THE SUPREME COURT.

An Appeal Arising Out of a Park City Firm's Failure.

CONCERNING A RAILROAD TRACK.

Alleged False Representations in Regard to Certain Real Estate Contracts.

This has been an unusual day within the precincts of the Territorial Supreme Court. Clerk Burke, upon the opening of the morning's session, went through the customary formality of reading the minutes of the preceding day's session and these were duly signed. Then the first case on the list was called up, and the motions of public interest may be gauged by the fact that during a large portion of the legal arguments there were present in court, besides the clerk, exactly three attorneys, two sleepy looking spectators, two newspaper reporters and one tipstaff.

AN ATTACHMENT MATTER.

Remington, Johnson & Co., plaintiffs and appellants, vs John L. Water, sheriff of Summit county, Hyrum Newell and L. Stolen, sureties on his official bond, defendants and respondents. Appeal from the Third district—Chief Justice Merritt.

Attorney James A. Williams for the appellants; Attorney W. L. Rogers for the respondents.

A Park City firm of merchants, Young & Adderly, went under in the month of November, 1892. Several attachment suits were filed in justices' courts in the Park, followed by the issuance of attachments from the Third district court. Sheriff Walter took charge of all the goods of the defunct firm in the Park City suits and levied and attachments in the order in which they were placed in his hands, subject to the prior attachments. He sold out all the attached property, satisfied all judgments prior to those of appellants and put a portion of them, leaving a balance of $[illegible]. Appellants' attachment was levied on Nov. 16th, 1892. Morris E. Smith & Co. had set up an attachment in the Third district court, and this latter Sheriff Walter executed on Nov. 17th, by attaching all the property previously attached. In addition he garnished some twenty-five persons then indebted to Young & Adderly, and afterwards offered for sale the garnished debts, or so much of them as sufficed to satisfy the judgment in the Smith case.

Appellants sued the sheriff in damages and for money had and received, contending that such money should have been applied upon their execution, as their attachment was prior in point of time.

On the part of the respondents it is submitted that they should find the Remington writ is no bar, as he never received the Smith writ, and that the only point of serious controversy seems to was as to whether, under the facts, the former writ should be considered as levied upon the property of Young & Adderly prior to the latter. Counsel contended that the request of Remington's attorney to levy upon the book accounts was not such a compliance with the statute as to require the officer to make a levy.

The case was heard by Judge Albert H. Cabell as referee, who found, substantially, that plaintiffs were entitled to a judgment against the defendants in the sum of $[illegible], with interest from July 13th, 1892, and costs of suit; that neither plaintiffs nor their attorneys informed Weber in writing to garnish any of the persons mentioned in his return to the writ of attachment to the Smith case, and that plaintiffs were not entitled to any part of the $[illegible] paid by the garnishees.

Motions were made by appellants' counsel to set aside the report and findings of the referee and grant a new trial, but this was overruled. Hereupon an appeal is taken.

IS CUTES HERE AGAIN.

Martha Ann Cuthbert, appellant, vs. the Salt Lake and Fort Douglas Railway company, and the Utah Central Railway company, James McGregor and Clarence Cuny, receivers.

Attorney J. A. A. Williams for the appellant; Attorneys Lorenzo Young and P. L. Williams for the respondents.

Appeal from Third district court—Chief Justice Merritt.

This case has been once previously before the Territorial Supreme court, and its history may be thus briefly summarized:

In 1887 the Salt Lake & Fort Douglas Railway Co. built its road across U and A streets in a connection with the Fort Douglas reservation. No objection was made by the appellants to the construction of the track until some four years after its completion, when this suit was begun. The case was tried by Judge Bartch in the Winter of 1889, and resulted in a judgment for the defendants on the main issue, viz., the injunction, and for plaintiff for damages in the sum of $2,000, with interest. From the judgment denying the injunction plaintiff appealed to the supreme court, which reversed the decision of the court below and remanded the case back, as respondent claimed a new trial. Afterwards plaintiff's counsel filed a motion in the district court asking that judgment be entered therein in accordance with the original prayer of petition, but this was subsequently withdrawn.

