's order, relative to the \$30,-000,000 bond issue places the company in a position where it can continue the necessary improvements to the property and better serve its patrons. The man-agement is relieved from burdens which have been heavy and more or less op-pressive, because of the questions of pressive, because of the questions he future.

Now that these have been settled, he company can go ahead and complete he work under way, and plan for fur-her extensions and improvements, as

ther extensions and improvements, as the earnings are sufficiently large to justify the prediction made some time ago, that under normal conditions, the Erie was a profitable property. Despite the financial conditions of the past 18 months, the company has main-tained the property to a greater degree of efficiency than most railroads. The track has been greatly improved and there is no better, smoother or stronger leading out of New York. The motive power has been placed in such condition as to provide a surplus of good loco-motives. The car equipment has been kept up and the company is prepared to do \$60,000,000 gross business a year with its present facilities.

to do \$60,000,000 gross business a year with its present facilities. The earnings for March were a dis-tinct surprise and wholly gratifying. They show a gross increase in opera-tion revenue of \$619,85.16 and, at the same time a decrease in operating ex-pense of \$75,644.14. The net increase in constraints increase in \$25,229.20 for the operating income is \$695,529.30 for the month and \$3,517,993.08 for the nine months of the fiscal year. These carnings indicate that the expenses are well in hand without clogging or congesting the traffic. In other words, business is being moved with unusual promptness at A minimum cost. When the increase in the general

business of the country comes, the Erle will be in better position than ever to handle its full share and the additional traffic cost will be greatly lessened by the free and frequent use of the low grade lines and stretches of double way for several years. The Erle and Jersey, the now famous low-grade through the Shawangunk mountains, east of Port Jervis, allows trainloads of 70 cars, which the best an engine can do on the old grade is 25 cars. It is expected that the E. & J. revision will be carried through to connection at Suffern before long, giving an extrem ly low-grado freight line to the New York Division.

The work in western New York, be tween Cuba and Hunts, is proceeding rapidly to completion and here again a great saving will be made in train load-ng. Grade revisions of smaller extent have been made at several points along the line, and when all are connected and in use, the cost will greatly lessen and the capacity be wonderfully increased.

The Jersey suburban improvements are costing many millions of dollars and when trains next fall begin using and when trains next fall begin using the four track cut through the Bergin Hill, the company will have an en-trance to its Jersey City Terminal that will practically be uncloggable. De-spite the Bergin tunnel congestion, at the present time, Erie suburban trains show a punctuality hardly equalled by any commuter carrying road in this vi-cinity. From 30 to 98 per cent on time has been the monthly average, through passenger service, the On the trains maintained an average of 88 per cent. This figure is nearly the maximum, there being but one line with a better

there being but one line with a better record, but it has fewer trains and only 2-3 the mileage. At Jersey City, a subway is under construction, leading from the train shed to the station of the Hudson tun-nels, where trains will be taken for the terminal at Church and Cortlandt tract of an 24th street and Sixth avestreet or for 34th street and Sixth ave-nue. It may not be long before the service will be extended to 42nd street. Some day it is expected that all the Erie suburban lines will be electrified and then its trains will connect with under-the-water tubes and land passen-gers in New York, without change. In addition to its regular Wells-Fargo

Express specials, the company has in-stalled another fast express to Chicago and return to take care of the C. M.

CARD OF THANKS.

We wish to extend our thanks and gratitude to the brethren and sisters who attended the funeral services o Emanuel P. Petersen at Joseph W Taylor's undertaking parlors on Tues lay. We regret the scarcity of carriages ind also not having the opportunity to shake hands with all the people,--Relaives of the Deceased.

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UTAH VALLEY DAYS.

Weds., May 26, Sat., May 29. Utah Racing Specials via Salt Lake Route. Leave Provo 10:30 a. m. Round trip \$1.25. Low rates from other stations \$1.25. Low rates from other stations to Murray inclusive. Wednesday Utah Valley Speed Purse. Saturday, Decora-tion Day, \$1,000.90 Stake race. Ask Salt Lake Route agent and see bills.

WALL PAPER. The attention our new line attracts and the enthusiasm it is stirring up by all who see it, is the best evidence that as usual we are in the lead and have hit the mark. GEO. W. EBERT & CO.,

. 57 Main.

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