

REVERSAL OF A DAMAGE SUIT.

Ogden Farming Case Remanded Back for New Trial.

CONTRACT WAS IN ISSUE.

Supreme Court Finds That Agreement Between D. A. Smyth and Joseph Abba Was Binding.

The Supreme court handed down an opinion today in the case of Joseph Abba, appellant, vs. D. A. Smyth, reversing the cause and remanding the same to the Second district court with directions to grant a new trial.

This was an action brought by the plaintiff Abba to recover from the defendant Smyth the sum of \$4,353, for the alleged breach of a certain contract.

The parties reside in Ogden, and on April 7th, 1898, they entered into an agreement whereby Smyth agreed to employ Abba on his farm and promised to pay him in one-half of the crops raised, Smyth to receive thirty-five tons of hay and fifty bushels of oats before the division, the remainder to be equally divided between the two. Smyth further agreed, according to the terms of the contract, to furnish all seed, farming implements, horses and wagons; the board and lodging of Abba, and to engage a man to help; also to furnish water to mature the crops, the agreement to remain in force during the farming seasons of the years 1898, 1899 and 1900.

Plaintiff alleged that he entered upon the farm in April, 1898, and worked under the instructions of the court, returning a verdict "no cause of action," in favor of the defendant. From this judgment Abba appealed.

It was contended by counsel for the respondent Smyth that the contract was void under the statute of frauds. The Supreme court holds that while the contract was loosely drawn it was reasonably certain as to all the necessary requirements of a memorandum as required by the statute. Both parties executed the writing which imposed mutual obligations on each. It was also claimed by the respondent that the testimony tending to show a compliance with the contract on the part of the plaintiff, and a breach thereof on the part of defendant, was inadmissible and was properly rejected by the court. The Supreme court decided that the contract was not void, and that the testimony tending to show a compliance with the contract on the part of the plaintiff, and a breach thereof on the part of defendant, was admissible and was properly rejected by the court.

The court further finds that the answer of defendant did not raise the issue under the statute of frauds, and that the plaintiff had no notice of this part of the defense until the trial had begun.

By admitting the contract, alleging its fulfillment by defendant and non-fulfillment by the plaintiff, and claiming damages for such non-fulfillment, the defendant, the court says, "was hardly in a position to insist upon the statute as a bar to the action, or to contend that the contract was unilateral and binding upon the defendant only. In effect, the answer admits the contract, asserts its binding force upon both parties, claims under it, relies upon its breach by plaintiff, as a ground upon which to recover damages for its non-fulfillment, and yet this court is asked to say that the contract is unilateral, lacks mutuality, and was void under the statute of frauds. It is useless to assert that defendant has not acted upon and treated the contract as binding upon both parties."

In rejecting the testimony tending to show plaintiff's compliance with the contract and the breach of defendant, the court holds that Judge Rolapp erred.

Justice Miner wrote the opinion and was concurred in by Chief Justice Barlow. Justice Baskin concurred in the result.

AUDITOR SWAN'S ESTATE.

D. A. Swan and Thomas Hall Appointed Administrators—Will Not Admitted.

In the matter of the estate of George Swan, deceased, Judge Hiles today allowed the petition of Douglas A. Swan and Thomas Hall, who had asked to be appointed administrators of the deceased's estate. The petition was granted, but the court decided that they were not to be appointed, and that the estate was to be administered by the court.

Justice Miner wrote the opinion and was concurred in by Chief Justice Barlow. Justice Baskin concurred in the result.

E. B. COLEMAN WINS.

Judge Hiles Renders a Decision in Suit to Quiet Title.

Judge Hiles rendered a decision today in the case of E. B. Coleman vs. E. G. Hines, finding the issues in favor of the plaintiff. The suit was brought to quiet title to a small strip of land situated near the corner of Eighth East and Second South streets. Plaintiff claimed it by adverse possession, while the defendant relied on an old survey for his title.

Judge Hiles, in giving his decision, decided that plaintiff has an easement and perpetual right of way to the full width of the traveled sidewalk, and defendant is perpetually enjoined from obstructing the same.

Probate Orders.

Estate of Susanah Foulger, deceased; Estate of William Lovatt, deceased; Catherine Busby appointed administratrix.