Upon the appointment of the present Chief Justice, however, the motion was renewed and moved on the hearing, the judge basing his refusal to grant the motion and enter judgment for the injunction on the ground that the supreme court had made no such order; that under the rules of court, where cases come down with no information of anything more than a reversal, the rule was to grant a new trial.

From this order of Judge Merritt an appeal on alleged error is taken.

DISPUTE OVER CONTRACTS.

Short and Randall, plaintiffs and appellants, vs Pierce and Christopherson, defendants and respondents.

Appeal from Fourth district—Judge Miner.

Maloney & Perkins and Kimball & Kimball for the appellants; Attorney J. L. Bagley for the respondents.

This was an action brought by plaintiffs as co-partners against John F. Pierce and E. R. Christopherson to rescind and recind certain contracts for the purchase and sale of real estate situated into between the parties in May, 1888, on the ground of alleged false representations on the part of the defendants. The case was tried before the court without a jury and resulted in judgment for the defendants. The present appeal is from the judgment and order overruling the motion for a new trial.

THE ANSWER OF HIDGLEY ET AL

Some Counter Charges are Made by the Defendants Therein.

Answer and cross-complaint have been filed by the defendants in the injunction suit of H. H. Ellerbeck vs John G. Midgley, John W. Parrish, L. S. Austin and Harry Green.

It is denied that defendants entered into a conspiracy for the purpose of preventing plaintiff from having control of the Utah Fuel Supply Co., a corporation, by reason of his ownership of 500 shares of any other number of shares of the capital stock. It is also denied that the defendants conspired to wrongfully take to John H. Winder Jr. 200 or any number of shares of stock of the corporation for the purpose of giving John G. Midgley and the defendants control of the corporation. It was charged that defendants wrongfully and unlawfully related, interrupted and in every way tried to prevent Midgley from selling and petitioning his office as manager, that the charge of conspiracy made by plaintiff is absolutely false and groundless, and that the charges are made and the action brought for the sole purpose of fraudulently and dishonestly preventing the directors of the corporation from carrying out one of the chief objects of the incorporation and to enable plaintiff to prevent the stockholders from electing officers who would seek to carry out the objects for which the corporation was formed.

It is stated that the sale of stock to Winder was made in good faith, and that the plaintiff as a stockholder, or otherwise, is not injured thereby.

It is set up that the plaintiff, with Horace S. Ellerbeck, Thomas R. Ellerbeck and others, have unlawfully conspired to gain control of said corporation, so as to operate it in their own interests and against the interest of the stockholders. That the plaintiff, disregarding the orders of the directors, has continued to pay out moneys of the company and has been guilty of breach the agreement of the president, and will continue to do so unless restrained; that Horace S. Ellerbeck has been removed from the position as bookkeeper by the directors and his place filled by William H. Wallace, that said Horace S. Ellerbeck, acting in concert with the plaintiff and under his instructions, forced the directors access to the books and papers of the company, of even the privilege of inspecting the same.

Wherefore defendants pray that the plaintiff be enjoined by his action; that he be restrained from paying out the moneys of the corporation or issuing checks for the company, without the written approval of the president; that he be restrained from managing the business of the corporation; that he be enjoined from interfering with the stockholders or directors in inspecting the books of the company and from keeping the books out of the safe and from preventing William H. Wallace from performing his duty as bookkeeper, and that he be restrained from voting his stock in the corporation and that after a hearing he be ordered on his application for an injunction.

Title whereupon the defendant, John H. Winder Jr., filed his separate answer to the complaint.

The Octogenarian.

