FIVE SUPREME COURT DECISIONS.

Three Affirmations and Two Reversals of Decisions From The Lower Court.

DOG POISON CASE WAS FIRST.

Dissenting Opinion Holding That There Is No Criminal Liability.

The presence of all three of the justices of the supreme court in the city was made manifest yesterday by the handing down of five opinions, three of which were reversals of the judgments of the lower courts and two were affirmations. The case of the State of Utah, appellant, against John W. Coleman, the dog-poisoning case, was reversed. The opinion of the court was written by Justice Straup and concurred in by Justice McCarty. Chief Justice Bartch wrote a dissenting opinion in the case.

Coleman was tried in the criminal court of this county before Judge Lewis upon the charge of administering poison to an animal. After listening to the testimony in behalf of the state, Judge Lewis instructed the jury to return a verdict of not guilty, upon motion of the attorney for defendant, for the reason that it was not shown that there was any malice displayed by Coleman towards the owner of the dog, who was unknown to him at the time he administered the poison.

THE DOG DIED.

The evidence went to show that the dog, which was in the custody of E. A. Pierce, but belonged to E. W. Taylor, had bitten one of Coleman's children. The latter requested Mr. Pierce to kill it but he refused to do so because the dog did not belong to him. About two weeks later Mr. Coleman gave the dog some meat containing poison and it died from the effects of the same. Judge Lewis held that there must be some malice in the act towards the owner of the animal, but as defendant did not know who owned the dog he could have no malice towards its owner, hence he instructed the jury to return a verdict of not guilty.

MAJORITY VIEW.

In the opinion of the majority of the supreme court the construction of the law as given by the lower court is agreed with. On that subject the opinion says in part: "Although the owner may be unknown to the offender if the act was done with intent to wrongfully injure or destroy the property of another regardless as to who may be the owner, the commission of the offense is complete. When it is so done, the offender intended to inflict an injury upon or a wrong against the owner and malice towards him may, therefore, be presumed.

"It is not so much that the malice must be toward any particular individual known to the offender, and against whom he has some ill-will, but it suffices if the act as done shows an intent to do a wrongful act resulting in injury to someone."

QUESTION OF MALICE.

As to whether or not the evidence disclosed malice should have been a question for the jury to consider and the opinion holds that the lower court erred in not submitting the case to the jury with proper instructions on that point. The judgment of the lower court is therefore reversed.

Chief Justice Bartch in his dissenting opinion holds that there was no malicious trespass in the case which imposes criminal liability, although there may be a civil liability. He holds that the act of Coleman only showed a determination to save his child from further attacks. He holds that the lower court was justified in instructing the jury in favor of defendant and that the remedy in the case should be a civil one.

JUDGMENT AFFIRMED.

In an opinion written by Justice Straup and concurred in by Chief Justice Bartch and Justice McCarty, the supreme court has affirmed the judgment of the lower court in the case of Archibald Stewart, substituted for Daniel Harrington, plaintiff, against the Gold & Copper company of Bingham, appellant. The action was brought to quiet title to the area in conflict between the Panhandle lode, owned by plaintiff and the Sabine lode, owned by defendant, located in the West Mountain district. The lower court found the issues for plaintiff.

The principal point relied upon by appellant in its appeal was the insufficiency of the evidence to support the finding as to the citizenship of Daniel Harrington, the locator of the claim. On that point the opinion holds that a location made by an alien is not void but merely voidable and may be cured by a subsequent grant to a citizen as in this case. Only the government can attack the location of an alien. The judgment is therefore affirmed.

IRRIGATION CASE.

The supreme court has reversed the judgment of the lower court in the case of J. T. Thompson et al, trustees of the Hooper City Irrigation district, vs. Thomas McFarland et al. McFarland was charged with violating a decree of the Second district court in regard to the taking of water from the Hopper district ditch. He was fined $250 as damages for the taking of the water and sentenced to 10 days in jail for each subsequent offense of that nature.

It appears that the Hooper Irrigation district has been dissolved before the charge was made against defendant. As defendant and several others were the original owners of the water rights in question before they joined in the district project and as they did not join in the new company when the district was dissolved they can not, so holds the supreme court be held accountable to the new company for taking the water which belongs to them. Hence the judgment of the lower court is reversed with instructions to dismiss the action.

THIS ONE REVERSED.

