

Weather.

Washington, May 10—Forecast for North Carolina for tonight and Tuesday: Fair in west; showers in east portion tonight.

The Evening Times

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UNWRITTEN LAW INVOKED BY THE HAINS DEFENSE

Will for the Most Part However Stick to Insanity Plea

MCINTYRE'S SPEECH

Reference to Unwritten Law, Was Made Adroitly by the Chief Counsel For the Defense—Called Attention to the Fact Simply That He Couldn't Under the Rules of Evidence Take Advantage of the Ancient Law of Old That Any Man Could Destroy the Violator of His Home—Mr. McIntyre Will Probably Speak the Greater Part of the Day.

(By Leased Wire to The Times)

Flushing, L. I., May 10—The great unwritten law of centuries was adroitly appealed to today by John F. McIntyre, chief counsel for Captain Peter C. Hains, Jr., U. S. A., in his closing remarks to the 12 men who for three weeks have been sitting in judgment over the army officer, charged with killing William E. Annis at the Bayside Yacht Club on August 16, 1908.

The lawyer's references to the wreckage of the young officer's home by his former friend, the dead man, were necessarily introduced in a negative manner. Mr. McIntyre did it in this way: He called the attention of the court to the fact that the rules of evidence prohibited him "from taking advantage of the ancient law laid down in the Old Testament which plainly condemned the adulterer to death," or the tenets of the old Greek law—given by Solon, and followed by the Athenians, who believed that "any man could destroy the violator of his household."

Before the convening of court Mr. McIntyre said he expected his address would run well into the afternoon.

"I will take three and a half to four hours," he said. "My remarks will, for the most part, be argumentative. I will stick to the insanity plea throughout. The stand taken by the state's alienists, I am sure I can prove ridiculous. They never made an examination of Captain Hains."

The fame of Mr. McIntyre crowded the old Flushing town hall to the doors long before the hour of convening. Two-thirds of the crowd were well-dressed women.

Mr. McIntyre opened his address with the blunt and forceful declaration that the death of William E. Annis was brought about by direct act of the Almighty.

"Captain Peter C. Hains, Jr., was the agent by which this act was committed," he said.

"Is the jury going to remove him and leave these three little children alone in the world? They have no mother."

"The prosecution says that the defendant was sane at the time he shot Annis. The burden then is on the prosecution to show beyond a reasonable doubt that he was sane at that time."

"The state by a few acts and observations detach from a mass of evidence tries to convince you that he was sane. But even with these few acts we have medical science which shows that an insane man may speak and act at times as though he were sane. Why didn't the prosecution bring as witnesses of his rationality the men, women, and children who were on the pier and float of the Bayside Yacht Club the day of the tragedy? Funke and Birchfield were there and they were not called on to testify as to his rationality."

Captain Hains was brought into court a little earlier than usual. He wore a new suit of black clothes, the trousers being neatly creased. He removed his overcoat, which he has always worn in the court, and folding it neatly, placed it over the back of his chair.

There was an affectionate meeting between Captain Hains and his little white-haired mother just before Justice Garretson came into court.

Throwing her arms about her son's neck Mrs. Hains hugged and kissed him to her heart's content. Tears streamed down the cheeks of both. Most of the women in court were seen to turn away their heads.

After an analysis of the expert testimony Mr. McIntyre leaned over the

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IN HONOR OF VETERANS

Colonel Robert E. Lee Guest of Honor

Old Veterans Enjoy Annual Dinner at Woman's Club—Colonel Lee Speaks at Capitol on "The Confederate Soldier"—Reception at Capital Club Tonight.

Memorial Day in Raleigh today is attended by unusual interest from the presence of Col. Robert E. Lee, the oldest grandson, of the south's beloved chieftain, General Robert E. Lee. There could be no more welcome visitor to the city, nor one more appropriate to make the annual address.

On account of the rain the dinner for the old soldiers had to be served in the Woman's Club, instead of the Capital Square.

Long tables were loaded with plates of sandwiches, cake, pickles, pies, and bananas. They were set in two rooms of the club building.

The long line of old veterans, some halt and lame, all bowed and gray-headed, marched up Fayetteville street through the capitol and around to the club building, headed by the immortal Old Confederate Drum Corp and carrying the old Confederate flag. They filled the rooms to overflowing and were banded two and three deep around the tables.

A number enjoyed their dinner on the outside of the building. It was a happy event, all were jolly and happy and thoroughly enjoyed the good things. They were served by the ladies of the Memorial Association and the Daughters of the Confederacy. The new uniforms looked fine and as one lady remarked they looked ten years younger.

