

The Capitan Progress.

A Journal Devoted to the Interests of Lincoln County.

VOLUME 4.

CAPITAN, LINCOLN COUNTY, NEW MEXICO, JULY 3, 1903.

NUMBER 17.

McMILLAN'S BITTER REPLY.

Dissatisfied with Decision of the Department of Justice.

Will Appeal to the Senate.

The Denver News has secured the first full statement to be given out by Judge Daniel H. McMillan who has been removed from the judgeship of the Fifth judicial district of New Mexico.

The judge states that the allegations of immorality were trumped up by a band of disappointed and unscrupulous office-seekers and their followers. The men, he says, who made sworn statements against him are notorious characters.

While the position itself is of no especial importance in his eyes, he says he will fight to remove the smirch from his name. When the United States senate convenes for its next term, the judge will appeal to that body for a complete review of his case from the evidence presented, and he is confident that the stain upon his name will be removed. He says he feels not the slightest malice for the Washington officials who reviewed the evidence in his case and recommended his removal from office. He believes they acted purely upon their honest convictions in the matter. The judge said:

"I am surprised at the outcome of my case. I never had charge of a matter where every point in controversy had been more thoroughly met and answered.

"The attack upon me was one of the most depraved and vicious ever made upon a public official. It was actuated by malice, ambition and disappointment. The spirit of malevolence was rampant, and inability in certain quarters to control judicial action added fury to the attack.

"My appointment naturally caused some heart-burning, and with a few designing minds to formulate a scheme, the ever-ready affidavit man was attainable at a price.

"Bert Roland, the star witness against me, is a defaulter, a thief and a drunkard, and is now in the penitentiary at Santa Fe.

"George White is a self-confessed suborned perjurer, and he admitted he was paid for making his affidavit.

"Baca killed a man at Socorro,

and the record shows he was convicted on his own plea of guilty of an assault to kill, and was the late partner of the person most active against me. He has left the territory.

"Irwell is a thief. The certified records of three convictions for larceny were filed against him in the case.

"This is a coterie of depraved affidavit men sufficient to damn any case before an unprejudiced tribunal.

"I believe Attorney General Knox intended to be eminently fair and just, but the assistants in the department were filled with prejudice against me by one of my opponents, a former official in the department, who went to Washington and manipulated the case against me. He was a candidate for appointment to the position in the event he could bring about a vacancy. This atmosphere of prejudice in the department was so dense, the influence of it was so strong, and the attorney general was so impressed by it, that when the only affidavit on file was that of the convict Roland, he stated to Mr. Hughes and Llewellyn that the department had proof positive against me.

"With the exception of a few individuals whom I shall not characterize, I believe I have the confidence of every community in New Mexico, save one small village where the minds of the decent people have been poisoned against me.

"The judgeship itself is of minor consideration. I do not, however, intend to allow this smirch upon my character to stand. I declined to resign after the decision was formulated. When congress convenes I shall ask the senate to send for the record and pass upon the question.

"John G. Milburn, one of the most eminent and fair-minded attorneys of New York, went to Washington and personally examined the record of the case, as made on both sides, and advised Senator Depew that there was nothing in the entire record to sustain the charge or to justify any disposition except its dismissal.

"Yes! In this instance the penitentiary stripes have so far prevailed over the judicial er-

Thousands of Acres Returned to the People.

The court of private land claims now in session in Santa Fe has dismissed two important land grant suits, involving many thousands of acres, which will revert to the public domain. One suit was that of Manuel Martin versus the United States for the Galban grant in Bernalillo county and the other of Mariano F. Sena vs. the United States for the Jose De Levoa grant in southern Santa Fe county, on which the famous turquoise mines of the American Turquoise company are located. This latter case had been appealed to the United States supreme court, and the order and mandate affirming the previous decree of the court was filed.

Rodey Raises a Rumpus but Teddy Stands Pat.

The New Mexico delegate called at the White House, and, it is related by a correspondent, told the President that Smith's appointment was not at all satisfactory to the people of the territory, for they believed that residents of the territory should be given the territorial offices, and had particular pledges as to the successor of Judge McMillan.

President Roosevelt intimated that this place had been promised to the friends of Judge Smith some time ago, and explained that the appointment having been made could not be revoked, whereupon Delegate Rodey told the President that the people of New Mexico will fight Judge Smith's confirmation in the senate.

