

of Donaldson, the two O'Briens, Larry and John, and other participants of the game. He drew the table in size corresponding in his judgment to the dimensions of the room. He pointed out directions, dimensions and other minute details in a careful, thoughtful manner, creating a most favorable impression among his auditors. The movements and remarks of each actor in the affair were gone over thoroughly. McWhirter, although suggested to an examination more strict and labored than usual, was always calm, collected and certain. He did not contradict himself and made few corrections.

"FIVE CENTS A TIME."

"O'Brien," said he, "and the doctor were having a quiet game at five cents a time. If the doctor has no objection, get in!" said McWhirter. Attorney King wanted to know what "five cents a time" meant.

"I am telling you what O'Brien said, not what I know," answered the witness. Later it developed McWhirter learned the white chips were worth five cents a time.

Some time was spent by Attorney King in attempting to get a direct answer relative to the remarks of the witness when Larry bought \$10 worth of chips. McWhirter did not seem certain as to whether the value of the chips was made known at the time. He said he had a transcript of testimony heretofore volunteered by McWhirter and refers to it occasionally. "I can't repeat every assertion I made months ago," said the witness. "I am only human."

Not a step that may aid the defense is being left untaken by Atty. King.

Each statement made in the past is being brought out again to get such discrepancies as may occur. As a result the testimony introduced in the main a repetition of that already familiar to the public.

ALEX DEALS THE CARDS.

McWhirter was asked to illustrate how he dealt the cards. This he did with a pack of cards on a little table placed right in front of the jury box. McWhirter handed the cards much as a mason lays bricks.

"I did it like so," said the witness as he dealt out five cards face down toward the three players. This done he resumed the witness chair.

A recess was taken at 12 o'clock until 2 o'clock, when McWhirter will continue his story.

TRIAL BEGINS.

The actual taking of testimony in the Donaldson trial began yesterday afternoon when two jurors were obtained—the pair making a total of eight. The witness who will listen to all evidence and render a verdict are:

Wallace T. Fenton, carpenter; S. H. Calder, music salesman; Walter S. Atwood, farmer; Carl A. Scholte, insurance man; Henry N. Bird, farmer; Jonah T. Croxall, mining man; John H. Howe, farmer; James Frawley, bricklayer.

Alexander McWhirter told the story of how he and his brother were enticed into a room where "Doctor" Jim and others were playing poker. The story has been told a number of times, but out deviation. The point is that McWhirter was relieved of \$10.37 during the poker game. Numerous events followed and various trials have been held and a number of the jurors are under shadow. The Donaldson trial is but one of several to come. James Donaldson, sport, man-about-town, cardsharp, and a number of other things, is being tried for the robbery. The hearing is taking place in Judge Armstrong's court. The defendant is represented by Atty. S. A. King, and the state by Dist. Atty. C. L. Breeden, Maj. M. A. Breeden, attorney-general, is assisting the prosecution.

BREEDEN OPENS FOR STATE.

The latter made the opening argument for the state yesterday, and during the course of his remarks he referred to the dividing of the loot by the robbers and bunco men after the famous game. "And a man whose name I need not mention got his share," he said. Atty. King was on his feet in a second, objecting strenuously to this insinuation. "And the man I have in mind is George A. Sheets," continued Major Breeden. While talking Major Breeden was interrupted by Atty. King a number of times and finally the former became angry. Considerable glimmer was thrown into the dialogue which ensued between the lawyers.

At the conclusion of the state's opening address the defense asked that it be furnished with a list of the state's witnesses. Judge Armstrong overruled this motion and Atty. King noted an exception. Donaldson is charged with robbery and grand larceny. Atty. King wanted the state to elect upon which count it wanted the jury to convict. This motion was overruled and another exception noted. When the taking of testimony commenced all witnesses but the one on the stand were excluded from the courtroom.

McALLISTER FIRST WITNESS.

