

JUDGES TELL WHY BONDS ARE LEGAL

Full Text of the Supreme Court Opinion Which Settled a Much Vexed Question.

LAW AND ADMITTED FACTS.

With Attested Beyond Speculation or Controversy the Validity of the Entire Million Dollar Issue.

The written opinion of the supreme court in the bond case, in which it is held that the city's special water and sewer bond issue, amounting to \$1,000,000, is legal, was handed down last Saturday evening. It was written by Chief Justice Darrach and was concurred in by Justices McCarthy and Straup. It follows in full:

TEXT OF THE OPINION.

In the Supreme Court of the State of Utah, the case of the City of Salt Lake City, plaintiff, vs. George E. Chamberlain, defendant, et al., is now on for argument. The case is a continuation of the case of the City of Salt Lake City, et al., vs. George E. Chamberlain, et al., which was decided by this court in its opinion of the 10th day of June, 1904.

Per Curiam: This is an application to obtain from this court a writ of prohibition, restraining the defendant, George E. Chamberlain, from acting as mayor, recorder and treasurer, from negotiating or selling the municipal bonds hereinafter referred to.

The material facts, as presented by the petition of the defendant, are as follows:

On the 21st day of November, 1904, the city council of Salt Lake City passed an ordinance which was approved by the mayor of the city, which provided for the sale of city bonds in the amount of \$1,000,000 for the purpose of making necessary extensions in its sewer system and providing a permanent and adequate source in the water supply of the city. The present supply under the minimum flow, which is approximately 10,000,000 gallons per day, is not sufficient to supply the present population of the city. The ordinance provided for the sale of bonds in the amount of \$1,000,000 for the purpose of making necessary extensions in its sewer system and providing a permanent and adequate source in the water supply of the city.

VOTERS ALL KNEW.

Precious to said election, for the purpose of presenting to the qualified voters of Salt Lake City the object and purpose of the issuance of said bonds and a plan to be followed for the acquisition of an additional supply of water, and for the extension of the sewer system, an address, under the authority of the mayor and city council of Salt Lake City, was issued to the taxpayers of Salt Lake City, a copy of which is attached to and made a part of the petition herein, and in which address it is pointed out and shown that the present supply of the city is derived from four separate sources. These sources and the quantity of water that each supplies during the minimum flow, are as follows:

City creek	4,500,000
Emigration creek	1,000,000
Parley's creek	4,500,000
Utah lake reservoir	10,000,000
Of this total daily quantity, only the creek (canon) water, 4,500,000 gallons, is suitable for drinking and culinary purposes. The remainder (4,500,000 gallons) which comes from Utah lake reservoir, is impure and not fit for drinking or household purposes, and can only be used for irrigation and kindred uses. The only sources from which the city can obtain an additional supply of pure water for drinking and household purposes are Mill creek, Big Cottonwood and Little Cottonwood, three mountain streams which flow into the valley from nearby mountains on the east. The daily supply of these creeks during the low water season is as follows:	
Mill creek	5,000,000
Big Cottonwood	17,883,553
Little Cottonwood	7,827,597

EXCHANGE WITH FARMERS.

The water of these streams has already been appropriated and is used by a large number of individuals to irrigate a considerable area of high priced land that lies adjacent to the city. Two thirds of the land upon which water is now being used lies below the city's canal through which its Utah lake reservoir water is conducted and there are no physical difficulties in the way of irrigating the lands with water from the canal. The owners of this land are willing to exchange their present supply of water from the mountain streams for water from the canal referred to, and the city has taken options from the farmers for the exchange in the manner of one-half the water of Big Cottonwood creek. Negotiations are pending by which it is expected that practically all of the waters of Big Cottonwood, Mill Creek and Little Cottonwood creek will be acquired by exchange or lease as soon as the necessity of the city shall require. The terms of exchange are as follows: The city is to pay a bonus of \$10 per acre to the farmers and give them during the irrigation season an additional quantity of 25 per cent more canal water than it receives of mountain water. It is proposed in the options to "bargain and sell" to the city all the farmers' rights under the perpetual use of the mountain water, but in case default is made by the city in furnishing them the exchange water from the canal in that even they resort to the right to use the mountain water, but only during the time the default continues, unless the failure of the city to furnish the exchange water continues for a period of six months, and then it is optional with the farmers whether the city's right to the use of water under the sale shall be terminated or not. The ability of the city to perpetually furnish the farmers the required amount of Utah lake water in exchange for the mountain water is conceded. The money which will be obtained from the sale of the bonds in question, with the exception of about \$70,000, to be used in repaying

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Bon Ami

The Best Scouring Soap Made

- A Scouring Soap
- A Metal Polish
- A Glass Cleaner

the city's canal from the Utah Lake reservoir and in payment of the bonus to the farmers as a consideration for the exchange of water, to be used by the city in the construction of the necessary conduits for the conveying and turning into the city's present waterworks system the water received in exchange from the farmers, and for extending the city's sewer system.

ABOUT SECURING TITLE

The most serious objection urged by the defendant is that the sale of the bonds in question is that the water rights will be finally obtained by the city in the construction of the necessary conduits for the conveying and turning into the city's present waterworks system the water received in exchange from the farmers, and for extending the city's sewer system.