An arrangement had been made by Attorney General Knox to transfer to Judge McMillan's place Judge Louis Sulzbacher, now associate justice of Porto Rico, who formerly resided in New Mexico. Judge Sulzbacher is in Washington, having been summoned by Attorney General Knox, who believed the transfer would be authorized by the President. When the President learned that the scheme had been fixed up without his knowledge he destroyed the order prepared by Knox. Judge Sulzbacher will return to Porto Rico.

Delegate Rodey called on Sen-

ator Butrows, who brought Judge Smith's case before the President and denounced the Michigan senator for interfering in New Mexico appointments.

SMITH OF MICHIGAN

The Man who Succeeds McMillan.

The following is a sketch of the career of Judge Clement C. Smith of Michigan, who has been appointed associate justice of New Mexico to succeed Judge Daniel H. McMillan:

Clement Smith, judge of the fifth judicial district of Michigan and a lawyer of recognized ability was born December 4, 1844, near Fort Wayne, Indiana, and was brought to Michigan in infancy by his parents, who settled near Nashville, Barry county. His early life was spent at work upon the farm and in attendance upon the district school. In 1865-6 he attended the law department of the University of Michigan and was admitted to the bar in the spring of '68, beginning the practice of law at Nashville in the same year. In 1869 he formed a law partnership with Harvey Wright of Middleville, which continued for about six months. He then returned to Nashville, where he resumed practice, which he continued alone until 1875. In that year he was elected probate judge of Barry county, and removed to Hastings. This office he held for eight years. In 1880 he formed a partnership with P. H. Colgrove which was continued until Judge Smith was called to the bench. On January 3, 1898, he was appointed by Governor Rich, judge of the fifth judicial circuit, and at the election following he was elected for the unexpired portion of the term, and also for the full term which expired December 31, 1899.

Of Interest to Teachers.

Examinations of applicants for teachers' certificates will be held in each county in the territory on the last Fridays of August and November. Before being permitted to teach, they must produce a certificate of attendance in upon some county or city normal institute or summer school held within the territory. This is according to the late certificate law.

THE CAPITAN PROGRESS

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 Six Months .50

Griffith Preferred.

Anent the change of judge in the Fifth judicial district, comes the question of District Court clerks. Many judges have some friend whom they wish to favor with the appointment, and the principle is all right in most cases; but, like everything else, there are exceptions to the rule, and we believe that an exception should be made in this case.

Judge Smith will come to this territory without a knowledge of the people or conditions. There are many things that will be new to him, even in matters of jurisprudence, which will require the assistance and counsel of some trusty person who is free from bias and at the same time competent to advise. Such qualifications should be possessed by the clerk of the court, and J. E. Griffith has, during his incumbency of the office of district clerk, proved himself to be a most competent official. Mr. J. E. Griffith has performed the duties of his office in a most creditable and satisfactory manner; his universal courtesy and affability has endeared him to the members of the bar, and all others who have had business with the court.

The Progress voices the sentiment of the people of Lincoln county in asking that John E. Griffith be retained by Judge Smith in his present position.

Gone to the Great Beyond.

We were shocked to learn this week of the recent death in El Paso of heart failure, of the Hon. H. B. Hamilton.

A Missourian by birth and training, he had attained high rank at the bar of his native state before he transferred his residence to Socorro, in 1880.

His rise to prominence as a citizen and lawyer of New Mexico was rapid. A genial disposition and an entire honesty won him a position among his friends which few attain.

A democrat in politics, Cleveland gave him the judgeship of the Fifth judicial district. In this great office he so bore himself as to win all hearts. A great lawyer he had been known to be.

As judge he was found prompt, courteous, firm, impartial; on occasion stern, but ever disposed to temper justice with mercy.

When he came among us as our judge, he was respected. When, after four years, he left us, he was beloved. Can we say more?

Soon after leaving the bench he changed his residence to El Paso, Texas, where he enjoyed the reputation he deserved as a citizen and a lawyer.

Life's toilsome journey ended, may he rest in peace.

FIREWORKS A large order of fireworks was received this week by the S. W. Mer. Co., including everything in the line from squibs to roman candles and powerful sky-rockets.

The M. A. Wharton & Co. Testimonial.

Fort Stanton, N.M.,
 May 13, 1903.

Dear Sir: Your account of the Wharton fire in a recent issue reminds me that your paper is the proper mode of communication with the public. Will you kindly state in your next issue that a subscription has been started for the relief of the family of John Wharton, and that contributions are invited from a generous people, which may be sent to your paper, in which the names of the subscribers and the amounts will be published each week.

This is a very sad case and a little aid and comfort now will be more valuable than if deferred.

With confidence that this brief statement will suffice, I remain,

Yours truly,
 J. V. TULLY.