The judgment of the lower court in the case of Elizabeth B. Gill et al, appellants, vs. Bartholomew Malan et al, has been reversed by the supreme court in an opinion written by Justice McCarty and concurred in by Chief Justice Bartch and Justice Straup. The action was brought in Weber county to quiet title to a spring in Taylor canyon near Ogden and to recover damages for rock removed from plaintiff's property by defendants. The lower court gave plaintiffs judgment for $40 as damages for removing the rock, but held that the title to the spring was in defendants.

The facts as presented at the trial showed that defendants were claiming the water under adverse possession and use. It seems, however, that they were tenants of some of plaintiffs and were using the water as such and hence the supreme court holds that they could not acquire an adverse title to the same while they were using the water as tenants of plaintiffs, whom they claimed had appropriated the water and then abandoned it. The judgment of the lower court is reversed with instructions to enter a decree quieting plaintiff's title to the spring in question.

FAILURE TO FILE WAS FATAL.

Because the appellant failed to file his transcript on appeal in the supreme court within 30 days after the appeal was perfected as required by statute, and a rule of the court, the two cases of John Butter et al vs Allen G. Lamson, appellant, and Allan G. Lamson, appellant, against S. Hays et al were dismissed by the supreme court today. The judgments in the cases were entered on Oct. 21, 1903, and the notice of appeal was filed May 13, 1904, and an undertaking on appeal was filed on May 17, 1904. The transcript on appeal was not filed in the supreme court until Dec. 23, 1904, seven months after the appeal was perfected. At a former term of the supreme court a motion to dismiss the appeal was denied in order to give the appellant another opportunity to comply with the law. But he failed to do so until three months later, hence the cases are now dismissed.

A Wonderful Tonic

HORSFORD'S ACID PHOSPHATE

Dispels that dragged out feeling during spring and summer.

COMMISSION AT WORK.

Takes Up the Matter of Investigating College Courses.

The commission appointed by Gov. Cutler under an act of the last legislature to investigate the work of the University of Utah and the Agricultural college, met yesterday in the governor's office and organized. All members were present except Mr. Bullen and Prof. Maeser. Gov. Cutler is ex-officio chairman of the commission, and James H. Anderson was yesterday chosen secretary.

The powers and authority of the commission were discussed, and it was decided that the first matter to be investigated is the duplication of studies in the two institutions with a view to remedying the difficulty. A special subcommittee, consisting of Prof. J. M. Mills of this city, Dr. A. S. Condon of Ogden, and F. H. Goodwin of Provo, was appointed to do the preliminary work of the investigation. The committee will visit both institutions and get all the information possible on the matter. The commission at the conclusion of its work adjourned subject to the call of the chairman.

Mr., can you tell me where Dr. Higgins' boulevard is? It's between Ninth and Twelfth South, on Main street.

MRS. LONGMORE'S FUNERAL

Speakers Refer to Her Good Deeds and Abiding Faith.

The funeral services of the late Selena Longmore were held in the Twenty-first ward chapel yesterday afternoon at 4 o'clock. There was a good attendance of sympathizing friends, the stand was beautifully draped, and the floral tributes were numerous. Remarks eulogistic of the deceased, of her kindness, liberality, and firm faith in the Gospel, were made by Elder Thomas Moss, Bishops Marcellus S. Woolley and Oliver Hodgson, and Elder Joseph E. Taylor. Appropriate music was rendered by the ward choir, with a solo by Annie M. Owen. Miss Enid Edmunds also sang with pleasing effect, "Sometime We'll Understand." At the cemetery the grave was dedicated by Bishop M. S. Woolley. The pallbearers were, Elders Wm. T. Atkin, David A. affleck, Frank M. Castleton, Wm. S. Owen, Arthur Hulbert and Gilbert M. Williams.

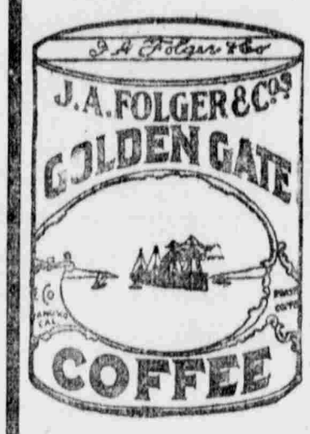
TEA

The cost of a cup of good tea is about three-tenths of a cent.

In every package of Schilling's Best Tea is a booklet How To Make Good Tea.

