

## DAMAGE DONE BY SMELTER SMOKE.

Judge Marshall Hands Down Opinion  
Saying It Reduces Value of  
Property One-Half.

### CASE OF M'CLEERY VS UTAH CON

Court Holds That Plaintiff Should be  
Awarded Full Value for Dam-  
age to Crops.

The first opinion to be handed down by the Federal court on the damage done by smelter smoke in Salt Lake City, was filed today. It does not make it appear that the complaints of the farmers are imaginary, and states that in the opinion of the court the presence of the smelters injures the sale value of farms in that district about one-half. The individual damage to be paid each farmer for the loss to crops consequent upon the presence of smelter smoke is appraised by Judge Marshall at what he considers the full value, but in the suit in which the opinion is handed down, he does not allow full pay, but fixed a proportion of the value, which, in his opinion, represents the damage done by the defendant smelter in proportion to the entire damage done by all the smelters.

The case is that of McCreery et al against the Utah Consolidated smelter, and was originally filed in the Federal court, and then being tried was referred to a master in chancery with instructions to find the actual amount of damage done.

The master filed in a report covering the damage for 1902, 1903 and 1904, assessing its full value against the Highland Boy smelter, which was named as defendant.

To this Judge Marshall took exception, and stated that it was an error, quoting authorities and precedents to show it was "hard logic and bad law" to hold one wrong doer is not responsible for the total result of the action of several independent wrong doers. He then spoke of the inherent difficulty of separating effects from a number of like causes operating at the same time, and stated that the master there was no way to accurately compute the damage done by each smelter to each of the farms.

He however, considered it incumbent upon him to arbitrarily reach a conclusion, and he accordingly modified the figures of the master, assessing the defendant company with the amount he considered its proportion. He did this on each of a long list of articles damaged on crops, buildings and other farms involved in the suit.

Judge Marshall considered the length of time the smelters are liable to run, and stated that they are bound to continue sometime from the exhaustion of their mines. The chance of their abating the smoke nuisance by invention and discovery he considered very extremely probable, and the chance of shutting on account of an injunction gained by the farmers he considered remote.

S. H. Lewis, who acted as master in chancery in the case is granted a fee of \$500 charged against the defendant.

### MEASHER OBSEQUES.

Newspaper Man La to Rest With Impressive Ceremony.

A number of newspaper men and other friends gathered about the bier of the late Richard Measher yesterday afternoon in Evans' undertaking parlors, to pay their final respects to a member of their fraternity, who for the past year had been on the Herald staff and who died on Friday morning. Rev. P. A. Simpkins officiated at the service and gave a short talk in which he paid a splendid tribute to the newspaper fraternity and spoke of the faithful work of the deceased. The funeral of the newspaper business for 20 years. He laid particular stress upon the efforts of the press to enlighten the people and to bring about the betterment of the race. The service was held at 2 o'clock and was well attended.

### THE FIREMEN'S FRACAS.

Chief Bywater Says He Will Investigate Matter Deliberately.

The trouble in the fire department which occurred Friday night between Capt. Stab on one side and Firemen Charles and Fred Guhrbransen and Andrew Edstrom on the other side, has not as yet been adjudicated by Chief W. H. Bywater.

Complaints have been lodged against Stab by Charles Guhrbransen, and against Guhrbransen by Stab. The charges are in writing and are now in possession of Chief Bywater. They will be heard later.

This morning the "News" asked Chief Bywater when he expected to settle the trouble. His statement follows: "I propose to deliberately and carefully approach this matter. When it is investigated it will be in the interest of the tax payers of this city and the harmony of this department. As there is no politics in this department, each and every man concerned in this trouble must stand upon his own individuality. Consequently, I am going to take plenty of time to carefully investigate the difficulty in the interest of the tax payers of this city and the harmony of the department."

"I have already received a statement from a citizen, not a member of this department, who was present during part of the disruption. I also have the

name of another reliable citizen who has left the city and will in return mail tomorrow, from whom I expect to get a number of details concerning the matter. While I very much regret this necessary occurrence in the department, the people of Salt Lake and the taxpayers of this city may rest assured that the trouble will be settled in a manner conducive to the public good."

