

## THE EDITOR'S COMMENTS.

### JORDAN AND UTAH LAKE.

The most far-reaching decision yet rendered by the State Supreme court, and one of the most important ever made in Utah, is that given in the NEWS of Wednesday evening, in the case of Salt Lake City et al vs J. H. Collidge et al, involving questions as to the use of Utah Lake as a reservoir for irrigating a great portion of Salt Lake county. The opinion was written by Judge Barch, and states the case with much clearness; its value in this regard is such that it should be carefully read by everyone interested in the irrigating canals from Jordan river, and in irrigation matters generally. So far as concerns the points touched upon therein, we do not care to elaborate; but there are some incidental matters connected with the case which are of deep interest, and which the decision necessarily is not an explanation of, yet are important for the public to understand.

In the numerous suits that are related to the whole issue, there have been raised many complicated questions. It has been too tedious for the public mind to follow these, and now the decision disposes of them all in very simple form. But in reaching that conclusion a vast amount of research was necessary, both on the part of counsel in the case and of the court. For a complete presentation of the case so that the equities thereof could be reached, it was essential that a thorough understanding of the principles of hydraulics and hydrostatics as applied to the issues should be invoked; and for the masterly way in which this was done, we cannot refrain from complimenting Hon. F. S. Richards, of counsel for the plaintiffs, whose action in this particular manifested a comprehension of the subject that was far beyond the special interest in his immediate clients, and embraced its value and importance to the public generally.

Many years ago there was a dispute as to how much of a dam the canal companies could maintain in the Jordan river, as the outlet of Utah Lake, without infringing upon the rights of land owners around the lake. In 1885 there were five irrigating canals drawing water for lands in Salt Lake county: the Jordan and Salt Lake canal to this city and the Draper canal on the east side of the river, and three big canals west of the Jordan. In that year these canal companies entered into a contract with all the land owners around Utah Lake, as to the dam which might be maintained in the river and the use of the lake as a reservoir, and how high the water might be raised. When this compromise point was agreed upon, it was also agreed that there should be a lake commission of five, who should determine just what boards might be placed in the dam to keep the level of the water up to a desired point for the use of the canals.

In 1893, disputes arose as to the high water mark, and many suits were brought against the canal companies

for damages alleged to have been caused by keeping the waters too high. The companies made numerous efforts to have these settled by arbitration, but no satisfactory agreement could be reached. Finally, Salt Lake City and the canal companies brought suit against the land owners to determine just what height the water could be maintained at, what obstructions might be placed in the Jordan to hold the water back, and to enjoin the bringing of further suits for damages. The city attorneys and Richards & Richards were engaged by the plaintiffs, while Provo, Ogden and Salt Lake attorneys of eminence and ability were engaged by the defendants; and the case has been closely contested throughout.

Previous to the institution of any lawsuits, the canal companies had dredged the Jordan river, so that a dam of twenty-two inches in height could be kept in as an equivalent of the bar that was removed. This dredging was done in order to draw more water from the lake reservoir. The land owners around the lake disputed the right of the canal companies to maintain the 22-inch permanent dam. On the trial in the court below of the main suit referred to, the canal companies were allowed to keep fourteen inches of a dam.

The importance to the farmers and users of waters in Salt Lake county of a change in this ruling may be comprehended when it is understood that 37,000 acres of land are under irrigation from the five canals, and that more than 1,000 families are dependent on those canals for water for domestic use. With the dam at the 22-inch point, one inch of water from the surface of Utah Lake meant a full supply of all the canals for one week; so the reduction from twenty-two to fourteen inches took away eight weeks of water supply from the canals. The Supreme court allows the full twenty-two inches of dam as the proper permanent obstruction which the canal companies may maintain in the Jordan.

Another point on which the decision of the trial court was appealed from was as to the time of placing boards in the dam, above the 22-inch point, to hold the water back in the lake up to the compromise point for high water. The court below held that the lake commission, if it ordered out the planks after October 1, could not replace them before March 15 of the succeeding year. Thus the lake could be lowered in October, but in case of a dry season could not be raised, measurably destroying its value as a reservoir, unless the commission should decide before October 1 that a light winter was in prospect and the boards should remain in. The importance of this point may be understood when it is known that for two years at a time the canal companies have had to maintain a practically tight dam to keep the water in the lake up to compromise point. The canal companies insisted that the spirit of the contract was that the commission could order boards to be replaced in

the dam at any time. If they were taken out, and along in December the indications were for a light fall of snow and dry season, the planks could be replaced, and the water reserved in the lake. The Supreme court also took this latter view.

Now that the highest court has passed upon the main issues involved, the dispute is settled once for all, and litigation that has been a source of much worry and some ill feeling is ended. It may be that for a time some of the parties will not feel that they have got all they desired, but we believe that as time goes on even these will come to the conclusion that the Supreme court decision is eminently just to all the interests involved. At any rate it is now the law of the land, and all parties interested may proceed with a definite knowledge of their rights to the premises, and there will be no further occasion for disputes. For this reason we are glad that the questions raised are settled, and all may now go on in harmony and good will.

### CARP AS A NUISANCE.

There was a complaint in the NEWS the other day, charging a very serious offense against carp, which have become quite numerous in the waters of the State, through the energy of the fish and game commissioner, who brought them to give what he anticipated would prove a welcome increase in the fish food product of this locality. In the letter referred to it was alleged that the presence of carp in a pond was the direct cause of malarial fevers in the neighborhood. There had never been any trouble previously, but when the fish became numerous in the pond and stirred up the mud, the fevers developed. Whether it is merely a coincidence or whether the theory of the complainants is correct may be a subject of further investigation.

From Oregon, however, comes another complaint against this particular class of fish, the ranchers along the Willamette slough being the alleged sufferers; and the statement is made that they are inquiring as to whether or not they have recourse in damage suits against the United States fish commission for introducing carp into the rivers of that section. The claim to the district referred to is that the fish are destroying the meadows by eating the grass and grubbing up the roots. As the water periodically overflows the meadows, the carp follow it up in thousands, the small ones, weighing about three pounds, pushing their way up where the water is only three inches or so in depth and clearing off all vegetation, so that when the water recedes only mud flats are left. One rancher, describing what took place about a week ago, says that while looking at the fish eating his grass he got so mad that he took off his shoes and stockings and went out into the shallow water and attacked them with a hoe. He slashed a lot of them in two, but when the drove became alarmed and made for deep water they bumped their noses against his shins and came near knocking him off his feet, and his ankles are black and blue from the thumping he got. As for