The following subscriptions have been already received:

Ira Wetmore & Co.	\$10.00
E. J. Coe	5.00
J. V. Tully	25.00
A. J. King	10.00
S. W. M. Company	15.00
W. M. Edison	2.00
Geo. A. Pittsworth	5.00
Total	\$72.50

Mrs. Agnes Carr	\$25.00
P. G. Peters	5.00
Nic. Bastion	5.00

Notice for Publication.

Land Office at Roswell, N.M.,
 June 16, 1903.

Notice is hereby given that the following-named settler has filed notice of his intention to make final proof in support of his claim and that said proof will be made before the Register or Receiver at Roswell, N.M., on August 11, 1903, viz: Nicolas Chaves, homestead application No. 2406; for the w^{1/2} nw^{1/4}, Sec. 20, and e^{1/2} ne^{1/4} Sec. 19, Tp. 7 S., R. 16 E.

He names the following witnesses to prove his continuous residence upon and cultivation of said land, viz:

Daniel Vegil, Bernardo Montoya, Eugenio Garcia, Antonio Chaves, all of Richardson, N.M.

HOWARD LELAND, Register.
 1st pub June 19 03

Notice for Publication.

Department of the Interior,
 Land Office at Roswell N. M.,
 May 16, 1903.

Notice is hereby given that the following-named settler has filed notice of his intention to make final proof in support of her claim, and that said proof will be made before the United States Commissioner at Lincoln, N.M., on July 6th, 1903, viz.: George A. Peter; Homestead application No. 3031 for the e^{1/2} of ne^{1/4} and e^{1/2} of se^{1/4}, Sec. 35, Tp. 8 S., R. 16 E.

He names the following witnesses to prove her continuous residence upon and cultivation of said land, viz:

Samuel Hurst, Robert Morris, and Leslie Ellis, all of Lincoln, N.M.

HOWARD LELAND, Register.
 First pub May 22 03.

Notice for Publication.

Land Office at Roswell, N.M.,
 May 20, 1903.

Notice is hereby given that the following named settler has filed notice of his intention to make final proof in support of his claim, and that said proof will be made before the Probate Clerk at Lincoln, New Mexico, on July 6, 1903, viz: Clarence I. Moulton, Homestead application No. 2399, for the e^{1/2} sw^{1/4} sec. 19, and e^{1/2} nw^{1/4} sec 30, Tp. 9 S., R. 13 E.

He names the following witnesses to prove his continuous residence upon and cultivation of said land, viz:

James Moulton, Fred Pfingsten, Robert H. Bourne, Albert H. Pinsten, all of Nogal, N. M.

HOWARD LELAND, Register.
 first pub may 22 03.

The S. W. M. Co. has just received a new line of Vandyke Granite ware. If you need anything in this line call and see them, prices are right.

There is more Catarrh in this section of the country than all other diseases put together, and until the last few years was supposed to be incurable. For a great many years doctors pro-

nounced it a local disease and prescribed local remedies, and by constantly failing to cure with local treatment, pronounced it incurable. Science has proven catarrh to be a constitutional disease and therefore requires constitutional treatment. Hall's Catarrh Cure, manufactured by F. J. Cheney & Co., Toledo, Ohio, is the only constitutional cure on the market. It is taken internally in doses from 10 drops to a teaspoonful. It acts directly on the blood and mucous surfaces of the system. They offer one hundred dollars for any case it fails to cure. Send for circulars and testimonials.

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ARE ASKING FOR FLOUR." EH?

Local and Personal.

Mrs. J. B. Collard of Parsons was visiting here this week.

P. G. James and wife of Parsons were visitors in Capitan this week.

The railroad office of Walnut between here and Carrizozo, has been temporarily discontinued.

The genial J. V. Tully of Fort Stanton was transacting business here Monday and circulating among his many amigos.

J. T. Brown, late of St. Johns, Arizona, is now employed as bookkeeper in the company store here.

E. D. Robinson, the El Paso saddlery salesman, dropped into town this week. He is making his regular quarterly rounds.

With the thermometer at 93 in the shade, a shower of hail followed by a downpour of rain occurred in this section Monday. It was fine, cooling and refreshing.

R. G. Stewart, an El Paso grocery man, spent several days here this week. Mr. Stewart at one time was in business in Socorro, and is well known throughout Lincoln county.

J. P. Nash, agent and dispatcher at this point, leaves today for Southern Texas, where he has secured a more lucrative position. Mr. Nash made a host of friends here, who will regret his departure.

Prof. James H. Gaut, a taxidermist, is trapping wild animals of this neighborhood and mounting them for the museum of the Department of Agriculture. The professor is at present staying at J. A. Mundell's south of town.

