

### TREASURY LOOTING SITUATION GRAVE

#### Liability of Bank is Questioned—Gov. Balzar Hopes To Avoid Special Legislative Session.

(Reno Evening Gazette.)  
With Ed Malley, state treasurer, George A. Cole, former state controller, and H. C. Clapp, former cashier of the Carson Valley Bank, in the Ormsby county jail, the former charged with embezzling \$516,000 in Nevada state funds, and Cole and Clapp charged with abetting him in the alleged crime, the state is confronted with two major problems. One is the conviction of the three defendants, the other is the recovery of the great sum that is missing from the state treasury. The recovery of the money, in the opinion of those who are familiar with the

situation, may provoke a contest no less serious than the criminal prosecution which the state has already begun.  
Meanwhile Malley, Cole and Clapp are locked in the Ormsby county jail, in the custody of Sheriff J. J. Stern. Cole and Clapp were committed Saturday afternoon, Malley during the evening. None has made any effort to procure bonds, and according to P. A. McCarran, attorney for Cole and Malley, his clients will neither make such an effort nor accept bonds if they are offered. Responsible citizens, according to Attorney McCarran, offered bail for his clients Saturday but it was refused upon his advice.  
The trial will occur in Ormsby county, unless a change of venue to another county is obtained, and this may become necessary because of the small number of jurors available in Ormsby county. It is anticipated that great difficulty will be experienced in securing a jury in a county so small where so many persons are familiar with the case, and where so many are intimately acquainted with the defendants.

Yesterday Attorney General M. A. Diskin, who will direct the interests of the state in all of the proceedings, expressed the opinion that the state would be able to proceed not only against the bonds of Malley and Cole for the years of 1923 to the end of 1925 but might be able to proceed against their previous bonds for the period beginning in January, 1919, and ending upon the first Monday in January, 1923.  
Commenting upon the rights of the state in this respect he said that, while the general laws of Nevada relating to such instruments provided that their liability continued for six years after their expirations, the decisions of the courts in such cases were conflicting. He said that if the state could possibly collect from the older bondsmen a suit to such effect would be instituted.  
Cole's bond for each term was in the sum of \$15,000 annually. Throughout his entire service to the state his bond was furnished by the American Surety Company of New York City.  
Malley's bond was for \$100,000 for each term. His bondsmen were required, however, to qualify for twice the amount of their liability. Those who became his surety for his term beginning on the first Monday in January, 1919, and ending on the first Monday in January, 1923, qualified as follows:  
Signing under date of December 31, 1918: George Wingfield and H. G. Humphrey \$25,000 each, C. J. Miller \$20,000, S. H. Wheeler and Henry Anderson \$10,000 each, A. G. Fletcher, J. H. Clemons, C. H. Stout, W. H. Doyle, LeRoy W. French, H. H. Kennedy \$5000 each.  
Signing under date of January 6, 1919: S. M. Pickett, J. T. Boyd, Gurney Gordon, John Etchebarren, Barney Chicorp, C. W. Mapes \$10,000 each, J. H. Miller, A. Dromlack, William Klaus, Sam Armarko \$5000 each.  
Signing under date of January 9, 1919: H. F. Dangberg \$20,000, A. Jensen \$10,000, S. A. Imelli, Carl Christensen, H. W. Settlemeyer, H. R. Mack, George C. Hussman \$5000 each.  
Malley's bond for his term beginning on the first Monday in January 1927, were as follows: George Wingfield \$50,000, C. W. Mapes \$20,000, J. H. Miller, T. O. Ward, Sam Armarko, P. J. Conway, John Peco, M. D. Fairchild, C. J. Miller, S. H. Wheeler, Sam Pickett, H. H. Kennedy, H. H. Scheeline, Henry Anderson \$10,000 each.  
The liability of the Carson Valley Bank to the state of Nevada for the sum of \$516,000, the amount of its cashier's checks which were found in the state treasury, is a matter that the courts will be called upon to decide, in the opinion of those who have studied the situation.  
The bank has already denounced these checks as fraudulent. The point has been raised, not by the bank's officials but by others that the officers and stockholders of the bank will probably take the position that these checks were not issued for money actually deposited in the bank, but were fraudulently issued by H. C. Clapp, its cashier, to cover embezzlements from the state treasury by Malley and Cole, and that the bank, consequently, is not liable. If such a defense is offered by the bank it would be based upon the theory that the embezzlement was wholly from the state treasury that the sums represented by the cashier's checks were never deposited in the bank, then the bank can offer as an offset the Nevada state warrant given to Cashier Clapp by State Controller Cole in January, 1926, in the sum of \$392,700.  
The uncashed warrant above referred to, which was issued by Cole to Cashier Clapp on January 25, 1926, is regarded as one of the strongest pieces of evidence held by the state against Cole and Malley. The warrant was issued by Cole, it is believed, to protect Cashier Clapp in the event that the state auditor or the bank examiner, during one of their investigations, began to check up the history of the cashier's checks. It is supposed that Clapp, in such an emergency, would have produced the warrant to explain away the huge cashier's checks being carried by State Treasurer Malley as cash.  
The theory has also been advanced that Clapp persuaded Cole to issue the warrant to protect the bank of which Clapp was cashier, and possibly provide the bank with a valuable "offset" when the disclosure finally occurred. This \$392,700 warrant, according to the other officials of the state, was fraudulent. It bore the notation that it was drawn to purchase school bonds, but no such bonds were purchased at that time, they say.  
The necessity of employing special attorneys to aid Attorney General Diskin, not only in the prosecution of the criminal suits, but in recovering from the bank and the bondsmen, is not being discussed. Diskin said yesterday that the employment of such additional counsel was imperative in view of the tremendous interest of the state in the matter. He was anxious he said, to receive such aid and suggested that the employment should be effected by the governor or by the governor and the other state officials associated with him.  
In the opinion of a number of the state officials a special session of the legislature may result in view of the small amount of cash remaining in the treasury to meet the state's operating expenses. For years, they say, Malley and Cole, the treasurer and auditor, were paying the state's running expenses from any fund balances that were available, and that to cover up the great shortage in the general fund they made inroads upon the balances in the schools and the industrial insur-

