DESERET EVENING NEWS.

Thursday, - - - - July 28, 1898

HOMESTEADERS' RIGHTS

Syllabus of a Recent Decision by Supreme Court Justice Miner.

AFFECTS EVERY HOUSEHOLDER IN UTAH.

Exemption Rights—Selection of Homestead—Abscess from Residence by Homesteader—New Laws Defined.

Justice Miner some time since handed an opinion in the case of Ellen E. Kimball and Loretta W. Kimball, appellants, vs. C. J. Salisbury and Sheriff T. P. Lewis, in which the judgment of the district court was set aside, with directions to enter a decree in conformity with the prayer of the complaint.

The decision is a very important one, affecting as it does every householder in the State. It furthermore [illegible] previous rulings and gives a new scope and [illegible] of the law under the revised statutes.

THE KIMBALL ESTATE.

Action in the lower instance was brought to quiet title to two pieces of land in Salt Lake City, claimed by Mr. Kimball to be his homestead. The ground is ten rods front by nine rods deep, situated on North Temple Street between East Temple and State streets. There is nine rods of this ground was the place of residence of the plaintiffs. It was sold under an execution issued upon a judgment against Ezra R. Kimball in favor of defendant Salisbury, who was also the purchaser. The sale was effected in March, 1891, but before the certificate of sale was received by Salisbury, Kimball commenced action to remove the cloud from the title, and also notified the purchaser in writing of his intention of filing his declaration of homestead.

The complaint alleged that Kimball inherited the land from his father in 1886, and that it had been used as a homestead ever since; that he had no notice or knowledge of the levy and sale; that they had never paid or had been engaged as a missionary in the Southern States; that his wife and three children constituted his entire family; that they had resided upon the premises for a period of five years; that they were living there at the time of the levy and sale; that the defendants offered no evidence except the execution, answer and return. Judge Hiles, before whom the case was tried, found for the defendants. From this decree Kimball appealed.

The court, among other things, found that the continued absence of the plaintiffs from their residence for a year at a time does not constitute the abandonment of the homestead right, when it appears that it was their home like intention to return and live upon the premises.

SYLLABUS OF THE CASE.

In order that all concerned may more fully understand the extent of the decision the "News" presents to its readers a syllabus of the case, as follows:

1. Homestead—Exemption—Statutes—Revised Statutes section 2291, C. L. 1888, as amended by section 1, chapter 72, session laws 1896, p. 75, the homestead exemption is not a privilege conferred upon the head of the family, but an absolute right, intended to secure to the family a home, and is not a gift or donation, or a mere act of caprice to every family in the State, and in waiver of the homestead right could either the interest of the side or children complaining for family.

2. Homestead—Value Limit—When the homestead consists of one or more pieces of land, if within the value limit, for instance, land is established by the statutes as exemption, the Supreme Court, and courts created under it, is a positive prohibition against a levy and sale, unless waived by conditions of the owner of the homestead.

3. Homestead—Exemption—Selection—Abscess from Residence—Intention—Where the homestead consists of one or more pieces of land, if within the value limit, for instance, land is established by the statutes as exemption, the Supreme Court, and courts created under it, is a positive prohibition against a levy and sale, unless waived by conditions of the owner of the homestead.

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George M. Cannon, Cashier.

Salmon.

The Tabernacle Choir will sing out on the big platform at Saltair, tomorrow, 29th. It will be a grand treat.

Sacred.

5 cents every time you buy a HYDE-EINEBERG LILLIAN RUSSELL CIGAR.

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CITIZENS COAL COMPANY.

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At Saltair.

London, New York, Chicago and San Francisco will be represented, and we hope the local Utah music can now be heard at Saltair. Fifty Hundred voices on the Lake in grand chorus, on the big platform.

Salt Lake & Los Angeles Railway Company.

TIME CARD IN EFFECT June 12, 1898.

Trains Leave, Salt Lake.	Trains Arrive, Salt Lake.
10:30 a. m.	3:00 p. m.
2:00 p. m.	6:45 p. m.
4:15 p. m.	8:15 p. m.
6:30 p. m.	9:30 p. m.
7:15 p. m.	10:45 p. m.
11:45 p. m.	10:45 a. m.

Sundays last train leaves Saltair 8:15 p. m.

Garfield Beach Trains.

Effective Wednesday, June 22nd.