Camping in the mountains is now in order. Fishing in the upper waters of the Bonito and Ruidosa is reported good. W. M. Reily landed 42 on the Bonito one afternoon lately. We have his word for it and his veracity has never been questioned on fish or bear stories.

Mrs. W. C. Cheatham and Miss Lulah and Master Leonard went to Roswell last week to join Mr. Cheatham who has been located there for some time, and to make their future home. By this removal Capitan loses a very estimable family.

North Capitan is soon to have a postoffice of its own. The name of the new office will be Coalora, and G. F. Graves will be the postmaster. This arrangement will be highly satisfactory to the people of the upper town, as they have found it very inconvenient to come so far for their mail.

Two young men were arrested Thursday and taken to Lincoln charged with catching up range horses, using them, and then turning them loose. This is a serious charge and entails a term in the penitentiary if proven.

The Kapitan Komedy Kompany, an aggregation of local artists in the north camp, gave an entertainment in the town hall Tuesday night. The program was on the vaudeville order, comprising a farce, comic sketches, song and dance stunts, etc. The members acquitted themselves cleverly, and with more practice and coaching should be able to produce a good drama interspersed with specialties.

A wrestling match was pulled off in the hall in the north town after the show Tuesday night, between Dominick Eggnow and Frank Morgan. The latter is twenty pound the heavier, but lacked the quickness and agility of the lighter man. Each gained a fall, and the bout was declared a draw with honors even.

Mrs. G. L. Bradford and children, and Miss Bird Luttrell returned Wednesday from Texas, where they have been several months visiting relatives and friends at different points in that state. Capitan welcomes them home, but regrets to learn that they will soon go to Three Rivers to spend the remainder of the summer, as Prof. B. as forest ranger has his headquarters there.

The following weather conditions, taken by Ernest W. Halstead, prevailed at Fort Stanton during June: Maximum temperature, 92 degs., on 28th, 29th and 30th. Lowest temperature, 41 degs., on the 7th. Hail fell on the 2nd. Thunder storms occurred on the 3rd, 4th, 5th, 14th, 15th, 16th and 25th. Number of clear days, 16; cloudy, 10; partly cloudy, 4. Total precipitation, 3.41 inches.

Preparations are all finished in North Capitan for a two-day celebration. The race track has been put in shape, and the ponies are stepping high. The dancing pavilion will accommodate a dozen sets at one time, and a number of extra events, including several pony races, have been added to the program. The sports will last two days, and an immense gathering of outside people is anticipated. To W. L. Weber and James McCartney belong the lion's share of the credit for bringing to so successful an issue the carnival which will be ushered in at day-break on July 4th by the popping of giant powder.

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A Wonderful Hen.

A hen of the Domenecker species, in this town, is said to be accountable for an egg on which the figures "1904" are traced in relief. It may be that this hen ambitions a niche in the hall of fame or a place in the poultry exhibit at the St. Louis exposition, and if she would include the day of the month on her product, she would confer a blessing on the community. Then, the embalmed eggs of Kansas could no longer be dished up for breakfast in the shell, and guaranteed strictly fresh. Not being versed in poultry matters, we refrain from expressing an opinion on this freak of the poultry yard, further than to say the figures are of the kind known as plyn-oath in printing circles. The egg is on exhibition in the glass case of the S. W. Mercantile store, where any one interested can examine it and learn its history.

A Boon to Man and Beast.

After lying in a state of "innocuous desuetude" for a year or more, the town pump is again giving forth a cold, clear and comparatively good quality of water. This change was brought about by our enterprising merchants and a few philanthropic private individuals, who defrayed the expense of cleaning out the town company's well on the plaza and having needed repairs done on the pump. So now the traveler who comes to town can treat his team to a drink from the public water font. We hope this old public necessity will "stay put" now. The vagaries of the quick sand have cost the company and the town no little money and trouble.

In this respect, now that the well is cleaned out and deepened, we believe if the matter was laid before the town company, they would stand the cost of erecting a tank of limited capacity, and surmounting the well with a windmill. The cost would be small, and might be the means of saving thousands of dollars worth of property in case of fire.

Teachers' Institute.

The regular Teachers' Institute will be held at Capitan on August 3, 1903, and will remain in session four weeks from that date.

The regular examination of teachers takes place on Friday, August 28.

As heretofore, teachers are required to attend the County Institute at least two weeks; but as little real beneficial work can be done in such a limited term, it has been decided that we have a two weeks longer session than usual, and it is to be hoped that all teachers will attend the full time.

