CONFLICTING LAWS

With Reference to Payment of Expenses of Supt. of Instruction.

THE STATE AUDITOR INSTRUCTED

By Attorney General Bishop as to How Warrants in Favor of Those Expenses Shall be Drawn.

Attorney General Bishop today transmitted the following opinion to State Auditor Richards with reference to the drawing of warrants in payment of the salary and expenses of the State superintendent of public instruction:

Dear Sir—I am in receipt of your communication of October 12th, 1896, requesting an opinion on the following question: "Is drawing state warrants for the salary, contingent expenses, printing, clerical assistance and traveling expenses of the superintendent of public instruction, should they be drawn on the specific appropriation for those purposes or on the school fund?"

An examination of the laws of 1896 discloses, first that under chapter 58, section 17, it is your duty as State auditor to draw warrants on the State treasurer for the payment of money directed by law to be paid out of the treasury. Each warrant must be drawn upon the fund out of which it is payable and specify the service for which it is drawn and the specific appropriation applicable to the payment thereof. This act was approved March 10th, 1896, and took effect upon approval.

On April 8th, 1896, an act was approved and took effect as of that date, being chapter 128, making appropriations for the payment of salaries, etc., of certain State officers. In this act appropriations were made as follows: For salary of superintendent of public instruction, payable quarterly, $1,500; for traveling expenses the sum of $800; for printing for the office the sum of $875; for clerical and other assistance for the office the sum of $900; for contingent expenses and for postage $625.

Upon examination of Chapter 130 in reference to the free school system, I find in section 14 of this act that the State superintendent of public instruction must prepare and transmit to the proper officers suitable forms and regulation for making their reports, with necessary blanks, school registers, etc., and give instructions and opinions for the purpose of aiding in the organization and government of the district schools. He is further authorized to print and circulate a summary of his opinions and rulings and the code of such blank forms, registers, opinions and rulings are to be paid out of the State school fund upon vouchers certified by the superintendent and with the Board of Examiners who are to allow or reject same in whole or in part and the State auditor is directed to draw a warrant on the State treasurer for the amount allowed, in favor of the person to whom said amount is due. Section 16 of that act further provides that at the end of every three months the State superintendent shall file with the board of examiners an itemized account of his expenses, verified by his oath, which shall be examined and if correct the board shall certify same to the State auditor who shall issue a warrant on the treasurer for the amount due on such account and for one-fourth of the superintendent's annual salary and shall charge same to the State school fund. This act was approved April 8th, 1896, but did not contain an emergency clause and became operative on June 7th, 1896.

The provisions of this last act, relative to the payment of expenses of the State superintendent of public instruction and the payment of his salary and the payment of printing and the other expenses for the office and superintendent, are inconsistent with the provisions of chapter 128 above referred to in reference to appropriations, and the two cannot stand together. Chapter 128 having taken effect in June 8th, 1896, and being the later expression in the legislative will, it is my opinion that chapter 130 repeals, as far as it is inconsistent as above stated, chapter 128, and that it is effect appropriative and vote warrants of the kind in question on the appropriations of expenses of the superintendent of public instruction, his traveling expenses, printing for his office, clerical and other assistance, contingent expenses and for postage and that the State superintendent should verify an account of his expenses and when the State board of examiners has passed upon and certified same to the State auditor, it would be your duty to issue a warrant to the State treasurer for the amount so certified by the State board of examiners, and for one-fourth of the superintendent's annual salary; that your warrant should specify the service for which it is drawn and that the same is payable out of the State school fund.

Very respectfully yours,
A. G. BISHOP,
Attorney General.

HE RILED THE WATER

The Supreme Court Goes Against Andrew Burtleson in His Appeal.

A DECISION FOR THE TERRITORY

Brings Suit Before Judge Street—Few Cases Left Judge Richie—Notes of the Courts.

In the Supreme court today Associate Justice Bartch handed down an opinion in the case of the People of the Territory of Utah vs Andrew Burtleson. The opinion affirms the judgment of the trial court and is concurred in by Chief Justice Zane and Associate Justice Miner.

This was a criminal prosecution under section 4656 Compiled Laws of Utah, 1888, and the defendant, Burtleson, was charged with having committed a public nuisance by maliciously and wilfully herding and keeping about two thousand sheep in and upon a small stream, the water of which was used for culinary purposes. Burtleson was convicted in the lower court and sentenced to pay a fine, and it was from this judgment that the appeal was taken.

$10,000 Damage Suit.

Judge Street was occupied today in hearing the damage suit of Francis M. Lamphere against the Utah Commercial and Savings bank. The plaintiff alleges that at one time he had allowed payment of a check signed by him, thus damaging his business reputation to an extent that it will require $10,000 to cure.

Before Judge Richie.

The following orders were made in Judge Richie's court today:

Hettie L. Bonnee vs Edwin J. Bonnee; motion for notice by publication allowed.

J. R. Dunn vs Z. H. Waterman; dismissed without prejudice, with leave to reinstate.

Andrew J. Gibbs et al vs F. T. Hiatt et al; demurrer for plaintiff on complaint and cross-complaint.