Golden Gate Coffee

Better than champagne



Costs no more.
No prizes—
no coupons—
no headache.
Sold only in aroma-tight tins.
Never in bulk.

J. A. FOLGER & CO., San Francisco
Established 1850

TWENTY YEARS AGO TODAY.

(DO YOU REMEMBER?)

Maj. Aaron Stafford, the last surviving officer of the war of 1812, died at Waterville, N. Y., aged 99 years.

At Chattanooga, Tenn., Charles Williams, a negro, killed a street car driver, and was soon thereafter lynched by an infuriated mob.

TEN YEARS AGO TODAY.

At Grand Haven, Mich., May Pierce, aged 16, was found guilty of complicity in the murder of her mother.

Archduke Ladislas died at Buda Pesth, from injuries received from the accidental discharge of his gun, while hunting in the forest of Agyria.

Hon. William J. Bryan lectured on bimetallism in the Salt Lake Theater.

FIVE YEARS AGO TODAY.

The Democratic state convention m et at the Salt Lake Theater. Hon. William H. King was nominated for Congress, and Hon. James H. Moyle for governor.

A miner named John Findback was killed in the Mercur mine.

A 14-months-old child of Mr. and Mrs. William Grow of Salt Lake was drowned in a shallow tank of water in the yard of their home.

Burnett's Vanila leaves a good taste in the mouth. It is pure and wholesome. Don't be cheated.

HELLO GIRLS QUIT.

Those at Idaho Falls Demand Increased Pay and Walk Out.

(Special to the "News.")

Idaho Falls, Ida., Sept. 5.—This morning four of the operators at the Bell telephone exchange served notice on Mr. Jones, the manager, that if they were not granted a 20 per cent increase in salary in two hours, they would quit the service. The manager being utterly powerless to grant the relief, asker for, particularly in the time designated, could do nothing to prevent the girls carrying out their threat, and before noon all four quit, thus crippling badly the telephone service at this place. The names of the young women who walked out are Misses Vernice Niles, Minnie Ricketts, Mary Mayotte and Myrtle Heath, while the chief operator, Miss Chagnon, though she did not walk out, was prevailed upon not to report, pending a settlement of the present difficulty.

FELL FROM STREET CAR.

Alfred Bell Seriously Injured While Going to Prize Fight.

By losing his footing on the step of an overcrowded streetcar en route to the boxing contest at the Salt Palace last night Alfred Bell fell to the ground and was severely injured. He was taken to the Groves L. D. S. hospital where it was found that he was suffering from concussion of the brain. Dr. C. M. Benedict attended him, and at last reports he is improving rapidly.

The car was moving slowly when the accident occurred and the conductor picked Bell up. He had fallen upon his head and was unconscious.

SMELTER DAMAGES.

Opinion Handed Down Was Not on Big United Suit.

The opinion in regard to smelter smoke damages handed down Monday by Judge Marshall of the federal court has caused considerable discussion among residents of Salt Lake valley. Many of them thought it was a decision on the big suit, and were consequently greatly interested. However, that was not the case. A year before there was any concerted action for relief individual parties sued to recover damages, and this case is one of those suits. The united suit, appealing for an injunction to stop the smelters from running, is on file, but it has never been heard yet. It is probable that Judge Marshall will refer the case to a referee who will take testimony and that it will be argued next spring sometime, after the long task of testimony taking is completed.

This case, however, has an important bearing on the matter, as it shows the temper of the federal court to be firmly on the side of the farmers. It pointedly refers to the smelters as wrongdoers, and states that there is actual suffering on the part of the farmers for which it has been proven the smelters are responsible. It also assesses a large valuation for such damage in the case of the farm in qutstion, and states that property is damaged much in sale value by reason of the smoke.

Superfluous Hair

Removed by the New Principle

De Miracle

a revelation to modern science. It is the only scientific and practical way to destroy hair. Don't waste time experimenting with electrolysis, X-ray and depilatories. These are offered you on the BARE WORD of the operators and manufacturers. De Miracle is not. It is the only method which is indorsed by physicians, surgeons, dermatologists, medical journals and prominent magazines. Booklet free, in plain sealed envelope. De Miracle mailed, sealed in plain wrapper, for $1.00 by De Miracle Chemical Co., 1912 Park Ave., New York. Your money back without question (no red tape) if it fails to do all that is claimed for it. For sale by all first-class druggists, department stores and

DRUEHL & FRANKEN,
N. E. Cor. Main and Third South Streets.