### A MALICIOUS REPORT.

Tribune Deliberately Misrepresents  
Lecture of "News" City Editor.

That the Tribune's purpose is to misrepresent everything susceptible of misrepresentation seems to be an established fact. Evidences in confirmation of this conclusion multiply with each succeeding publication of the libelous sheet. Last night Mr. John E. Hansen, city editor of the Deseret News, delivered a lecture in the Eleventh ward. His subject was "The Man Without a Country." It was treated from the broadest possible view of patriotism and loyalty. During the course of his remarks the speaker pointed out the moral and political delinquencies of Aaron Burr, and commented at length upon the tragic career of Philip Nolan, Edward Everett Hale's principal character in his most fascinating story of "The Man Without a Country." In concluding, the lecturer directed attention to the moral to be drawn from the misadventures of these two personages, one drastically real, and the other more or less a creature of fiction, and said: "In the ending of their lives is a lesson of most impressive nature. The Aaron Burrs and Philip Nolans of our day might read their fate with profit to themselves and the public."

A little later in his address Mr. Hansen said: "In these times of misrepresentation and general charge-making it is well to become frightened by the cries of those who yell themselves hoarse with the war-shriek of 'Hearst' and 'Hearst' is most cases it will be found there is nothing back of it, but air. The good ship Zion is a pretty good craft to stick to. The ports into which it carries you will be ports of safety. Its harbors are the harbors of salvation. The only question is, will we all prove ourselves good sailors and remain on board to the end of the voyage."

This simple statement (and the above is a literal quotation without the omission or addition of a single word) was distorted into a sensational headline: "Threat Made Against News Men, City Editor of the Deseret News Promised to Send the 'Hearst' Breaks From the Church Have Alarmed Leaders. Men Who Cry Hearst are to Share the Fate of Philip Nolan."

Following this display the sheet announced in accents of mingled yell and scarl:

"The Church is beginning to wake up to the fact that there are young men in the Church who are daring to cry out 'Hearst' 'Hearst' 'Hearst'! This is an alarming thing! The 'Hearst' does it wise to send the city editor of the 'Church' organ out to cry vengeance."

Then follows a lot of rot about "comparing Joseph F. Smith with the United States, the United States ship on which Nolan was placed with the 'Hearst' ship, and that those young men in this Church who are talking about the good ship 'Zion,' and who are sailing on with these 'Hearst' men in the 'Hearst' ship, are crying 'Hearst' 'Hearst' 'Hearst'—such young men will share the fate of Philip Nolan and Aaron Burr."

As already stated, the speaker did not say that or anything like it. All he said on the subject is given absolutely verbatim in this article. The whole of the Tribune story is equally as distorted and clumsy. Even the simplest sentences are made to convey an opposite meaning from that given by their exact phrasing. There are but two reasonable theories in accounting for the Tribune's report—one that the paper will not, and does not intend to accurately chronicle anything "Mormon," and the other, quite as plausible, that there are several saloons between the Eleventh ward meeting house and the Tribune office. Judging from the story that appeared there is no telling how many of them were visited on the way to the West Temple sanctuary.

A point of interest, and one that not a few of those present at last night's meeting would like light upon, is this: Why should the editors of the Tribune take the reference to Burr and Nolan as being so personal? Surely no man on the Tribune staff ever indulged in the blasphemy that the former was not for. Why, their personal virtue is known to be something alarming. And as to the latter, it is notorious that some of them have never exhibited an atom of the penitence that he displayed.

### AMUSEMENTS.

Another opening run of the new theatrical season will be fired at the Grand tonight. The popular play house will be opened with "The New York Girl" as the attraction, and patrons who attend can prepare themselves for a list of surprises in the changes that have been made on the interior of the place during the past three weeks. The same bill will run the remainder of the week.

The second week of the Lyric Theatre opened Saturday night before another crowded house. A special Labor day matinee is going on this afternoon, and Saturday's bill will also be repeated tonight. The "California Girls Extravaganza" company furnishes the attraction, and the bill is full of novelties, the most striking of which are the five electric swings, musical robots, the flower ballet, the dance of the hours, the girls of the U. S. A., and the big silver march. Those who were most applauded were the wild wild dancers, Evelyn Foster, the German comedienne and Helen Russell.