It was the largest crowd that has ever attended one of the dinners, in spite of the fact that the ranks are rapidly thinning. This was no doubt owing to the fact that the guest of honor at the dinner was Colonel Lee. They were all eager to meet him and shake his hand for deep in the heart of every one is a great and abiding love and reverence for General Lee. All of them wished to be in the room where Colonel Lee was and he was surrounded by such a crowd that it was almost impossible for the ladies to serve them.

He was kept busy shaking hands and had a genial smile and a hearty and cordial work for every one of them.

One old man approached with his shaking hand extended and said:

"They tell me you are a grandson of General Lee. Well, I just want to shake your hand and tell you I fought with him through it all."

Colonel Lee rose and shook his hand and that of all the others extended to him.

Colonel Kenan, whose guest he is during his stay in the city introduced him to the veterans.

In his deep and hearty tones he said a few words to them before they began dinner.

In the name of the city he bade them welcome to the dinner and asked them what they would have done if they had happened on anything like that between 61 and 65.

"During the war," he said, "the cavalry got the most buttermilk, but now they were all faring alike."

He told them to fall in and enjoy themselves, for he would have them this afternoon, and there was no telling what he would do to them.

He was greeted with cheers and cries to "Go on!"

It was a great treat for the old men to meet him. His hearty cordiality and ready word for each made him doubly welcome. He is a man of unusual attractiveness, with a smile and a hearty laugh that charmed all.

Memorial Address.

The memorial exercises will be held in the hall of representatives this afternoon at 4 o'clock, instead of at the cemetery. Colonel Lee will speak on "The Confederate Soldier". The music will be by the band from the blind institution.

The program of the exercises was printed in Saturday's issue of The Times.

Reception Tonight.

The public is invited to attend the reception at the Capital Club given in honor of Colonel Lee this evening from 9:00 to 10:30 o'clock.

Jeffries Will Fight Johnson.

(By Leased Wire to The Times) Chicago, May 10—James J. Jeffries, upon his arrival here today, declared that he would fight Jack Johnson within five months after the expiration of his present theatrical engagement, which expires on June 26.

Drayman Inherits \$40,000,000.

Des Moines, Ia., May 10—H. H. Beans, a drayman at Sheldon, Ia., was today notified that he is heir to an estate of \$40,000,000 in New York City. Beans is poor and has a family. He will go out at once.

THE INSURGENTS MAY FORCE SOME CONCESSIONS

But Aldrich Tariff Bill Will Likely Pass Substantially as Reported.

PROGRESS BEING MADE

Finance Committee Has No Doubt About Having a Majority for the Measure as a Whole But Some of the Amendments Reported by the Committee May Be Defeated by Western Senators—If Democrats Vote With the Insurgents There Will Be a Few Changes Made in the Bill—Will Be Finally Passed by Strict Party Vote.

(By Leased Wire to The Times)

Washington, May 10—A member of the senate finance committee said today that at no time has the committee been in doubt about having a majority for the Payne-Aldrich tariff bill, the only question that has given the committee any concern, he said, was the probability that some of the amendments reported by the committee would be defeated by the votes of certain western senators. The situation in the senate, said the senator, is very much like that which prevailed in the house after the Payne bill was taken up for consideration by that body. The insurgent members were strong enough to force the majority of the ways and means committee to make certain concessions, and to put in the rule a provision that permitted a record vote on lumber, hides, oil, tea and coffee. The insurgents in the senate are strong enough to make the finance committee give them the same consideration.

If the democrats vote with the insurgent senators, there will be few changes made in the bill, but indications are that the result will be as it was in the house, that is, the finance committee will be sustained by democratic votes as was the ways and means committee and the bill will be passed by practically a strict party vote, as was the case in the house. The senator asserted that a vote on the passage of the bill and amendments could hardly be looked for before the last week in May. It would depend in a large measure, he said, on the insistence of the insurgent senators from the west.

The senate convened at 11 o'clock. A controversy was immediately precipitated between Senators Beveridge and Aldrich. By way of criticism Senator Beveridge asked to have inserted in the record a statement by Senator McCumbe that there was no definite information before the senate on the subject of tariff commission, and also a statement made by Senator Aldrich on May 6 that he had not read the hearing before the ways and means committee and did not know what they contained.

Senator Aldrich was much irritated and replied hotly that he had given 30 years of his life to the study of the tariff, but admitted that his knowledge fell short of that possessed by the senator from Indiana. If Beveridge would give a fraction of the time he spent in lecturing senators, said Aldrich, and declaiming against a lack of information on the part of the senate, to a study of the tariff, much greater progress would be made. Consideration of the lead schedule was then resumed.