PETERSON COMMITTED.

Insane Man Creates Commotion on Way To Court Room.

Struggling with all his might, and yelling at the top of his voice, Amandas Peterson was dragged and carried into Judge Armstrong's courtroom yesterday afternoon by Deputy Sheriffs Steele and Larsen, and was examined as to his sanity by County Physician Whitney and his assistant. The man was committed to the State Mental hospital at Provo. He has been an inmate of the county infirmary for several weeks past, and on Monday evening he became so violent that Supt. Jones had to strap him to his bed to prevent him from doing harm to other inmates. He attracted considerable attention at the building. The employes of the various offices, hearing the commotion, came running out, expecting to find someone nearly dead from some horrible accident. It soon became known that there was an insane patient in the building, so quiet was again restored.

REGISTERING PUPILS.

High School Enrollment Promises Record-Breaking Attendance.

Today was the first day of registration at the West Side High school and Principal Eaton, Prof. Gillilan, Miss Dukes, Miss Buchanan, Miss Rowe and Miss Armstrong, the secretary, were present at the building and enrolled the pupils who applied for registration. The school will also be open tomorrow and Friday for the registration and it is expected that many of the students will avail themselves of the opportunity and avoid the rush on the opening day of school. Indications are good for a record-breaking attendance at the high school and it is believed that there will be 1,000 pupils enrolled.

INTERNAL REVENUE.

Collections for August $10,000 More Than a Year Ago.

Internal Revenue Collector Callister reports the collections for the district of Montana during the month of August to be $56,925.07, an increase of more than $10,000 over the month of August last year. Of the total collections, $41,649 was tax on beer and the remainder was tax on cigars and tobacco. During the last fiscal year the collections for the district showed a gain of $40,000 over the preceding year, the gain for July and August alone being $20,000 over the same months last year.

THE END OF HARVEST.

It is Almost in Sight and Thrashing is Well Under Way.

Weekly crop bulletin for week ending Monday, Sept. 4, 1905. Showery weather with considerable cloudiness and frequent thunderstorms characterized the week. These storms, though often of great violence in their electrical features, yielded, as a rule, comparatively little precipitation in the valleys, but in the surrounding mountains the rainfall was usually much greater. High winds were a feature of these storms, but no damage of consequence resulted. Though the days were usually quite warm, the nights were, in general, cool, especially toward the close of the week when the temperatures in the northern counties fell low enough to form frosts that damaged corn, potatoes and other tender vegetation in some localities. The cereals, however, were not injured, owing to their advanced state of growth.

Grain harvesting was nearly completed throughout the section and thrashing was under general headway. Yields continued up to the average, excepting on arid lands. Late-sown grain in some southern counties was also reported to be short owing to the ravages of chinch bugs. The third crop of alfalfa was being cut with usually light yields. Lucerne seed continued poor. Beets were maturing rapidly and were nearly ready to gather. Prospects for good yields were bright as the crop was, in general, in very good condition. In a few localities, insects caused considerable damage. Corn was generally very good and made rapid advancement, though wormy in some sections. The range was generally very dry and the supply of irrigation water was becoming very scarce. Stock, however, was in fair condition.

SOCIAL AND PERSONAL.

Today will be marked by a half dozen weddings, among them Miss Stella Salisbury and Lewis McCornick, Miss May Crane and Carl Prinz, Miss Ella Buddemer and John N. Mackey, Miss Nellie Pettit and Thomas Morton, Miss Olive E. Brown and William E. Nowell.

* * *

Miss Rebecca Morris and Miss Emma Morris have returned from a month's stay on the coast.

* * *

Mrs. Richard P. Morris and children will return this week from Long Beach, where they have been spending the summer.

* * *

Mrs. J. S. Bowerman entertained delightfully yesterday in honor of her mother, Mrs. Bowman. The rooms were effectively decorated, and a guessing game was among the pleasant features. About a dozen guests enjoyed the afternoon.

* * *

Miss Lorna Russell, daughter of Mr. and Mrs. Harold Russell attained her tenth birthday yesterday, and the date was celebrated with a pretty children's party at her home, about 10 guests being present, and enjoying a happy afternoon.

* * *

Miss Mary Olive Gray and sister, Miss Theodosia Gray of Colorado, are in the city and are the guests of Mrs. J. G. Felt. Miss Olive Gray will open a studio at once.