ance funds, without regard to the legality of their acts. This can no longer be done. The exhaustion of cash is so great, they say, that the expenditures authorized by the legislature cannot be met without a great emergency loan, authorized by the legislature, or by a similar loan authorized by the board of examiners.  
While saying that the financial situation of the state was very serious, Governor Balzar said that he wished to avoid a special session, if possible.  
Lieutenant Governor Morley Griswold who has been in Carson and Reno ever since the disclosures occurred, is of the opinion that a special session may become necessary. Yesterday he said that if a special session became imperative, after the investigation under way is completed, it could make a short time loan at a low interest rate, and redeem it within three or four years through a sharp increase in the state tax rate, and the moneys that are recovered. The same session, he said, could then authorize a searching inquiry into all state departments.  
Already there is an insistent demand for a strict investigation by disinterested experts into every department of the state, which will reach back for many years. This is strongly favored by the governor.  
The officials of the state who are familiar with its financial system say that it is impossible to allocate the fund shortages inasmuch as the bank deposits of the state and the actual cash on the treasury represent all funds.  
"The state treasurer," said Dan Sullivan, industrial insurance commissioner and former state auditor, "is the custodian of the funds of every department. Under the law he is not required to carry these funds in the vault of the treasury, which would be impractical, but to deposit them in banks as good judgment directs.  
"When they are so deposited they are not placed to the credit of particular funds, but are deposited in the name of the state treasurer. If a shortage occurs, therefore, it is impossible to allocate it to any particular fund."  
The constant transactions between the state and the Carson Valley Bank made it an ideal medium through which to carry on the alleged illegal transactions of Malley, Cole and Clapp, according to those who are conducting the investigation. For many years it was the only banking house in Carson City, and was used as a convenience by the state to cash checks, issue drafts, act as trustee in the purchase and redemption of bonds, and to receive state deposits too large to carry in the Treasury vault. For this service the bank was compensated by the state. Ordinarily these transactions amounted to several millions of dollars each year.  
The deposits of the state treasurer in the bank ranged, it is said, from \$150,000 to \$200,000 at practically all times, varying from day to day. For these deposits the bank issued to the state treasurer a cashier's check, the amount of which was increased or diminished to agree with the amount of the state money in the bank. This cashier's check was carried by the treasurer as a cash item. His annual reports do not show a Carson Valley Bank deposit.  
When the amazing disclosure of last Saturday was revealed it was found that Treasurer Malley was carrying as cash three cashier's checks drawn in his favor by Cashier Clapp. One was numbered 6602 and was for \$299,257.27. Another was numbered 6603 and was for \$49,999.89. The third was numbered 6604 and was for \$67,065, the three making a total of \$516,322.16. The treasurer was carrying these as treasury "cash." They were accepted as cash by the state board of examiners. The Carson Valley Bank denounces the checks referred to as forgeries, and say the bank's records show that cashier's check No. 6602 was issued by Clapp in favor of J. W. Adams for \$1.30; that check No. 6603 was issued in favor of S. C. Smith for \$1.25; and that check No. 6604 was issued to George Jones for \$2.00, a total of \$4.55.  
They say also, that there are no such persons as Adams, Smith and Jones.  
The counting of the cash, bonds and other state assets by the state board of examiners each month, which is required by law, has been the subject of much comment.  
The statutes require that such a count be made each month. The board of examiners, under the constitution, has always consisted of the governor, the attorney general and the secretary of state.  
In addition the state has, for many years, employed a state auditor, who has an assistant, and a state bank examiner.  
The positive statement that he would not, at this time call a special session of the legislature was made by Governor Balzar. Instead, he said, the state board of examiners would exercise its legal authority to create a deficiency by borrowing at least \$200,000 at a low rate of interest until the June tax receipts are received from the counties. The loan, he said, could be negotiated at three or four per cent interest. Tenders from banking houses, to such effect, he said, had already been received.  
Attorney General Diskin, who is a member of the state board of examiners, said that such a procedure seemed best, at this time. Both Balzar and Diskin said that a special session could only aid by authorizing a loan and an investigation, both of which could be accomplished by the board without special legislative authority. They also pointed out that the state is now bonded almost to its limit and that the creation of a deficiency seemed the best way out of the situation.