In accordance with a wish expressed by the defense and agreeable to the state, J. D. McAllister was the first witness for the state. With the aid of a chart Mr. McAllister showed the dimensions and arrangement of the room in the Antlers where the poker game occurred.

ALEX TELLS STORY AGAIN.

McWhirter followed. A laugh followed his description of a steam radiator as a "refrigerator." The Scotchman resumed his story this morning.

THE TENT TRUST.

Five Members of the so-called "tent" trust, William H. Brooks, B. H. Brooks, Robert S. Gutshall, Alfred A. Proctor and Charles C. Ross, all of Denver, were arrested yesterday on federal grand jury indictments, charged with combining to raise the price of tents to the government. Each gave bond for \$2,500.

Details of the Dipping Golves to

Sweet's Milk Chocolates

A Smooth, even finish that makes them look so tempting and the uniform coating of rich soluble chocolate over perfectly blended centers, make them taste as good as they look.

Sweet Candy Co.,

Manufacturing Confectioners.

CROOKS APPEAR IN DIEHL'S COURT

Jap Accused of Stealing Checks To Value of Over One Thousand Dollars.

There was only one case before Judge Diehl of the criminal division of the city court this morning and that was the matter of Ed G. Sullivan, charged with grand larceny. It was alleged that Sullivan stole a watch from William Logan, but the time piece was not properly identified, and the motion on the part of the defense for a dismissal was granted and Sullivan discharged.

This morning a warrant was issued for the arrest of a Jap named Kusuchi Yamashita on the charge of grand larceny. The complaint was sworn to by E. D. Hashimoto, who alleges that the accused stole 44 checks of the value of \$1,229.41, the property of 44 Japs whose names are mentioned in the complaint. The warrant was placed in the hands of an officer, who is now looking for Yamashita.

Press Jackson, the negro who was shot yesterday morning by Love Harris, is still at St. Mark's hospital under the care of Dr. Paul. The physician stated today that the wound is doing well and that the patient will recover if no complications set in. One bullet was taken from the man's body during the operation performed yesterday afternoon.

A SNEAK THIEF WAS AT WORK IN THE EAGLE BLOCK LAST NIGHT AND STOLE FROM G. A. STEELE A QUANTITY OF CLOTHING.

The police have offered a reward of \$25 for the return of the property. The police were also informed that four dresses were stolen from a roominghouse on Third South street.

MARRIED IN TEMPLE.

"Ike" Russell of the Deseret News Staff Joins the Benedicts.

The last single man on the staff of the Deseret News left the state (of single loneliness) at noon today when Isaac Russell married Miss Eleanor Althea Farr of Ogden. They were married in the Salt Lake temple and then left for Ogden where, at the home of the bride's parents, Mr. and Mrs. Sherman S. Smith, they sat down to an elaborate wedding breakfast. A reception is being held this afternoon. The couple leaves this evening for California where three weeks will be spent visiting various places of interest in that state.

Miss Farr is a talented young lady of Ogden and prominent in Church and social circles in both that city and Salt Lake. She is an accomplished instrumentalist and vocalist and very popular among the young folks of this city and Ogden. Mr. Russell is one of Salt Lake's brightest young newspaper men and his work marks him as such. He is a contributor to magazines and wherever it appears Mr. Russell's "copy" is welcomed by appreciative readers.

AFTER SEPT. 1 MR. AND MRS. RUSSELL WILL BE AT HOME AT 1480 SOUTH WEST TEMPLE STREET IN THIS CITY.

OFFICIALS INVESTIGATING.

Short Line Endeavoring to Ascertain Particulars of Layton Accident.

The Short Line operating department is investigating the Layton horror of last evening. The officials say there was no flagman stationed there, because it is a country road crossing, and railroad companies do not station flagmen at every such location. There was, however, the usual sign. Look out for the engine, and the unfortunate parties should have exercised some care in approaching the track. But they had just come from the Old Folks gathering and apparently were so engrossed in talking over the events of the day that they were entirely oblivious to the dangerous nature of their surroundings.