* * *

Miss Alice Goodwin, who has been visiting at Brighton with friends, has returned.

* * *

Mr. Louis McCornick gave an elaborate dinner last night at the University club.

* * *

Mrs. Fisher Harris and family are expected home tomorrow from their summer's stay at Brighton.

Just drop in and see the new china store, Davies & Co., 30 South Main. The newest designs and shapes in chinaware, glassware, cut glass, Japanese goods, Russian brasses. Everything marked in plain figures.

HALF RATES.

On Thursday, Sept. 7th, from all points in Utah to Salt Lake City, for opening of Latter-day Saints' University on Monday.

Hardie's Uintah Reservation Township Map and Guide, 15 cents coin, at book stores or 914 So. 2nd West St.

AMUSEMENTS.

"The New York Girl" went before a second big house at the Grand last night. This evening closes the run of that skit and tomorrow night will see the first production of the burlesque "Fiddle Dum Dee."

* * *

Harry Horsley's complimentary testimonial, tendered by his friends in this city, will take place at the Salt Lake Theater on the 25th inst.

* * *

Phil Margetts, the veteran actor has just returned from a visit to his daughter and her family, Mrs. Mulholland of Idaho Falls. He speaks enthusiastically of the outlook for bounteous crops in the Snake River valley.

AN INGENIOUS SUNDIAL.

The sundial shown in the cut is not only notable from an architectural point of view, but is a mathematical wonder as well. It registers time at no less than fifteen different places It was made by Peter Hamilton of Baltimore and is placed in Druid Hill park in that city. It is modeled after the great Glamis sundial at Glamis castle, Scotland.

TODAY'S REALTY TRANSFERS

Mary Howard et al to S. J. Howard et al, part 10, 2 south, 1 east	1
Edward Chamberlain to K. W. Hotchkiss, 110x171½ feet northeast from 22½ feet east of southwest 2, 11, B	3,225
O. F. Peterson to W. H. Freeman, 40-41, 3, Thorndyke sub.	310
Ida S. Guernsey to same, 42-43, 3, Thorndyke sub.	5
Chilion F. Miller to M. E. Graham, part 6, 2 south, 1 east	225
Robert A. Brighton to M. M. Ferry et al, 7 acres northwest 35, 2 south, 3 east	1,350
Anna E. Mulloy to Minnie Y. Wallace, 33x150 feet northeast from 91½ feet north of southwest 5, 41, B	3,200
O. A. Ehnquist to John Martinson, south 40 feet, 4, 3, D	71
Hester Y. C. Richards to G. S. Ruckert, 17 to 22, 1, North Beyles, Riverside	350
Mrs. K. W. Hotchkiss to R. Chamberlain, 10x20 rods southeast from 5 rods south of northwest 7, 13, A	1
Sarah Lovendahl to William D. Woolley, one-quarter interest right of way, part lot 6, 35	1
Eliza K. Woolley et al to same, same	1
Same to same, 55x114¾ feet northeast from southwest 6, 35, B	1
Thomas H. Smart, Sr. to Thomas H. Smart, Jr., ¾ acre south ½ northeast 32, 2 south, 1 east	75
H. J. Foulger to Edward K. Braby, 45x82½ feet southwest from 7½ rods south of northwest 5, 12, B	1
William T. Neall to Ephraim B. Beer, 16.4x5 rods, block 9, Forest Dale	577
Edward E. Howe to Anna Marthusen, 10-11, 2, Edgewood	125
Eliza Shafer to William Wood, Jr., 10 2, Crescent Beach	1
H. W. Brown to L. C. Miller, part 7, 2 south, 1 east	275
Mary B. Spencer to Utah Copper company, part 18, 1 south, 2 west	1
Josephine Thompson to M. F. Stafford, interest Bluejay lode, Big Cottonwood	250
Isabella Mayne to John A. North, part 16, 1, C, Wilkes Bingham	700

TO STAKE PRESIDENTS AND BISHOPS.

If any changes have occurred in the list of officers in your stakes or wards since you furnished the last information kindly inform the undersigned before Oct. 1st to enable us to correct and revise the "Church Authorities" pamphlet for the ensuing year.

DESERET NEWS.

PEACH DAY PEACH DAY

Brigham City.