Mr. Taft's well known views regarding southern appointments awakened hope in democratic breasts and many receptive and active candidates developed in the opposition party. The president went into the field thoroughly and has canvassed the whole democratic available field, as well as the republican field. The republicans made a strong fight against the appointment of any democrat but never seemed able to agree on any one of their own number for the position. And now the fight has ended with the appointment of a democrat. There will be a feeling of rest in the state now that the thing is over, also a general feeling of satisfaction in all but republican circles.

Pranks of Freshmen Were Serious.

(By Leased Wire to The Times) Cincinnati, May 10—Members of the sophomore and freshman classes of the Kentucky State University are blamed for putting ipecac in the punch and croton oil in the lemonade at the annual junior promenade in the university and causing several of the girl and boy students to become seriously ill.

Tornado Costs Many Lives.

(By Cable to The Times) Bombay, May 10—A tornado, accompanied by high winds and excessive rains, has done much damage and cost many lives. It is reported from Galicut on the Malabar coast that 50 native vessels have been sunk.

President's Uncle Elopes.

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Another Record Run.

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The French Broad and Swannanoa rivers are rising rapidly but very little damage is apprehended, other than to bottom lands.

JUDGE CONNOR APPOINTED TO THE JUDGESHIP

Long Contest Ended by the Appointment of Supreme Court Justice

REMARKABLE CONTEST

President Taft Today Ended the Long Drawn Out Contest Over the District Judgeship by the Appointment of a Straight Democrat to the Position—Appointment Follows Interview at White House Between the President and Senators Simmons and Overman—Appointment Will Give General Satisfaction in all but Republican Circles.

(By Leased Wire to The Times)

Washington, May 10—Senators Simmons and Overman discussed with President Taft today the appointment of a judge of the eastern district of North Carolina. Shortly after they left the white house the president sent to the senate the nomination of Henry Groves Connor, to be United States district judge for the eastern district of North Carolina, vice Thomas R. Purnell, deceased. Judge Connor has been for about ten years on the supreme court bench of North Carolina and previous to that was judge of the superior court. He is a democrat. His appointment is a victory for the North Carolina senators.

For several days it had been regarded as practically certain that Judge Connor would get the judgeship but Saturday it was given out that there was a hitch and so those who had felt sure that Judge Connor would get the appointment were put to guessing again. It was also given out Saturday that the president had invited both the North Carolina senators to the white house for a conference this morning on the situation and news of the appointment follows immediately upon the heels of this conference.

The confirmation of the appointment by the senate will bring to an end one of the most remarkable contests of the kind ever witnessed in this country. Early last fall President Roosevelt, after a spirited contest, in which the republicans of the state engaged, appointed Mr. Seawell, of Carthage, to the position. There was a protest from the state and the senate failed to ratify the appointment and it went over as one of the Roosevelt inheritances to the next administration.

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DAVIS GOT \$500,000

No Assets Whatever to Cover Transactions

His Victims Had Such Faith in Him That Even Ordinary Precautions Were Not Taken to Save Themselves—Has Been in North Carolina Insane Asylum.

(By Leased Wire to The Times)

Washington, May 10—The district authorities are satisfied that a half million dollars is the lowest possible limit to the money secured by John C. Davis, the Washington lawyer arrested Friday. Davis is held in \$29,000 bail and \$10,000 is demanded for the temporary release of his brother, Martin T. Davis, secretary of the Potomac Building and Loan Association, who was arrested on a charge of conspiracy in his brother's affairs. Neither was able to give bond.

For the half million dollars received by John C. Davis, the authorities have been unable to find any assets. There is, so far as can be found, no money, not a mortgage, no investments of a magnitude to account for even a small portion of the receipts. Neither brother lived in an extravagant manner.

Chief of Police Goods, of Alexandria, Va., across the river, is out \$4,000, and his brother invested \$3,000. The chief of police is so chagrined that he will not talk.

Davis' victims seem to have had such absolute faith in his probity they did not take even conventional means to secure themselves.

Davis was formerly in the North Carolina hospital for the insane. He was discharged as cured about ten years ago, when he came to Washington and organized the building and loan association of which his brother is secretary. District Attorney Baker will have experts put at work on the books of the organization immediately.

RAVENS FAILED TO COME.

But the Storm Did and the Poor Man Almost Died of Starvation.