Estate and guardianship of Anna Huelier et al. minors; sale of personal property confirmed.

Salt on a Note.

The Utah Commercial and Savings Bank is suing Jesse W. Fox, Jr., et al to collect \$4,147.77, interest and attorney fees, on a certain promissory note, secured by mortgage.

District Court Orders.

The following motions were disposed of by Judge Hiles today: J. R. Richardson vs. the Treasure Hill Mining company et al; demurrer to complaint overruled as to all defendants except D. F. Walker, whose de-

murder is sustained. Ten days allowed plaintiff to amend his complaint. E. H. Hanson vs. Miland Pratt; motion to dismiss overruled. M. A. Faldino vs. C. C. Johnson; motion to quash summons withdrawn, and five days to plead.

COL. SHAUGHNESSY ANSWERS.

Accuses Attorney William McKay of Neglecting His Duty.

Michael Shaughnessy, who was made defendant some time ago by Attorney William McKay in a suit to recover \$1,000 alleged to be due for professional services rendered during the years 1895, 1896, 1897, 1898, and 1899, has filed an answer in the district court. Defendant denies that he is indebted to the plaintiff in any sum whatever and avers that he is fully compensated Attorney McKay for all services rendered "from the beginning of the world up to and including the date of the filing of the answer."

Defendant now alleges that he paid and delivered to plaintiff \$1,000, which he has never received, the same now being due and owing. It is further alleged by Col. Shaughnessy that prior to the filing of the suit he delivered to McKay three promissory notes, amounting to \$500, which McKay was directed to collect, but failed to do so, to the defendant's damage in the sum of \$5,000, for which sum Shaughnessy now demands judgment.

Wife's Divorce Suit.

Josephine Alcock has instituted divorce proceedings against Samuel Alcock in the Third district court, alleging drunkenness, cruelty and desertion as the grounds. According to the complaint the parties were married in this city on July 17th, 1891. In addition to a decree of divorce plaintiff prays to be awarded the custody of three minor children.

Estate of Joseph T. Burton.

W. H. Burton has petitioned the probate court to appoint him administrator of the estate of his deceased father, Joseph T. Burton. The estate consists of 20,000 shares of the Electric Gold Mining company, valued at \$100.

Partnership Dispute.

James Leatham has entered suit against C. W. Thompson in the Third district court praying for a dissolution of partnership and for an accounting. The complaint alleges that the parties entered into a co-partnership early in the year, and that they were to share jointly in the profits accruing from the constructing and roof-repairing business. It is then alleged that defendant has received \$500 for work done and has refused to give plaintiff his share. A restraining order was issued returnable Saturday, Dec. 9th.

HARMON TO BE TRIED.

Order Dismissing Appeal Set Aside by Judge Norrell.

The dismissal of the appeal in the case of the State against George Harmon was set aside by Judge Norrell today, and the cause was ordered reinstated on the trial calendar. Harmon insisted on the trial calendar. Harmon last July of receiving a gun knowing it to have been stolen, and sentenced to pay a fine of \$75. He appealed and when the case was called for trial yesterday neither Harmon nor his attorney was present. Judge Norrell thereupon ordered a dismissal of the appeal. It was stated to the court today that the defendant was not aware his case would be called as early as it was.

WILL OF ANN TATE.

George W. Reed is Named as Executor of the Estate.

The will of the late Ann Tate, who died in this city October 12th, 1899, was filed for probate today, together with a petition asking that letters testamentary issue of George W. Reed, Jr., named as executor.

The will is dated April 14th, 1899, and is witnessed by M. T. Verren and Will T. Reed. The decedent left personal property of the value of \$4,000. The estate is divided between a daughter and son of deceased and three children belonging to Clara Tate Reed, Charles H. Tate, John Albert, Mary Elsie and John Verne, children of Mary Elsie Hansen, deceased. The three sons, John, George and Joseph are purposely omitted, the deceased having given them their portion during her life time. Wednesday, Dec. 12, was set for the hearing. Stewart & Stewart are the attorneys of the estate.

Before Judge Cherry.

Judge Cherry disposed of the following motions today: et. vs. Morris Sommer, J. P.; demurrer and motion to quash writ overruled and December 9th set for the return of writ.