Tomorrow, Round trip from Salt Lake only $1.25 via Oregon Short Line, Special at 8 a. m., returning, leave Brigham at midnight. Free peaches, free melons. All you can eat.

THE NEWS IN LOS ANGELES

The Deseret News will be found on sale in Los Angeles at the Standard News Company, 414 south Main street.

SCOTT

$3 Special For September. $3

That you may have a sample of our PHOTOGRAPHIC WORK in your possession, we will make, during September, ONE DOZEN $5.00 CABINETS for $3.00. BEST WORK. We can please you.

SCOTT STUDIO,
25 E. 3rd South St.
'Phone, Ind. 3489.
Remember the place. Remember the price.
Don't forget Baby Day every Wednesday.

NEW RECORDS
For Talking Machines Sent Out
ON APPROVAL.
Daynes & Romney Piano Co.
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OFFICE, STORE, BANK FIXtures, and Show Cases. Special Cabinet Work. Satisfaction Guaranteed. Harris & Craig 58 Market Street, Salt Lake City.

LEE KIM YING
The Celebrated Chinese Physician.
153 West South Temple Street.
Thousands of Testimonials of Persons Cured of Consumption, Catarrh, Hemorrhages, and Every Disease and Sickness.
Herbs Used. No Poisonous Drugs.

HAY FEVER IS ENDEMIC CATARRH.

Prominent Chicago Journalist Suffered With Hay Fever Owes Complete Recovery to Pe-ru-na.

A PUBLIC ENDORSEMENT.

MR. L. M. BABCOCK, 1619 Addison Ave., Chicago, Ill., Sec'y Chicago Journalists' Association, writes:

"I suffered from catarrh and hay fever for some time, and owe my recovery entirely to Peruna.

"I did not have much faith in its efficacy when I first started to use it, but as I gradually grew better I began to feel that perhaps I might get rid of these annoying troubles.

"I continued to use it for several months until I was cured.

"It is a great relief to me and I am therefore pleased to give my endorsement to Peruna, and trust that all who use it may have the same good results that I have had."

Dr. Hartman has contended for years that if the mucous membranes were perfectly free from catarrh, the dust, spores and pollen which excite Hay Fever would have no effect.

This makes it plain why some people have Hay Fever and some do not.

If the mucous membranes are kept perfectly healthy, and are not made porous or penetrable by catarrhal congestion, a person cannot have Hay Fever.

Therefore, a person suffering with catarrh even in a mild form is exposed to Hay Fever.

Many people get rid of Hay Fever entirely by taking a course of Peruna, which eradicates the catarrh and makes Hay Fever impossible.

We do not claim that Peruna is a specific for Hay Fever, but we do claim that Peruna will free the mucous membranes from catarrh.

In this condition no one is in danger of acquiring Hay Fever.

Hay Fever Explained.

What is known as Hay Fever is in reality endemic catarrh.

Hay Fever is conveyed to the system by the pollen of rag weed. Other vegetable growths have also been suspected of emanating spores or pollen which reach the mucous membranes of the nose and throat by the act of breathing, thus causing Hay Fever.

Some people are affected by these emanations. Others are not.

Keith-O'Brien

Stationery and Engraving

A Complete New Stock of Stationery Has Just Arived. It is a Fine Assortment of High Grade Qualities.

24 Sheets Linen Paper, 24 envelopes to match	25c a Box
24 Sheets Chiffon Taffeta 24 envelopes to match	35c a Box
60 Sheets Linen Paper 50 envelopes to match	40c a Box
96 Sheets Linen Paper 50 envelopes to match	60c a Box
158 Sheets Best Linen Paper 50 envelopes to match	65c a Box
A limited quantity of Hurlbut's Tablets in 20c and 25c grades	15c a Box
Envelopes to match the above—regular 15c package, for	8c a Pkg

Our New Engraving Dept.

Engraving Name-plate and 100 Cards, in Script, regular $1.50	$1.25
Engraving Name-plate and 100 Cards, in Gothic, regular $2.50	$1.75
Engraving Name-plate and 100 Cards, in Roman, regular $2.50	$1.75
Engraving Name-plate and 100 Cards, in Old English, regular $3.00	$2.25

Each additional 100 reprints from the plate furnished, in prevailing style card at—

80c—Regular 90c

Dies for embossing Stationery, all sizes, regular $1.00 to $1.50	75c

Stationery embossed from die in a sheet in small lots. Special price on large quantities.

All work warranted. See window display.

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