Considerable snow in Brighton—John N. Whitte and Frank M. Whitte left for Brighton by way of Alta on Monday, traveling on bicycles to Wasatch, leaving their machines there and going to Alta and over the divide to Brighton by foot. They were followed from Brighton last night that there was deep snow on the divide and in many places around Brighton. Evidences of the tremendous winter were shown by the fact that the divide was damaged, several porches were crushed in, and the new cottage built by Mrs. Augusta Grant last fall was blown by the force of the wind and was now engaged in repairing the hotel.

J. E. COFFRIGG HOME AGAIN—President of the National Bank Found Business Conditions in the Large Eastern Cities Very Duly, During His Recent Trip to the Atlantic seaboard. But out in the country districts business was light and there was little doing. Mr. Coffrigg left in New England that the old stock, the descendants of the Pacific coast, had been left in the westward or died off, while their places on the farms and in the factories were filled very noticeably by Canadians, who Mr. Coffrigg believes are a new type of New Englander, practically Canadian in character. He found labor conditions much less turbulent than in the west, as he thinks, and that the labor union movement is understood better how to handle the labor unions than they do in the west.

COURT NOTES.

Suit has been filed in the district court by the executors of the estate of William Howard, deceased, against Sarah A. Shivers, claiming that she is the owner of the property in part of lot 6 block 34, plat A, Salt Lake City survey.

Judge Armstrong has granted David S. Stone a divorce from Margaret Stone on the ground of desertion. They were married in Ogden on July 31, 1903, and defendant deserted plaintiff on May 15, 1906. The custody of the two children was granted to Mrs. Stone.

A complaint has been issued by the county attorney against K. Yamashita, charging him with grand larceny. The complaint was sworn to by E. D. Hashimoto.

SUPREME COURT'S IDEA DIFFERENT

Bricks Bought From Proceeds of Sale of Appellant's Homestead Exempt.

APPEAL LAW INTERPRETED.

Don Porter May Have New Trial on Old Judgment Rendered Early Last Year.

Two opinions were handed down by the supreme court today both of which are reversals of the action of the lower court. In the case of Lars Christensen, appellant, vs. Oscar Beebe, sheriff of Emery county, the judgment of the lower court is reversed and the opinion by which the brick purchased from the proceeds of the sale of the homestead of appellant are exempt from execution. On June 25, 1906, the sheriff levied upon the brick at Castle Dale under an execution against Christensen. The latter claimed that they were exempt for the reason that they had been purchased from the proceeds of the sale of his homestead which was sold in 1903, the brick being received in the fall of 1904 as part of the purchase price.

The sheriff demurred to the complaint on the ground that it did not state facts sufficient to constitute a cause of action. This demurrer was sustained and the case was dismissed.

The court on appeal held that the demurrer was waived so as to decide the question as to whether or not the brick were exempt from execution. The lower court had held that the sale of the homestead shall be exempt for one year after the sale. In this case it is held that the sale was not completed until the fall of 1904, when it was made at the time of the sale, the brick should be delivered, hence when the brick were levied upon in June, 1906, they were exempt. The lower court is therefore reversed and the appeal was granted and permit the sheriff to answer if he chooses to do so and to proceed with the trial of the issues.

ORDERED TO REINSTATE.

The other opinion is in the case of the State ex rel. Don Porter against Judge M. L. Ritchie of the Third district. The complaint was sworn to by E. D. Hashimoto, who alleges that the accused stole 44 checks of the value of \$1,229.41, the property of 44 Japs whose names are mentioned in the complaint. The warrant was placed in the hands of an officer, who is now looking for Yamashita.