A special investigator from San Francisco arrived in Carson to take charge of the inquiry which is to be prosecuted into all state departments. Meanwhile Messrs. Edler and LaTourette, special auditors for the Carson Valley Bank and the bondholders, are working in the treasurer's and the controller's offices. Jay White, secretary to the governor, is also working upon the investigation.  
**YOU AND YOUR BOY**  
Just what do you think of your boy? And just how does he regard you?  
He'd be an unnatural father who didn't think his boy was about the best specimen on earth. And yet there are some sons who take their dads largely as a matter of course. This may be due to the attitude of the father or to the environment of the youngster.  
Whatever the cause, the following few paragraphs from "The Silent Partner," find their way into "The Boulder Dam" this week because we feel that they may be of some use or service to someone. Whether or not it is certain that they comprise whole some thoughts:  
"Only a dad with a tired face, Coming home from the daily race, Bringing little of gold or fame To show how well he has played the game,  
But glad in his heart that his own rejoice To see him come and hear his voice."  
He may wear a last year's straw hat, his finger nails may need manicuring; his vest may hang a little loose, and his trousers may bag a little at the knee; his face may show signs of a second day's growth, and the tin dinner bucket he carries may be full of dents and doughnuts; but don't call him the "old man." He's your father.  
For years and years he has been hustling around to get things together. Never once has he failed to do the right thing by you. He thinks you are the greatest boy on earth, bar none, even though you plaster your hair back, wear good clothes, smoke cigarettes, swear and fail to ever bring home a cent. He is the man who won the love and life partnership of the greatest woman on earth—your mother.  
He is "some" man and not the "old man." If you win as good a wife as he did, you will have to go some.  
A London society has been formed for the purpose of raising poetry to the Homeric standard. This may be difficult. Why not jazz up Homer a little and let it go at that?

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