Work on the new Orpheum theatre on State street is being steadily pushed, and the opening will probably occur within two months.

At the theatre Prof. McCallan is rehearsing principals and chorus, at odd hours, both day and night, and rushing the preparations for the opening of the house with "The Daily Muckster" on the afternoon and evening of the 10th.

### WARD ENTERTAINMENTS.

Reuben E. Baxter of the Tenth ward who leaves on a southern mission on the 5th inst., was given an interesting and largely attended reception in the ward meetinghouse Friday night. Among the participants in the program were Miss Cecelia Sharp, Joseph Poll, Miss Millie Williams, Miss Ruth Parks, the Misses Symons, Albert Brady and Miss Maud Caldwell. The voluntary collection, taken at the door, was generous.

### GREEK KILLED.

Was Out Hunting When His Shotgun  
Was Accidentally Discharged.

Leonidas Kontis, a Greek brakeman on a construction train working at Grassy, Utah, accidentally shot himself while hunting rabbits Sunday, and died while being taken to Price. His body was brought to Salt Lake this morning for interment.

### BACK FROM SEA GIRT.

Captains Tobias and Hanning Had  
Plenty to Do at R's Tournament.

Captains Tobias and Hanning returned yesterday from Sea Girt, N. J. While they did not go there to shoot, they were given plenty to do, as on reporting to the general officer commanding the range contests, they were both made range sergeants, and had a rather arduous duty to perform. There were 22 teams, aggregating 1000 men, and the New York marksmen got away with the laurels. The best man on the range was the man who made the best shot, whether he was a private or a commissioned officer. The Utah men were well received, and greatly enjoyed their experience, as it was something that will last them a life time. They left New York Wednesday morning, and arrived in Salt Lake yesterday morning, so that to time was lost in returning. However, the officers wished they could have had a chance to rest a bit before reporting at once for duty in this state.

Captain Hanning is enthusiastic in his opinion as to what Utah can do next year in the rifle shoot. He claims that Utah has a better chance this year than he is confident that he can bring home the trophies. The best shooting was not much over the standard acquired by the regulars already. It is known that Col. George H. is strongly back of the movement to send a team next year, and he has already announced that such a team will be selected, and sent to represent the state.

### TOMORROW'S ORGAN RECITAL.

Following is the program for tomorrow's organ recital at the Tabernacle: Andante from Fifth Symphony..... Beethoven  
A Rusty..... Chopin  
L'Enfant..... Liszt  
A Little Melody..... Lohengrin  
Overture to "Tannhauser"..... Wagner

### PRETTY CARNIVAL STORY.

Old Scottish Folk Lore Furnishes Tale To be Acted Out at Portland.

Portland—When it was determined to hold a three days' carnival at the Lewis and Clark exposition, September 7, 8 and 9, to be called "The Festivities of King Norgo," many persons began to inquire as to the origin of the name Norgo. "Spill Oregon backwards," said a wise one, "and you may get some light upon the subject."

That explains the name, but the story which is to be worked out by the carnival, on land and water, is a piece of ancient folklore, a pretty romance of the golden age.

The story of the carnival is based upon an old bit of Scottish folklore, and is a beautiful tale, as well as a rich and powerful king. The king and his queen were very beautiful, and their beauty would be great enough to grace the throne. Many years of search had been made for the king and queen, and they had been found in a remote part of the world. The king and queen were very beautiful, and their beauty would be great enough to grace the throne.

### LATE LOCALS.

Mr. F. A. Cooper of West Jordan announces the engagement of his daughter Clara to William E. Pack, marriage to take place this month.

Mrs. John T. Dick of Tooele announces the engagement of her daughter Annie to Mr. F. L. Schettler of Salt Lake, the marriage to take place Sept. 26.

Judge Armstrong has granted Mary E. Jones a divorce from W. E. Jones on the ground of non-support. They were married in this city on Aug. 18, 1905, just two weeks ago. Plaintiff was granted \$100 as alimony and \$50 attorney's fees.

The Fairview Drug company of Sanpete county, has made an assignment to Manager J. Q. Critchlow of the Utah Credit Men's association, for the benefit of its creditors, and Mr. Critchlow returned from that section this morning. The company's liabilities are placed at \$1,500, and the assets at \$500.