A few friends gathered at the home of Brother Homer Duncan in the Eleventh ward to celebrate the arrival of his eightieth birthday. The time was spent in conversation, speeches, music, songs and refreshments. President Joseph E. Taylor was chairman for the occasion, and speeches were made by Bishop Morris, Patriarch A. M. Cannon, B. H. Roberts, E. D. Tripp, Brothers Griffin, Felt and several others. Brother Duncan, who is somewhat of a connecting link between the early history of the Church and the present, gave some very interesting reminiscences of his conversion, gathering, missionary labors, etc., experiences in Missouri, where he visited the Prophet and the brethren (whose names he mentioned) when confined in Liberty jail. These interesting, which include one revered President, Brother Woodruff, are all expressing the freshness of the other days, and the incidents in which they figured are even now more of less mysterious to their descendants. It is to be desired, however, that some of this will be published in type, and that some one in a future time may winnow, sift and reach truth which should remain. Undoubtedly reference asks that these times in the union of infinite are stations may live long and tenfold of "that which they know and verily believe," being strengthened by the blessing of our Father until "satisfied with life."

Land Office.

The following filings were made in the local land office under date of Jan. 24:

William Ashcraft, of Emery county, homestead entry of the northwest quarter of the southeast quarter, the northwest quarter of the southwest quarter, sec. lots 1 and 2, section 31, township 18 south, range 8 east.

Adam Sweeney, of Carbon county, final proof to homestead entry of lots 1 and 2, section 18, township 15 south, range 1 west.

STAKE CONFERENCES.

Members of the First Presidency and Council of the Apostles are expected to be in attendance at the next ensuing Stake Quarterly Conferences, as follows:

Cache Stake, Sunday and Monday, January 27th and 28th—Elders Moses Thatcher, M. W. McintIrea Abraham H. Cannon.

Juab Stake, Saturday and Sunday, January 26th and 27th — President Joseph F. Smith.

Tooele Stake, Sunday and Monday, January 27th and 28th—Elders Brigham Young and Francis M. Lyman.

Wasatch Stake, Saturday and Monday, January 26th and 27th—Elders John Henry Smith and John W. Taylor.

SYMPATHY EXPRESSED.

A Workingmen's Meeting Held in Salt Lake Today.

Speeches and Resolutions of Sympathy for the Strikers at Hocking.

At the meeting called for the workingmen in the Walker opera house in relation to the propriety of hearing the report of the committee and of discussing the labor question a small audience was present. The meeting was called to order shortly before 2 o'clock and N. S. Dicent was chosen to preside.

The committee appointed to lay the sewer matter before the City Council reported that the matter was presented to the Council on Tuesday evening and referred to the sewer committee, which will hear from the working-men's committee tonight.

The report was accepted and Mr. Horne was appointed to take the place of Walter Power on the committee, the latter resigning for the reason that he was a comparative stranger.

A resolution was then introduced sympathizing with the Hocking strikers, and John Hodge took the stand in favor of the resolution.

Another Admission.

In the Supreme Court this afternoon, Vernon H. Andrews, of the Supreme court of Ohio, was admitted to practice, on motion of Attorney John E. Bagley.

Tomorrow Night.

The much-talked-of Carnival to be given in the Twentieth ward assembly rooms will take place tomorrow, Friday evening, January 25th, at 8 p.m. The attractions are many and novel, and a good time is assured.

Foreclosure Proceedings.

James Wentworth brought a foreclosure suit in the Third district court today to recover from Paul Dunsby and Hartlet F. Dunsby on three promissory notes, amounting in the whole to $2,000, with interest at ten per cent per annum, the same being secured by a mortgage, recorded in the records of Tooele county on May 12, 1892.

Joel Grand Young is the plaintiff's attorney.

The Jingling Sleigh Bell.

The jingling of the merry sleigh bell enlisted the public ear today with a frequency and resonance that has had no precedent during the present winter. Cutters of all kinds, sleigh and bobs, big sleighs and little sleighs were out in numbers that defied mathematical calculation and to the stepping of the thoroughbred and mustang alike, the music of the bells rang out through the air that was filled with large feathery flakes of summary falling snow which but for the warm rays of "Old Sol" would have been at this time close up to a foot deep in this valley.

WITH THE POLICE.