THE GREEN BAG.

"Doc" Kenner will be sentenced by Judge Hiles on Saturday, October 31.

Sam Levy has secured judgment against H. P. O. Coates in the sum of $110.35.

L. P. Petersen has entered suit against H. V. Le Huse to recover $262 on three promissory notes.

William Brock has secured in Judge Street's court damages against the Rio Grande Western Railway company in the sum of $400.

Sentence was suspended during good behavior in the case of Ray Herring, the boy who yesterday pleaded guilty to Judge Hiles's court to a charge of petit larceny.

In the case of Emery county vs P. C. Borresen, C. F. Anderson, F. A. Hillgren and C. E. Kolford, the plaintiff in error in requesting an opinion relating unto the judgment of the lower court and ordering a new trial.

Judge Street has decided that the city must pay for the irrigation plant of sprinkling on State street entered by the Rapid Transit company's tracks. The judgment is in the sum of $200, the amount having been entered by the Pacific Paving contractor.

BOB IS NOT GUILTY

Verdict in the Thompson Manslaughter Trial Late Evening.

BOB PUT IN THE WITNESS BOX.

He Describes the Affair and the Blow Which Killed Carter—It Was a Very Light One.

After the News report of the Thompson trial ended yesterday afternoon Messrs. E. G. Price, George Taylor and Jo Moss Hoyer were examined for the prosecution and the case closed on the side of the State.

THE DEFENSE RESTS.

Sergeant Wire testified for the defense that he was sent by the district by order of Captain Dickson to see that no brutality occurred. He watched the contest closely and failed to see any brutality. In the sixth or tenth round, replied Wilcox to a question, the fighting was out of such a character as to cause him to think it should be stopped.

Officer Lund was called and testified for the defense to a similar rule to that of Wire with regard to the conduct of the contest at the athletic club.

BOB IN THE BOX.

The defendant, Robert L. Thompson, was called and testified in his own behalf that he is 27 years old and that he engaged in a boxing contest with James Carter on July 27th at the Salt Lake Athletic club. Carter was not a stranger to the course of the contest except in the seventh and last round, when the last blow was struck. In that round Carter appeared to be rushed than he was in the preceding one and he was the aggressor. Carter made a rush for Wilcox and he struck out with his right hand, striking Carter on the left breast and stepping his advance. The blow brought Carter to an upright standing position with both feet together. Witness thought with his left hand immediately after Carter's advance was stopped and caught his opponent lightly on the right side of the jaw. Carter's standing position at the time was such that he fell over very easily. The back of his head and his nose struck the floor simultaneously with the result that he was unable to rise within the necessary ten seconds.

Mr. Wilcox cross-examined the defendant, who testified that there was no previous arrangement for a knockout and that he was not angry with Carter at any time during the course of the contest nor did his opponent seem to be angry. Witness had no intention whatever to inflict upon his opponent any bodily harm or injury and during the sparring match both contestants smiled frequently.

TESTIMONY ALL IN.

Talmadge the testimony and Prosecutor Williams commenced his argument for the government.

WHAT THE STATE WANTS.

In the opinion Mr. Whitlemore said the State did not desire a verdict for anything but involuntary manslaughter. The prosecution did not claim that the defendant committed the act with malice or intentionally; but the man's life was given and some punishment ought to be meted out.

FOR THE DEFENSE.

After recess this afternoon Mr. Stroup opened his argument for the defendant. Each side was allowed one and one-half hours for argument by Judge Hiles and it is therefore probable that the jury will go out for a verdict this afternoon.

Mr. McCallum waived his time to Mr. Stroup, but the latter was content to leave the case with the jury after an argument of half an hour.

Mr. Walls made a short statement to the jury and his honor Judge Hiles was charging the jury when our report closed.

NOT GUILTY.

5:40 p. m.—The jury was out about five minutes and returned a verdict of not guilty.

Kicked to Death.

C. B. Rose, a resident of Capitol avenue, south State street died yesterday from the effects of a severe kick from a horse. The kick was a tremendous one and did fearful injury to the man with his jaw broken and his skull was crushed in and he was rendered unconscious. The deceased was 45 years of age and leaves a family to mourn his tragic death.

STATE NEWS.

Mammoth Reports—George Robinson met with a serious mishap by being caught in the fly wheel of the engine at the Mammoth mine on Monday. His injuries, though painful, are not considered dangerous.

Eureka Enterprise—James Barter of Harrisburg had his ear caught in the gearing of a threshing machine and badly mashed Monday morning. He was taken to Mont and Dr. Dukes amputated the ear above the silver.

Lehi Banner 23rd—Here are serious of the recent strikes likely to hold up mines and by cars. The switch engine [illegible] Very Big Bear are working and [illegible] Day. From 800 to [illegible] are hauling in every day, [illegible] 200 are now coming from [illegible] Every effort is now [illegible] the tonnage received will [illegible] week and a high [illegible] [illegible] a space 100x150 be [illegible] closed in for one [illegible] [illegible] Bear [illegible] Bear [illegible] [illegible] Bear [illegible] [illegible] Bear [illegible]