Will run trains as follows:

Leave Salt Lake.	Leave Garfield Beach.	Arrive Salt Lake.
10:00 a. m.	10:45 a. m.	11:45 a. m.
12:00 m.	12:45 p. m.	1:45 p. m.
2:00 p. m.	2:45 p. m.	3:45 p. m.
4:00 p. m.	4:45 p. m.	5:45 p. m.
6:00 p. m.	6:45 p. m.	7:45 p. m.
8:00 p. m.	8:45 p. m.	9:45 p. m.

*Daily except Sunday.

Round trip only 25c. Bathing, bathing, dancing. Order by mail.

Depot, corner First South and Fourth West.

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Utah Bank and Commercial Stocks and other high grade investment securities bought and sold.

Loans on county.

Investments yielding more than banks, loan and trust companies will receive the best of advice.

JOHN C. CUTLER, Jr.
Room 20.
Tel. 227.

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HOME FIRE OF UTAH

HEBER J. GRANT & CO., General Agents.

Have You Seen the new Pioneer Fire Box? It is given free with each box of Powder. Ask for it.

CLASSIFIED WANT COLUMNS.

Ads. received after 2:30 P. M. will be found on page 2.

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LOAN ONLY BY OWN MONEY
Money to loan
No advertising your money
No agents charging
No commissions
No time wasted
No delays in getting the money
No unreasonable
Interest charged
WINSLOW, S. TWITCHELL 300 Dooly Block.

BUSINESS LANDS 10 PER CENT. WE HAVE special information on what lands are open to entry, what are held by railroad companies to fulfill, P. J. Conway & Co., 10 West Second South street.

MODERN & CO. 30 WEST SECOND South, opposite Z. C. M. I. Money to loan from $10 to $500.

WANTED.

A GOOD GIRL (WORKING GIRL OKD). Boston. Apply 20 South Fifth East.

PARTIES HAVING HOUSES BUILDING for sale or rent can find a good tenant (several) by calling at once. Apply to Mrs. A. Eckman, 55 West Second South street.

SALESMEN—$50 A MONTH AND EXPENSES guaranteed selling our specialties and distributing sample packages. Permanent position. Position 10 per cent commission. Address Dept. 10, Chicago.

A FEW GOOD STORE MAPLES. Apply Dick Cavagnol, 61 Assembly, Idaho.

ONE AGENT IN EVERY COUNTY wanted to manage for large concern of responsible standing. Permanent position. Salary $900 per year and expenses, paid weekly. Address, with stamp, Manager, 1 Ann St., New York.

CASH PAID FOR HOUSEHOLD GOODS. New Company organized for the purpose. Goods sold on easy payments. Washburn, Pendleton & Co., 30 Dooly Block.

TO SELL A BOILER TOP HOSE AND sleeping porch roof, use a Kemp-Lupton Cyclone roofing or a great bargain. Address "C," News office.

ALVIRA E. SNOW, LAWYER, Rooms 3 and 4, Dooly Block, Salt Lake City, Utah. Tel. 32.

THE ETHE JUNE 24 HINE HOUSE, Beechhurst & Jerome, Queens Co., N. Y., offers for rent, furnished, 10 rooms, bath, gas, electric light, open fireplaces, all modern conveniences, and large grounds, for a specialty. Hold East or Northern visitors. Between Main and Brown, Salt Lake City, Utah.

FROM ONE TO FIVE HUNDRED HEAD of cattle to feed on alfalfa and grass and winter on stubble. Good water and plenty of room. Address Belston & McDonald Co., Belston, Utah.

SECOND HAND FURNITURE AT 30-32 Main street. Goods sold on easy payments. R. WEBBER.

FOR DINNER, 12 TO 2 So. YOU GET your 5 meals, vegetables, tea or coffee, for 25 cents. 41 Exchange Place. Opposite Grand Opera House.

UTAH CLEANING & TAILORING CO., cleaning, dyeing and repairing. Suits made to order. 48 E. 2d So. A. J. Hall, Mgr.

TEN CENTS FOR SAMPLE AND INSTRUCTIONS, of the greatest oil. The Wonderful Medicine. Cures Rheumatism, Sciatica, Lumbago, Backache, Kidneys, Bladder, Urinary troubles, and all pains. Postal Specialty Co., P. O. Box 1537, Salt Lake City.

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IN EVERY LODGE AND CONCURITY good agent, customer and correspondent. Big pay, steady work. Address, Cavagnolo, Toledo, Ohio.

HELP WANTED

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