Salt Lake City Building and Manufacturing company vs. Ada Dwyer Russell; continued in law and motion calendar. Jacob H. Griffin vs. Minnie P. Griffin; continued to December 9th.

V. Huntslicker vs. E. L. Colburn; motion to consolidate continued and demurrer overruled.

Kentucky Lumber company, etc., vs. James T. Wall; continued to December 9th.

D. P. Tarpey vs. F. E. McGurran; demurrer sustained and ten days to amend.

Kate Guthrie, administratrix, vs. Oliver Sallaberg and company; demurrer argued and sustained; seven days to amend.

John L. Lawton vs. New American

"A Cheerful Look Makes a Dish a Feast."

"Cheerful looks" depend just as much upon physical well-being as upon natural disposition and temperament.

If the blood is disordered, the brain is starved, and no "dish is a feast," for the reason that the vitalizing elements do not reach the proper spots. A step in the right direction is to purify the body by the use of a natural remedy. Hood's Sarsaparilla is Nature's remedy. It acts upon the blood, and whether the seat of the disorder is brain, stomach, liver or kidneys, the purifying process of this medicine is equally sure and successful.

Pain in Back—"Stone cutters like myself have pain in back, and kidney troubles. Since I took Hood's Sarsaparilla I am all right and I recommend it." W. F. Morton, Brownwood, Texas.

Broken Down—"I was broken down and in poor health for two years. Hood's Sarsaparilla made me in better health than for years. Have no sickness now." A. C. Montgomery, Henryville, Miss.

N. B. Get only Hood's because Hood's Sarsaparilla NEVER DISAPPOINTS.

Hood's Sarsaparilla cures liver, blood, and kidney troubles, and is the only reliable medicine for all ailments.

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THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK.

RICHARD A. MCILROY, President. RILON S. WELLS, Managing Agent. For Utah.

Assets, over \$300,000,000. Average Daily Payment to Policy Holders over \$82,000.

Paid Policy Holders Since Organization over \$500,000,000. Insurance in force over \$1,000,000,000.

NEW OFFICES: 5, 6, 7, 8, 9 and 10 Commercial Block, Corner Second South and Commercial Streets.

INFORMATION ON ALL LATEST FORMS OF POLICY CONTRACTS FURNISHED ON APPLICATION.

THE UTAH ART EXHIBIT.

It Will Open on First South on Tuesday Next.

The first annual reception of the Utah Art Institute will be held on Tuesday evening next at the Exhibition parlor, between Main and State streets, on First South, near Broadway.

About five hundred people will be invited, including all artists, so far as known to the committee, and many leading citizens who are known to be interested in art.

The Governor is expected to be present, and there will be music and speeches.

All artists, or amateurs in art, who have not received invitations, can secure them by calling on the secretary, J. H. Paul, in room 510 Templeton building.

The exhibition, which is to open next Tuesday under the direction of the Utah Art Institute will be the most remarkable yet given in Salt Lake. Not only will the best work of Utah artists be displayed, but that of other well-known artists from abroad will be exhibited, the aim being to inspire an interest in art by placing before the people the best productions possible as an incentive to its study and appreciation.

A large consignment of pictures from abroad has been received and will be hung as soon as the hall is ready for the work. Their aggregate value is estimated at \$5,000. In the meantime a transformation is being wrought in the hall in which the exhibition will take place. The hitherto bare floors will be covered with rugs, and Oriental curtains, draperies and divans will convert the room into a cozy retreat where it will be pleasurable to pass the hours. Local florists will contribute their share to the beautifying, and palms, plants and flowers will fill the corners and niches of the hall. Everyone connected with the enterprise is full of enthusiasm and the exhibition promises to be a big success. It is the design of the Art Institute to hold the exhibitions annually, and in order to do this the aim being to inspire an interest in art by placing before the people the best productions possible as an incentive to its study and appreciation.

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"View near Plymouth;" Hardesty Matra, water color, "An April Morning;" Wm. M. Chase, "Pastel Contemplation;" Julian Rix, "Nature's Realm;" Julius Rix, "Autumn;" Francis Jones, "In the Woods;" Yeend King, "Evening Glow."

The local artists have responded freely with choice collections of their own work, while the list of importations includes some of the best recent work of leading American artists. None of the pictures have ever before been on public exhibition.