There was one particularly happy railroad man in Salt Lake today—happier than all the rest. The cause of his increased joy was the arrival of his daughter at his household this morning. The parents of the precocious maiden are Mr. and Mrs. George A. Bille. Mr. Bille is traveling passenger agent for the Chicago & Rock Island and connecting roads. The stock of all took an upward flight today.

Henry W. Natshitt of this city is in receipt of a letter from Mr. and Mrs. J. A. Gibson of Shoshone, Ia., thanking him for many kindnesses bestowed while on a visit to this city two weeks ago. Mr. Gibson is an attorney-at-law and formerly presided over the court in Shoshone. He is a native of Iowa, and has a bright future.

Wednesday, Thursday and Friday of this week the pupils of the Salt Lake High school are scheduled to report for registration and classification, instead of on the usual Monday of the term, as has heretofore been the custom. The change is made to avoid the confusion of the opening day when instruction is

interfered with by the organization of classes. All new students desiring to enter the High school should report to Prof. Eaton on the days mentioned of this week.

There will be a meeting of the officers and teachers of the Primary association of Granite state in the state tabernacle Tuesday, Sept. 5, at 7 p. m. Bro. William A. Martin will deliver a lecture. A full attendance is desired.

ROSA M. WHEELER  
ROSE A. KELSO  
RACHEL C. TAYLOR

### TEA

Do you know Schilling's  
Best, besides tea?  
It's all in the knowledge  
book.  
Your grocery returns your money if you don't like it.

### NEW LIBRARY BOOKS.

The following 23 books will be added to the public library Tuesday morning, Sept. 5, 1905:

FINE ARTS.  
Annesley—Standard Opera Glass.  
Bate—English Table Glass.  
Benson—Central Italian Painters of the Renaissance.  
Bing—Artistic Japan.  
Blackett—Art of Illustration.  
Brown—Letters and Lettering.  
Cartwright—Painters of Florence.  
Gerard—Wagner, Bayreuth and the Festival Plays.  
Guinness—Dal Sarto.  
Historical Art of Furniture (reference).  
Henson & Eaton—Royal Academy and its Members.  
Kendrick—English Embroidery.  
Lange—Ancient Greek Sculptors.  
Miskel—Furniture.  
Mouclair—Auguste Rodin.  
Masters in Art, 5 vols.  
Moore—Lace Book.  
Rossetti—Shadow of Dante.  
Schneout—Giotto.  
Swinnburn—Life and Works of Turner.  
Yiannis—Florence.

### JUVENILE.

Bayler—Georgian Bungalow.  
Bayler—Juan and Juana.  
Brown—Lonesome Doll.  
Faraday—Chemical History of a Candle.  
Field—Nannie's Happy Childhood.  
Griffith—Her Wilful Way.  
Irving—Rip Van Winkle.  
Jackson—Another Year With Denise and Ned Twiddle.  
Jackson—Caps and Capers.  
Smith—Three Little Marys.

### WEATHER REPORT.

Record at the local office of the weather bureau for the 24 hours ending at 8 a. m. today:  
Barometer, reading at 6 a. m., 30.3 inches; temperature at 4 a. m., 61 degrees; maximum, 82; minimum, 60; mean, 71, which is 2 degrees above normal.  
Precipitation for the 24 hours ending at 8 a. m., .01 inch.

### FORECAST TILL 4 P. M. TUESDAY.

Local forecast for Salt Lake city and vicinity:  
Tonight and Tuesday, generally fair.  
Wednesday, R. H. H. Local Forecaster.

### TODAY'S TEMPERATURES.

4 a. m. .... 61  
6 a. m. .... 61  
8 a. m. .... 61  
10 a. m. .... 61  
12 m. .... 61  
2 p. m. .... 71  
4 p. m. .... 71  
6 p. m. .... 71  
8 p. m. .... 71

### YESTERDAY'S RECORD.

Highest ..... 82  
Lowest ..... 60

### PERSONALS.

Leo E. Butler has removed to Butte to engage in business.  
Hon. George C. Whitmore of Nephi, is guest at the Kenyon.  
Dr. C. I. Douglas is home from a six weeks' trip to the coast.  
Erastus J. Milne and wife have returned from their honeymoon.  
Judge W. H. Dickson has returned from a trip to the Pacific coast.  
E. A. Kirby, formerly clerk at the Kenyon, has gone to the Pacific coast.  
Lloyd T. King, a prominent Knight of Pythias, is very ill at St. Mark's hospital.  
Assistant Postmaster A. P. Kesler has returned from a trip to the Portland fair.