How. J. Con.
County Supt. of Schools

Astray Notice.

Notice is hereby given by the undersigned that on May 15, 1903, he took up one haldblood and horse, about ten years old and branded thus: JBA on the right shoulder. The owner can have same by paying expenses of keeping same and paying for this notice and other expenses that may accrue.

PROCESSED BY
Lincoln, N. M., Jun 16 1903

Contest Notice.

Land Office at Roswell, N. M.
April 10th, 1903

A sufficient contest affidavit having been filed in this office by Rufus E. Choate, contestant, against Homestead Entry No. 2656, made June 25th, 1902, for the North-east quarter of Section 21, Township 9 S., Range 13 E., by Fred W. Swope, Contestee, in which it is alleged that said Fred W. Swope has made no improvements upon the said described tract, and never established his residence thereon, and has been

The said contestant having, in a proper affidavit, filed May 16, 1903, set forth facts which show that after due diligence personal service of this notice cannot be made, it is hereby ordered and directed that such notice be given by due and proper publication.

HOWARD LELAND, Register.
DAVID L. GUYER, Receiver.
first pub may 22 41

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CAPITAN, N. M.

TERRITORIAL BREVITIES.

The forest reserve rangers have received instructions to be particularly on their guard against forest fires during the summer.

Judge John D. Bail, one of the oldest attorneys in New Mexico, and who has been a resident of Silver City since the seventies, died at his home there Friday.

Major Fred Muller has just concluded a series of successful experiments in raising silkworms from eggs furnished him by the department of agriculture. The business men of Santa Fe propose to purchase a large tract, plant it with mulberry trees and make further experiments along these lines.

Governor Otero received a telegram last week from President Roosevelt asking for his approval of the contemplated presentation to the city of Santa Fe for public school purposes, with the exception of the residence and lot at present occupied as the executive mansion. The reservation occupied eighteen acres in the heart of the city and its dwellings are occupied by federal office holders and others free of rent at present.

Postmaster Kahn, of Taos, who recently resigned, was arrested last Thursday, brought to Santa Fe and taken before U. S. Commissioner Victory, charged with appropriating \$156 of postal funds. He was bound over to the U. S. grand jury under a thousand dollar bond. In addition to being short in his funds, he is accused of violating the law by selling postage stamps and taking merchandise in place of cash, and of issuing money orders to repay money that he had borrowed to cover a postal account shortage.

The postoffice receipts for the past fiscal year are a good index of the relative commercial importance and prosperity of New Mexico towns. The figures for past fiscal year are as follows: Albuquerque, \$24,855; Santa Fe, \$10,494; Roswell, \$10,219; the consolidated Las Vegas office,

\$10,179; Raton, \$8,140; Silver City, \$5,665; Carlsbad, \$4,453; Deming, \$3,944; Las Cruces, \$3,037; Gallup, \$3,004; Clayton, \$2,727; Socorro, \$2,371; Springer, \$2,150. This shows that Albuquerque is far in the lead and will likely remain in the lead for many years to come.

Notice for Publication.

Land Office at Roswell, N. M.
June 25, 1903.

Notice is hereby given that the following-named settler has filed notice of his intention to make final proof in support of his claim and that said proof will be made before the Register or Receiver at Roswell, N. M., on August 11, 1903, viz: Peter Supulver, Homestead application No. 1545 for the e. 1/4 nw 1/4 and w. 1/4 ne 1/4, Sec. 20, Tp. 8 S., R. 14 E.

He names the following witnesses to prove his continuous residence upon and cultivation of said land, viz:

Samuel G. Beard, of Richardson, N. M.; Louis Purcella, of Capitan, N. M.; West Purcella, of Capitan, N. M.; Albert Supulver, of Roswell, N. M.

HOWARD LELAND, Register.
1st pub July 3-6t

Notice for Publication.

Land Office at Roswell, N. M.
June 30, 1903.

Notice is hereby given that the following-named settler has filed notice of his intention to make final proof in support of his claim and that said proof will be made before the United States Commissioner at Lincoln, New Mexico, on August 18, 1903, viz: Reyes Sais, Homestead application No. 897, for the w. 1/2 ne 1/4 and e. 1/2 nw 1/4, Sec. 32, Tp. 10 S., R. 10 E.

He names the following witnesses to prove his continuous residence upon and cultivation of said land, viz:

Jesus Hernandez, Selso Padilla, Luciano Chaves, Carlos Marquez, all of Three Rivers, N. M.

HOWARD LELAND, Register.
1st pub July 3-6t

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