(By Leased Wire to The Times) Chicago, May 10—E. M. Brook, the aged Zion City man who lay four days under a tree during the recent severe storm agitating the ravens to feed him, is slowly recovering from the exposure. He had read about Elijah, by exercising faith, being fed by ravens and he decided to try it. He had enough faith to last four days, during which time he prayed incessantly, but the fierce April tempest came up and the ravens were not on the job. Then poor Brook, drenched, almost frozen, and on the verge of starvation, finally gave up and suffered himself to be carried back to his cabin, where he was dried out and fed.

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THE PORTO RICAN CRISIS SUBJECT EXTRA MESSAGE

Emergency in the Island Government Calls for Special Action.

NO APPROPRIATIONS

No Provision Made For Running Government and After June 30 No Money Will Be Available For the Support of the Island Government. House of Delegates Held Up Appropriation Bills in Order to Get Concessions From the Executive Council—President Recommends Change in the Law That Will Get Around the Difficulty.

(By Leased Wire to The Times)

Washington, May 10—The president today sent to congress a message concerning Porto Rico. It is in part as follows: "To the Senate and House of Representatives:

"An emergency has arisen in Porto Rico which makes it necessary for me to invite the attention of the congress to the affairs of that island, and to recommend legislation at the present extra session amending the act under which the island is governed. "The regular session of the legislative assembly of Porto Rico adjourned March 11 last, without passing the usual appropriation bills. A special session of the assembly was at once convened by the governor, but after three days, on March 16, it again adjourned without making the appropriations. This leaves the island government without provision for its support after June 30 next. The situation presented is therefore of unusual gravity.

"Ever since the institution of the present assembly, the house of delegates has uniformly held up the appropriation bills until the last minute of the regular session, and has sought to use the power to do so as a means of compelling the concurrence of the executive council in getting what they desired. "The attitude of the executive council in refusing to pass these bills led the house of delegates to refuse to pass the necessary appropriation bills. "The facts recited demonstrate the willingness of the representatives of the people in the house of delegates to subvert the government in order to secure the passage of certain legislation.

"For these reasons I recommend an amendment to the Foraker act providing that whenever the legislative assembly shall adjourn without making the appropriations necessary to carry on the government sums equal to the appropriations made in the previous year for the respective purposes shall be available from the current revenue and shall be drawn by the warrant of the auditor on the treasurer and countersigned by the governor. Such a provision applies to the legislature of the Philippines and Hawaii, and it has prevented in those two countries any misuse of the power of appropriation. "The house of delegates sent a committee of three to Washington, while the executive council was represented by the secretary and a committee consisting of the attorney-general and the auditor. I referred both committees to the secretary of the interior, whose report, with a letter from Governor Post, and the written statement of both committees, accompany this message. "I have had one personal interview with the committee representing the house of delegates and suggested to them that if the house of delegates would pass the appropriation bill without insisting upon the passage of the other bills by the executive council, I would send a representative of the government to Porto Rico to make an investigation and report in respect to the proposed legislation. Their answer showed them not to have been in a compromising mood. "Porto Rico has been the favored daughter of the United States. The sovereignty of the island in 1899 passed to the United States with the full consent of the people of the island. "There is complete free trade between Porto Rico and the United States and all customs duties collected in the United States on Porto Rican products subsequent to the date of Spanish evacuation, amounting to nearly \$3,000,000 have been refunded to the island treasury. The

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TRUST BUSTER WILL RESIGN

(By Leased Wire to The Times)

Washington, May 10—Frank B. Kellogg, special counsel for the department of justice and "trust buster" today informed President Taft and Attorney-General Wickersham of his intention to leave the public service and retire to the practice of law in Minnesota as soon as he has finished the important cases for the government on which he is now working, chief of which is the Standard Oil case. Mr. Kellogg has been special counsel for the department of justice for several years.

ANOTHER HEIRESS MARRIES NOBLEMAN

(By Leased Wire to The Times)

New York, May 10—Miss Nora Iselin, the beautiful daughter of C. Oliver Iselin, the millionaire, was married this afternoon to Count Coloredor Mansfield, a member of the Austrian nobility, and secretary of the embassy of his country at Rome. The ceremony, according to the Roman Catholic ritual, was performed at the home of Columbus O'Donnell Iselin, the bride's uncle, at No. 3 west 52nd street.

There were many reports in circulation to the effect that the bride's father was opposed to the match and would not be present at the wedding ceremony to give his daughter away. This was discredited, however, by the presence of Mr. Iselm and an authorized statement from Mr. Columbus Iselin, denying all the reports of friction.

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