COUNTY TEACHERS MEET.

Interesting Session With Miss Holton the Speaker.

The primary teachers of the county schools held an exceptionally interesting meeting in the city and county building this morning. The feature being an address by Miss Holton, supervisor of the primary work in the city schools, on the subject of "reading." She laid special stress upon expression and pronunciation and her ideas were illustrated by a class recitation under the direction of Miss Belle Lawson, of the Irving school. The children in the class went through the exercises promptly and intelligently. Miss Holton brought out many excellent ideas in regard to reading, and her suggestions were well received.

UNIQUE "CORN" PARTY.

Given at a Large Party at Lehi Last Night.

ISPECIAL TO THE "NEWS."

Lehi, Dec. 2.—Last evening Mr. George A. Smith and Mrs. E. J. Taylor gave a large unique party in the form of a "corn" social. It was attended by one hundred and twenty-five persons, seventy-five of whom won prizes. Dancing was indulged in from 8 until 9:30, after which there was a program of songs and recitations, in which corn was the principal article referred to. A telegram with only the initial letter was passed around and the person who could fill out the blanks the most nearly in accord with the original telegram was to be awarded a prize. This was captured by Sam Stewart.

"GRANDMA" GOFF DEAD.

An Aged and Respected Woman Passes to Her Rest.

Mrs. Mary Goff, one of the oldest residents of this State, and who was fondly called "Grandma Goff," has laid down the burden of life after carrying through well and woe for 94 years. She died at her home in East Jordan last Thursday night. Mrs. Goff was the wife of Isaac Goff, and was born at Long Watton, Leicestershire, England, on December 9, 1815. She is survived by a direct offspring of 136 people, being the mother of three sons and two daughters, 46 grandchildren, 82 great-grandchildren, and two great-great-grandchildren, and was not only loved by them all, but was loved by all who knew her. Her husband is living, also one brother.

The funeral services will be held from the East Jordan ward meeting house at 11 o'clock a. m., Sunday, December 3rd. Friends are invited to attend.

ATTEMPTED ABDUCTION.

Ruffians Attempt to Carry a Young Lady Off, Frightened Away.

A young lady, who desires to have her name suppressed, was accosted on the street last night by two ruffians while going home. She was in company with her sister, and walking along Seventh South street about 100 yards behind her father and mother, when two men jumped suddenly from behind, seized her and one of them threw his arms around her and made an effort to carry her away.

The sister, who was with her, gave a frightened scream, which attracted the father and he came rushing back to his daughters.

The wretch who had seized the young lady took flight and relaxing his hold upon her beat a hasty retreat. Pursuit was useless on the part of the father who was unable to run very fast and inasmuch as nothing serious transpired they decided to say nothing about it.

MR. CLAY IMPROVING.

The condition of Mr. Henry M. Clay, general agent for the Union Pacific, is now considerably improved. He has been confined to his bed for some time, but is now able to get up and walk about with great pleasure.

JUDGE TIMMONY'S COURT.

Charles H. Schewel, the little German who created a small-sized riot at the Dooley building yesterday, found favor with Judge Timmony in the police court this afternoon. When the complaint charging him with destroying property was read, and he was asked why he broke the windows in the room, he replied: "I don't know, I wanted to see a letter carrier and couldn't get out."

"Well, I'll let you go," said the court, "and the next time you feel one of those spasms coming on, go out into a ten-acre field."

R. Geesman and John Barrat each pleaded guilty to being drunk, and each told a story about "just happened to be in town on Thanksgiving and got out with the boys." As this was their first offense, they were allowed to go.

For the third time the name of Albert Rosenthal was called without receiving an answer from that individual. "A warrant will be issued for his arrest and placed in the hands of an officer," announced the court.

Attorney D. N. Straup objected to this action on the ground that the court had no authority to issue a warrant under the circumstances. "There has been no witnesses here, in any of the proceedings," said he. Prosecutor DeHill-"I will state that one church called here, and have been ready for trial every day." Attorney Straup's objection was overruled.

ORE AND BULLION REPORTS.

MCORNIC & CO. Salt Lake City, Dec. 2, 1899.