A Boy Who Likes Dog Tray Got Into Bad Company—A Night Hawking Stockton Youth—Other Matters.

In the Police court today there was a full to fringe criminal.

John Memphis managed to innocently get himself into trouble Tuesday evening. According to the evidence for the prosecution John took an evening stroll and fell into bad company. A gang of roughians were out for a time making matters lively for the residents around Seventh South and West Temple streets, and on seeing that of Mr. Amos, a storekeeper, which seems to have been the nightly program for the last two months. This night Mr. Amos was "treated for real" and boys, and on the further demonstration of the fracas pushed out and promptly caught the wrong boy, young Memphis, who got off with a big scare. The case was dismissed.

Pauline Sister, Lu Reilley and Maggie Lee, members of the demi-monde, each had $5.55, which was declared forfeited on account of non appearance.

J. H. Davis and Frank Cook on a charge of petit larceny were held until 2:00 tomorrow afternoon.

James Smith, a youth from Stockton, came up to the charge of vagrancy. The police says James has a liking for the dark side of city life and "hogs hawking" in general. He nightly hangs around saloons, gambling hells and other places detrimental to the morals of a young man. His case was continued until tomorrow to enable him to earn more get home to his mother.

Robert Gardiner, who was fined $5 and $5.10 costs for cruelty to animals last July was brought across the mark and had his case deferred until Saturday at 2 o'clock.

Charles Dickerson, of Murray, for selling meat without a license also had his case continued until tomorrow.

Ray Mayne, south side tailor on the prosecution of Jules D. Stoffer, an interpretation of Ordinance 19. Meats had his case set for hearing at 10 o'clock on Saturday.

James Reid was arrested this morning by Officer Talbot with twenty pounds of low pipe in his possession. He could be asked to give full particulars of the transaction to the proper authority therefore nothing.

AMUSEMENTS.

The Brownings and, live from Denver, sang and danced themselves nearly into one fan on the boards of the Salt Lake Theater last night. They were a handsome outfit throughout, and the audience applauded to the most enthusiastic way over the merry entertainment provided. The familiar pictures, In Pella and Not Guilty, that effective outfit, never so often in holiday late were naturally realized, and where the whole company was on the stage together, the effect was quite amusing and very happy. Miss Fanny Browning, the merry little twelve year old, danced and sang most pleasantly in the Miss Pinks, whose singing and recitation stamp her as possessing extraordinary talents. That child will without a doubt, be heard from in future years. The other little ones attached her numerous. In Pella Bell Those who took pleasure of Miss Pinks were Master Hyams, as a very funny artist, young Geo. Oglesby as the mailman, young Geo. Oglesby as the taxidermy artist, Master Parker as the dude, Fanny Young as Dinsmore and Del Clawson as the Dinsmore. Mr. Cathers contributed the very pretty musical selections, and the whole was under the direction of Mr. Jennie Long. The same entertainment will be given tonight and Saturday afternoon.

A DEMURRER INTERPOSED

On Behalf of Mrs. Cassie Blake-Fuss and Her "Disorders."

There was quite an array of legal talent within the sacred of Commissioner McNulty when the case of Cassie Blake-Fuss and her seven co-defendants was called up at 2 o'clock this afternoon. The charges preferred against the principal are keeping a house of ill-repute on Commercial street and selling liquor without a license.

The girls are accused of resorting to the premises in question for immoral purposes.

The prosecution is being conducted by Prosecutor Cannon, and the defendants are represented by Attorneys Jesse Lewis, Fred E. Mecartney, N. M. Warner, and John G. Dwyer.

Counsel for the defendants withdrew their former plea of not guilty and interposed a demurrer, on the ground that the Territory, in the name of which the proceedings have been instituted and so proceeding, that the offense, if committed at all, was under the exclusive jurisdiction of the city.

The demurrer was under argument when the News went to press.

There are three other "cadets" as defendants in a similar case; but their hearing was continued until tomorrow.

Fremont School.