Prof. Anton Pedersen has returned from a pleasant outing with his family at Brighton.  
The Misses Annie and Colla Levy have returned from a seven weeks' trip to the coast.

Sey. Beatty of the state board of health returned home yesterday, from his Idaho outing.  
Mr. Ed Rosenbaum leaves Tuesday morning for New York City to be gone five or six weeks.

J. J. Miller, formerly at Catalina Island, has been appointed night clerk at the Kenyon hotel.  
General Manager J. H. Belfuss of the Walker Bros. company has returned from his New York trip.

Hon. W. W. Ritter went up to Garland on Saturday. He considers Garland the garden spot of the state.  
President J. G. McDonald of the D. A. C. M. society returned Saturday from his trip to Portland.

Miss Jennie Rocca, leaves in the morning on a week's vacation with relatives and friends in Ogden.  
Belgian Consul Victor Pomet of Los Angeles, and party of 10 are at the Knutsford en route to the Yellowstone.

Justice D. N. Straup of the supreme court has returned with his family from an extended trip to the Pacific coast.  
J. C. Leary returned to Montpelier Saturday night, to continue his work on the new stock yards of the Short Line.

J. J. Summerhays, who has been traveling in the interests of Rowe, Morris & Summershays company, has returned to the city.  
Agency Trader W. C. Forsyth of the United reservation, is in the city with his family en route to Kentucky, where they will reside.

Architect C. M. Neuhause leaves this evening for Butte, Ida., to let contracts for the Reed Inn, the new hotel to be erected there.  
O. S. Parish, formerly employed by Z. C. M. L. has accepted a position in the Co-op at Bountiful and has moved his family to that place.

Hon. J. A. Blanchard, justice of the supreme court of New York, and family, are guests at the Knutsford, on route east from a trip to the Pacific coast.  
George A. White of the Portland Oregonian, and formerly a Salt Lake Tribune reporter, is in the city on a visit with his wife, and will go to San Francisco.

President J. M. Ellis of the Idaho

State Christian Endeavor union, and C. Foster Cable, the secretary, will attend the annual C. E. convention of this state to be held at Provo on the 9th inst.

Conductor John F. Berry of the San Pedro has returned from a visit with his family at Alameda, Cal. He says the weather has been so cool there that an evening fire on the hearth was not comfortable.

### PEACH DAY

AT  
Brigham City,  
September 7,  
Everybody who visits  
Brigham City on that day  
will be treated to all the  
peaches they can eat  
while there. Go and en-  
joy a treat. Round trip  
from Salt Lake City \$1.25.  
Special train leaves at  
8:00 a. m. and returns in  
the evening in time to  
catch the street cars.

### Better Make Up Your Mind to Go.

### NEW RECORDS

For Talking Machines Sent Out  
ON APPROVAL.

Daynes & Romney Piano Co.  
The One Price House, 29-27 E. 1st St.

### HOW MISERABLE

One is who has a mouth full of bad  
teeth. Better have them attended to.

Dr. Loy B. Duncan, DENTIST,  
Over Walker Bros. Dry Goods Store, S. L.

### LOST.

OR STOLEN 1 BAY MARE, WEIGHT  
325 lbs., white and red forehead, 2  
white hind feet, blind in left eye. Return  
to A. T. Smith, 389 South Seventh West,  
Phone 325 Ind. Liberal reward.

### THE CALIFORNIA GIRLS

TONIGHT MATINEE TOMORROW 3 P. M. ALL SEATS 25c.  
THE EXTRAVAGANZA HIT OF THE SEASON,  
THE CALIFORNIA GIRLS  
In the Musical Comedy Success.