Mingo bullion\$3,100 Gold bars1,700 Total\$4,800 Ore\$15,700 Bullion\$2,100 Total\$41,800

OSTETTERS CELEBRATED. If you feel tired in the morning, try Ostetters' Stomach Bitters. Your stomach is probably overworked and all kinds of ailments will result. The bitters cure.

Constipation, Dyspepsia, Liver and Kidney Diseases. It acts promptly and surely.

STOMACH BITTERS. The Manti temple will close on Friday, Dec. 2nd, 1899, and reopen on Tuesday, Jan. 2nd, 1900.

LORENZO SNOW, President. MANTI TEMPLE.

The Manti temple will close on Friday the 2nd of December, 1899, and reopen 10th of January, 1900.

JOHN D. McALLISTER, President.



Man's Confidence in Himself. If you are pale, thin, haggard, nervous, dependent? Is your memory poor? Do you feel that you are not getting on? If so, then take HUYAN. HUYAN will cure you, and that danger that is threatening you, and that danger is "complete nervous prostration." HUYAN makes you strong, robust, hearty, energetic. HUYAN strengthens the nerves and nerve centers.

Get HUYAN from your druggist, 10c a package; six packages \$2.50. If he does not keep it, send direct to the HUYAN REMEDY CO., corner Stockton, Ellis and Market streets, San Francisco, Cal.

CONSULT HUYAN DOCTORS ABOUT YOUR CASE—FREE. CALL OR WRITE.

POLICE POINTERS.

Officer William Hilton's youngest son, Willie, found a very valuable breast-pin of diamonds, pearls and opals on First South street the other day. The trinket belongs to Mrs. John Dern and Willie at once restored it to its owner.

Yesterday afternoon H. Tupper took leave of the city jail cured of the deadly morphine habit. This adds another case to the long list of cures brought about by Sol. Kimball, the city jailer. Tupper entered the jail on the 10th in a condition that was truly awful. Yesterday he went to work for an eastern firm a well man.

Officer Lincoln observed a man staggering along Second South street this morning in a state of inebriation that defied comparison. At the police station he was asked his name. His reply was something like this: "N-g-sky-ye-ho-z-hic-goo-zik-goo-gong-goo-on-o-n-g-on-g-on-g." He registered as Mike Burns-drunk.

The overcoat which was stolen from the High school entertainment on Thanksgiving night, was today recovered by Officer Davies and is now at the station awaiting its owner.

MARRIAGE LICENSE.

A marriage license was issued last evening to John H. Evans, 23, of South Cottonwood, and Lydia E. Brown, 24, of Taylorville.

PUBLIC LEGAL ADVICE.

Opinions from the Attorney General's Office. In answer to queries put by County Attorney Baker, of Tooele county, Deputy Attorney-General Lee gave out a number of opinions. He held that the expense of the support of indigents residing within an incorporated city is a county charge; that the expense of the burial of indigents, who at the time of their death, were residents of an incorporated city is not a county charge, but is within the jurisdiction of the city board of health; that any interest a person has in property sold for taxes will enable him to redeem such property from such sale, and that if a person other than the party against whom the property is assessed as taxes, desires to redeem the same, the treasurer need require no proof of interest before issuing a redemption certificate.

In answer to a question by County Attorney Condie, of Morgan county, Mr. Lee held that it is not necessary for a person to have land lying in the mountains to erect monuments defining the boundaries of his property before an action for trespass and cutting down timber may be brought.

A SUNDAY SCHOOL MEETING.

The first session of the fourteenth annual convention of the Utah State Sunday school association embracing nearly all of the various sects, was held in the Congregational church last evening. The attendance was rather meagre, although there were a number of visitors from outside cities. There was a song and prayer service in which brief addresses were made by nearly all the delegates and Mr. E. V. Stevenson.

There were one minute responses from all the delegates to the question "Why am I here?"

The speaker of the evening was Mr. Stevenson, of Cedar Rapids, Iowa. He amused the audience with anecdote for some time, and then launched out into a serious discussion of Sunday school work. He said that one church could not reach all of the children in the land, but a hearty co-operation of all churches was required.

At the close of the service, the following nominating committee was chosen: Mrs. Markel, Weber county; Miss Moore, Cache county; Miss Cook, Davis; Mrs. John Wilson, Juab, Prof. Harling