Following is the program of Fremont Day exercises in the Fremont school of this city, seventh and eighth grades, on Friday, January 25, commencing at 2 p.m.:

Music, instrumental, "Hungarian Song."

Reading from [illegible]

Recitation, "The [illegible]," written by [illegible]

Music, "[illegible]"

Reading from [illegible]

Recitation, "The [illegible]," written by [illegible]

Music, "[illegible]"

Reading from [illegible]

Recitation, "The [illegible]," written by [illegible]

Music, "[illegible]"

THE MAC DUFF SPRING.

One of the Owners Says No Part of It Belongs to the Deck Company.

Editor Deseret News:

The Semi-weekly DESERET NEWS of Dec. 25 informs me that a company has been incorporated to be known as the "Deck's Hot Springs company," the object being to construct a health and pleasure resort, in which old bitters and cocktails will be served. Among the claims made by the above company is one-half interest in a spring known as the Mac Duff sulphur spring.

I beg leave to ask the incorporators of the Deck's Hot Springs company by what means they obtained the ownership of one-half the name of the above named spring, and by what right they offer it for sale as part of the stock of the company?

The spring in question belongs to the heirs of the late Malcolm Macduff, deceased, of which I am the senior son, and no Deck or any person owns one half of any other portion of the spring.

JOHN MAC DUFF.

The Hampden House, Pittsburgh, Mercer, Jan. 19.

COMMERCIAL.

SALT LAKE CLEARING HOUSE.

Today's clearing house exchanges amounted to $159,718. Balances day last year, $188,[illegible].

MONEY QUOTATIONS.

New York.—Silver, 59c; lead, $3.32. London.—Silver, [illegible]

ORE AND BULLION.

Wells, Fargo & Co. received today: Peno. bullion, $[illegible].

REAL ESTATE.

Transfers filed in the office of the County Recorder of Salt Lake County, Jan. 24, 1895.

[illegible]

STOCKS AND WAGERS.

NEW YORK STOCKS.

New York, Jan. 24, noon.

[illegible]	[illegible]	[illegible]	[illegible]

CHICAGO WHEAT.

Chicago, Ill., Jan. 24.

[illegible]	[illegible]	[illegible]	[illegible]

'Take a Good Look'

at this and remember it. It shows exactly how a package of the genuine GOLD DUST WASHING POWDER looks. Its wonderful worth of this cleaning preparation and the great value given by young women who are going to the christening of their mothers, have brought out many imitations that do not compare with the genuine

GOLD DUST

any more than low-priced whisky compares with pure rye. Remember, there is only one genuine Gold Dust, and it is always packed in large packages bearing the name Fairbanks. Most sold by everybody.

THE N. K. FAIRBANK COMPANY.

St. Louis. Chicago. New York. Boston. Philadelphia.

Dr. Pike's Cream Baking Powder World's Fair Highest Honors Awarded Diploma.

Mrs. W. J. Fahrney, Le Roy, N. Y., says: "Have used Kay's cough cures. Pelter Cough syrup is the only one that helps me. I know it is the best Cough remedy." For sale by F. J. Hill & Co., and Nelden Jensen Drug Co.

St. J. K. Fowler, secretary and treasurer of the Corinne Mill, Canal and Stock Co., of Corinne, Utah, in speaking of Chamberlain's Cough Remedy says: "I consider it the best in the market. I have used many kinds but find Chamberlain's most prompt and decided in giving relief, and now keep no other in my house." When troubled with a cough or cold give this remedy a trial and we assure you that you will be more than pleased with the result.

For Beauty,

The comfort, the health and the pride of the complexion, use only Pompeian's Enamel Cream. Nothing equal to it.

CITY ORDINANCE.

AN ORDINANCE CREATING LAND DISTRICTS [illegible]

[illegible]

NOTICE TO CONTRACTORS.

[illegible]

SEALED PROPOSALS WILL BE RECEIVED [illegible]

R. K. THOMAS,

26, 28, 30, 32, East First South Street, Salt Lake City.