A judgment was rendered in the justice court against Mr. Porter in favor of Mae Houghton for \$41.66 and costs. The case was appealed to the supreme court and the court ordered the justice court to reinstate the case and proceed to trial. A judgment was rendered in the justice court against Mr. Porter in favor of Mae Houghton for \$41.66 and costs. The case was appealed to the supreme court and the court ordered the justice court to reinstate the case and proceed to trial.

Under the law an appeal may be taken from a justice court within 30 days from the entry of final judgment, but that and the law are not the same. A new trial has been made in due time and is still pending as in this case. The principal point raised in the appeal is as to the time for taking an appeal. Under the laws of 1888 it appeared by the punctuation in the section under dispute that the court was given 30 days within which to take an appeal. When the laws were revised in 1898 the punctuation was changed so as to leave no doubt as to the time for taking an appeal. The court held that the motion for a new trial must be made within 10 days from the rendition of the judgment and not that the court must rule on the motion within that time.

The law is construed in the opinion to mean that the motion may be filed within that time and the court may decide it at any time. This being the case the justice was not compelled to rule on the motion within 10 days and as the appeal was taken within 30 days after the rendition of the judgment it was denied in time and should not have been dismissed. Judge Ritchie is, therefore, instructed to reinstate the case and proceed with the trial. Justice Frick wrote both opinions, which are concurred in by Chief Justice McCarthy and Justice Straup.

ASKS PERMANENT INJUNCTION.

Dr. Beatty Protests Against Roosters And Boys With Buggies.

The troubles between Dr. T. B. Beatty and Mrs. Little have been going on for some time. Dr. Beatty has filed suit against Mrs. Little asking for an injunction to prevent her from disturbing his neighbors at all hours of the night. He declares that she has three roosters next to his window that are trained to crow every morning about 2 o'clock and keep him and his family from sleeping. He also alleges that she has equipped her two sons with buggies and they continually disturb the peace of the neighborhood. He asked that she be restrained from such practices. Recently he had Mrs. Little arrested for disturbing the peace and she was fined \$10 by Justice of the Peace T. B. Smith. That did not seem to stop the trouble, however, so he now wants her permanently enjoined.

MORRISON WANTS \$1,500.

Claims Property Was Damaged by City Grade to That Extent.

Suit has been filed in the district court by Thomas H. Morrison against Salt Lake City to recover damages in the sum of \$1,500 for injury to his property on North Second West street caused by the change in the grade of the street. Since the change was made plaintiff's property is four feet below the level of the street and he claims that it has been depreciated in market value and has been placed in such a condition that it is almost impossible to drive in or out with a team and wagon.

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Imoto, who claims that Yamashita stole 44 checks from his place of business on June 22. The total amount of the checks is \$1,229.41. The sheriff and his deputies are looking for the miscreant Jap.

John W. and Albert V. Jenkins have filed a petition in the probate division of the district court asking for letters of administration of the estate of Steven J. Jenkins, who was killed by a street car on Sixth East and Third South streets on June 18. The estate consists of real property valued at \$10,000, cash amounting to \$1,000, and personal property of the value of \$4,000. There are seven brothers and sisters of deceased who are heirs to the estate.

FAMILY OF DOCTORS.

J. D. Harding Graduates From Eastern Institution.

Dr. Jacob D. Harding, formerly of Willard, is on his way home from Chicago, where for four years he has been studying medicine at the Northwestern University Medical school, and at the Illinois School of Electro-therapeutics. Each institution he has received diplomas of the highest order, and was assistant professor of histology three years. After graduating he was offered a professorship in that study, but he preferred to return to his home state to hang out a shingle.

Dr. Harding has worked hard, spending each summer of his absence in doing medical work. He is well deserving of the distinction that has come to him. His wife, formerly Miss Ada White, daughter of Barnard White of Ogden, has been with him during the period of his study. Dr. Harding is the third of the family to study medicine, the others being Dr. Lewis Harding of Rexburg and Dr. George F. Harding of Brigham City.

LATE LOCALS.