### "The Great White Way."

COMPANY OF 40 PEOPLE. 10-COMEDIANS-10  
STUNNING CHORUS OF DASHING SHOW GIRLS.  
5 More Nights. Matinees Today, Tomorrow and Thursday.  
Night Prices, 25c, 50c, 75c. Matinees, All Seats, 25c.

### New Grand Theatre,

OPENS TONIGHT WITH  
"NEW YORK GIRL."

Matinees Wednesday and Saturday, 25c. Night Prices, 25c, 50c, 75c.  
Children's Saturday Matinee, 10 cents.

### BARTON'S SCHOOL SUIT SALE!

We're ready for the School Boys. Our remarkable prices and the appearance of our school suits make the inducement to buy here strong. We guarantee our school suits in every way.

### SOME OF THE SPECIAL PRICES:

\$2.00 Suits at . . . \$1.55	\$4.00 Suits at . . . \$3.15
2.50 Suits at . . . 1.95	4.50 Suits at . . . 3.55
3.00 Suits at . . . 2.35	5.00 Suits at . . . 3.95
\$3.50 Suits at . . . 2.75	5.50 Suits at . . . 4.35
\$6.00 Suits at . . . \$4.75	

Also, School Hats, Caps, Shirts, Stockings, Pants, Etc., at lowest prices.

Your money returned if not satisfied.

**BARTON & CO.,** 45-47 MAIN STREET.

### The First Exclusive Millinery House in the United States to Make This Offer.

**Banks' MILLINERY**

116 Main St.

50 Standard Graphophones to be Presented Absolutely Free of Cost to Patrons

DON'T WAIT, THEY'LL SOON GO

You Make \$12.50 by Being "Up to Date."

The above cut represents a Standard Graphophone, the prize winner at the Louisiana Purchase Exposition.

They sell at \$12.50 each, and we will give \$50.00 for the first one bought from the manufacturers or any agent in Salt Lake for less.

With every purchase in our store ask for a Graphophone Ticket. When you can show purchases to the amount of \$20.00 CASH you will receive one of these machines free of cost.

REMEMBER our stock of Velvets, Ribbons, Laces, Flowers, Austrian Plumes, Braids and Pattern Hats is now complete. That by Monday, Sept. 11, the grandest and most reliable display of fine Millinery ever attempted here will be on.

This offer is made to accentuate early buying. Our goods are too delicate to subject them to "shelf wear." Therefore we make the extra incentive of giving \$50.00 for \$20.00 to start the season.

We may be excused for stating that we are the first exclusive millinery establishment in the United States to attempt such liberality to its patrons.

DON'T GET LEFT! We have been known to sell more than half the amount involved in this transaction on many a single day. Hesitate and your neighbor will wear the best of the season at half price in millinery and will entertain her friends through the winter evenings by bringing to her own fireside all the new songs and recitations as they come out. This wonderful instrument is always ready for impromptu dances with the best music from the finest orchestras. They will teach you the new songs as sung by the best singers in the world. Its sphere of entertaining is unlimited and untiring.

We will take your subscription for any number of disc records at 50c and \$1.00 each, 14 be delivered as you require them for two years to come.

**O. D. Banks & Co. 116 So. Main St**

LONGMORE—At 121 E. street, this city, Sept. 3, 1905, from the effects of a fractured hip, Selma Longmore, widow of the late Wm. Longmore, aged 75 years and 8 months.

Funeral services will be held in the Twenty-first ward chapel Tuesday, Sept. 5, at 4 o'clock. Friends respectfully invited. The remains may be viewed from her late residence, 121 E. street, from 2 to 3:30 p. m. on day of funeral.

MORGAN—At 555 Fifth street, this city, Sept. 3, 1905, of old age, Margaret Mary, wife of John Morgan, born April 1, 1825, near Swansea, South Wales, Europe.

Funeral services will be held Tuesday at 2 p. m. from the Twenty-first ward chapel. Friends are invited to attend and can view the remains at the family residence on day of funeral from 12 to 1:30 p. m.

### STOLEN.

OR STOLEN 1 BAY MARE, WEIGHT 325 lbs., white and red forehead, 2 white hind feet, blind in left eye. Return to A. T. Smith, 389 South Seventh West, Phone 325 Ind. Liberal reward.

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