767 19/36 YARDS of Black Silks,

Taken from the Shelves, Measured and Marked as Below Sold for any Piece just as it is Advertised, and we Will send it to you provided it is not already Sold when you send.

10½	Yards of	$1 10	Taffeta	For	$7 50
12½	"	1 00	"	"	9 00
12	"	95	"	"	8 00
8	"	1 00	"	"	6 00
11½	"	1 10	"	"	8 00
10	"	1 10	"	"	8 00
6½	"	1 00	"	"	5 00
6½	"	85	"	"	4 00
10½	"	1 35	Satin	"	10 00
5½	"	1 25	"	"	5 00
10½	"	1 10	" silk	"	8 00
3½	"	1 37½	"	"	2 00
5½	"	1 25	Peau de Soie	"	6 00
3	"	1 65	"	"	3 00
10½	"	1 60	"	"	12 00
4½	"	1 40	"	"	4 50
10	"	1 60	"	"	12 00
6½	"	1 35	"	"	8 00
7½	"	1 65	"	"	9 00
11	"	1 60	"	"	11 00
11½	"	1 40	"	"	12 00
12	"	1 65	"	"	14 00
7½	"	1 65	"	"	8 00
12	"	90	Glace	"	7 00
3½	"	2 00	Faille	"	5 00
7½	"	1 50	"	"	9 00
7½	"	1 50	"	"	9 00
11	"	1 25	" silk	"	14 00
10½	"	1 25	"	"	13 00
7½	"	1 00	"	"	5 25
7	"	1 50	Etamine	"	7 00
10½	"	2 00	Benzaline	"	14 00
6½	"	1 00	"	"	7 50
6½	"	1 75	Gros Grain	"	8 00
7½	"	1 20	"	"	8 00
11	"	2 00	" silk	"	14 00
11½	"	1 40	"	"	11 00
5½	"	1 40	"	"	5 00
14½	"	2 00	"	"	24 00
6	"	1 40	"	"	5 00
9½	"	1 20	"	"	10 00
7½	"	1 50	"	"	6 00
8	"	1 50	"	"	6 00
3½	"	90	"	"	2 25
6	"	1 40	"	"	5 00
2½	"	1 37½	"	"	1 75
7½	"	1 75	"	"	6 00
9½	"	1 25	" silk	"	10 00
10½	"	1 40	"	"	10 00
13½	"	1 00	Rhadame	"	10 00
14	"	1 50	"	"	16 00
5½	"	1 50	"	"	6 00
11½	"	1 25	"	"	12 50
12½	"	1 50	"	"	14 00
12½	"	1 30	"	"	14 00
12½	"	1 55	"	"	13 00
7½	"	1 67½	"	"	9 00
5	"	2 00	"	"	8 50
4½	"	1 75	"	"	6 00
10½	"	1 25	"	"	13 00
7½	"	1 15	"	"	6 50
10½	"	1 75	"	"	13 00
5	"	1 25	"	"	5 00
10½	"	1 10	"	"	10 00
9½	"	1 20	"	"	10 50
14	"	1 25	"	"	16 00
5½	"	1 25	"	"	6 00
3½	"	1 50	"	"	4 00
11	"	1 15	"	"	13 00
11	"	1 15	"	"	13 00
10½	"	1 50	"	"	16 00
3½	"	1 25	Jersey	"	3 00
11½	"	1 37½	"	"	11 00
10	"	1 40	"	"	13 00
10	"	1 25	"	"	10 00
11	"	1 40	"	"	11 00
7½	"	1 40	"	"	7 00
10½	"	1 40	"	"	10 50
14½	"	2 10	Brocade	"	20 00
9	"	90	"	"	9 00
12	"	2 10	"	"	17 50
11½	"	2 00	"	"	14 00
11½	"	1 50	Crystal	"	14 25

767 19/36 Yards

ACTUAL COUNT.

NO FICTICIOUS FIGURES.

R. K. THOMAS.