In determining the question presented by the defendant's petition, we must consider the foregoing provision of the state constitution in connection with section 8, article 11 of the same instrument, which is as follows: "No municipal corporation shall, directly or indirectly, lease, sell, alien or dispose of any waterworks, water rights or sources of water supply now owned or hereafter to be acquired by any municipal corporation, shall be preserved, maintained and operated by it for supplying its inhabitants with water at reasonable charges; provided, that nothing herein contained shall be construed to prevent any such municipal corporation from exchanging water rights or sources of water supply for other water rights or sources of water supply of equal value, and to be devoted in like manner to the public supply of its inhabitants."

LOOKING BACKWARD.

Deseret News Veteran Recalls Stalwarts of Early Days.

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CITY LIGHTED BY GRASS FIRES.

Mountain Sides to North and East Swept by Conflagrations Last Night.

DESTRUCTIVE IN SOUTHEAST.

Did Considerable Damage to Fields of Grain, Buildings and Electric Power Poles.

GREAT SHEEP SALE.

Millions Involved in Wyoming, Idaho And Oregon Deals Now Under Way.

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A NEW ANESTHETIC.

Chlorhydrate of Dimethylamino-azobenzene. Such is the scientific title of the latest anesthetic, in order not to unduly alarm its patients, Dr. Fourneau, its French discoverer, has renamed it "Roscaine."

It is injected into the spinal fluid and within five minutes produces complete anesthesia in the body below the point of injection. The patient knows nothing, does not lose consciousness, its effects last for an hour and a half, and no unpleasant results have yet been observed, though it has been tried on some time in more than one Paris hospital.

English doctors are reluctant to experiment with it. "Once you have tried your Roscaine into the spine," said prominent P. R. C. 8, yesterday, "you have no more control over it, but with paracaine anesthesia it is possible to stop the administration before the danger point is reached. As the quantity needed of any anesthetic varies with the individual patient, the danger of this control may be easily realized."

In addition, there is always a danger of septic poisoning in hypodermic injections, and to this extent the injection into the spinal fluid—the consequences would be most disastrous.—London Mail.

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BABY'S VOICE

Is the joy of the household, for without it no happiness can be complete. How sweet the picture of mother and babe, angels smile at and commend the thoughts and aspirations of the mother bending over the cradle. This ordeal through which the expectant mother must pass, however, is so full of danger and suffering that she looks forward to the hour when she shall feel the exquisite thrill of motherhood with indescribable dread and fear.

Every woman should know that the danger, pain and horror of child-birth can be entirely avoided by the use of Mother's Friend, a scientific liniment for external use only, which toughens and renders pliable all the parts, and assists nature in its sublime work. By its aid thousands of women have passed this great crisis in perfect safety and without pain. Sold at \$1.00 per bottle by druggists. Our book of priceless value to all women sent free. Address: BRADFIELD REGULATOR CO., Atlanta, Ga.

MOTHER'S FRIEND

Keith-O'Brien Sweet Peas

Display and Sale on Tuesdays and Fridays

Arrangements have been perfected for the handling of sweet peas during the sweet pea season.

Large shipments of choice flowers, fresh from the garden, will reach the store every Tuesday morning and Friday morning.

Beautiful display of sweet peas, loose and in bunches, in mixed and straight colors, and in all varieties.

They will be furnished in quantities for luncheons, teas, and other decorations.

Sweet peas will be sold by the bunch, each containing 110 to 125 long stems.

The price will be 15 cents a bunch, or two bunches for 25c. Special quotations in large quantities.

Boys' Hats.

White Canvas Hats, streamer and binding in brown and blue. Suitable for boys 2 to 6 years—50c

You are cordially invited to visit the Basement and try a cup of delicious coffee.

Hosiery and Underwear.

Ladies' and Misses' Fine Underwear, Hosiery and Gowns at price reductions which will make you happy when you see the excellent qualities of the Goods.

MISSIE'S FINE RIBBED VESTS, white, low neck and no sleeves, high neck and short sleeves, also high neck and long sleeves—regular price 25c. Sale price 15c.

MISSIE'S FINE RIBBED PANTS, white, knee length, with wide leg, lace trimmed, also tight fitting, regular price 25c. Sale price 15c.

MISSIE'S FINE RIBBED BALDING, OAN VESTS AND PANTS, regular price 25c. Sale price 15c.

MISSIE'S FINE RIBBED VESTS, white, knee length, with wide leg, lace trimmed, also tight fitting, regular price 25c. Sale price 15c.

LADIES' RIBBED UNION SUITS, summer weight, low neck and no sleeves, knee length. Regularly sold at 40c, will be sold at 25c.

LADIES' FINE SUMMER UNION SUITS, with low neck and no sleeves, knee length. Regularly sold at 40c and 50c. Sale price 25c.

LADIES' LAKE BOTTOM and TIGHT FITTING PANTS, regular price 25c. Sale price 15c.

LADIES' LOW NECK AND NO SLEEVES FINE SWISS RIBBED LITTLE VESTS, regular price 25c. Sale price 15c.

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