Y. M. C. A. Camp for Boys—There are 29 boys enjoying an outing in the Y. M. C. A. camp at American Fork.

Today's Clearings—Today's local bank clearings amounted to \$1,015,548.82, as against \$1,029,537.91 for the same day last year.

No Recital Friday—There will be no organ recital Friday afternoon, in the tabernacle because of that day being choir day at Saltair, so Organist McCallan announces.

Session of Federal Court—Judge Riner of Cheyenne will hold a session of the federal court at Saltair, July 6 and 8. Cases will be taken up in which Judge John A. Marshall is barred from sitting.

Zion's Bank Dividend—The Zion's Savings Bank and Trust company will pay on June 26, 1907, a dividend of 2 percent on the deposits recently declared by the bank. They were 2 percent regular, and 4 percent special dividends.

Gone to San Francisco—Charles Elmore, the electrical workers' official, has gone to San Francisco, and President Lynn of the grade council is expected tomorrow in this city, to take charge of the affairs of the strikers.

Nearly Time—It begins to look as though settled pleasant weather had come, for the thermometer at the north end of the city is under a high barometric pressure, with no threat of anything unpleasant from the Pacific coast.

Plat the Property—Cannon and Cannon have plat the property of the Zion's Bank and Trust company, located on Twelfth South street, between Eighth and Ninth East streets, and will cut it up into 56 lots, lay cement sidewalks and make other improvements. The plat will be expended in improvements.

Utah Stock for Montana—K. Boardman of Montana leave this evening, for Lund where they will superintend the shipment of train loads of live stock from that country into Montana. The cattle and horses of the large pack chase made by Mr. Boardman, and recently noted in the "News."

Giving Good Service—Traveling men in from Pocatello this noon, report a force of half a dozen Salt Lake operators at Pocatello telephone exchange yesterday, and that they are giving such excellent service that local subscribers are hoping that the strike of the regular local operators will be prolonged indefinitely.

Motorman Exonerated—Motorman L. T. Porter of the street railway

company is exonerated by the board of directors of the company as not responsible for the accident on Seventh East street, and was stated to be taken home without any current, when the accident occurred.

Free Public Lectures—Prof. H. R. Briggs of the normal department, U. of U., will lecture in the assembly room of the Museum building tomorrow evening on the subject "The Bible as Literature." Regular lectures are delivered at the university Tuesdays and Thursdays, to which the public is invited, during the seasons of university summer school.

Off for Idaho Falls—Phil Margetts, the veteran actor, accompanied by his daughter Minnie, leaves today for a month's visit at Idaho Falls with another daughter, Mrs. Mulholland. The principal object of their visit, however, is to attend the marriage of Mr. Margetts' grandson, C. W. Mulholland, to Miss E. Lander, both of Idaho Falls, which is to take place on Sunday next. Uncle Phil's many friends will wish him a pleasant sojourn in Idaho.

Salt Lake Stake at Wandermere—One thousand five hundred members of the Salt Lake stake are expected to be at Wandermere. There was no special program for the day's outing, but the many attractions afforded pleasure seekers at the resort kept all busy and good natured. Many of the visitors, however, commented on the magnificent picture that Wandermere presents by moonlight, with its myriads of electric lights, fountains, rustic bridges, waterfalls, etc.

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ADJUST PROPERTY RIGHTS.

New Commission Will Hold First Meeting Today.

The commission appointed by the last legislature to adjust the property rights as between school districts of the state which have been or are to be consolidated will hold its first meeting this afternoon in the office of the state superintendent of schools. The commission is composed of State Supt. of Schools Nelson, City Supt. Christensen, County Supt. Smith. They will adjust the property rights as between Salt Lake City and the Waterloo districts and also several other matters in districts which have been consolidated recently. The Waterloo district has been annexed to the city hence its school property had to be adjusted.

THREE NEW COMPANIES.

Three new companies have been launched in this state by the filing in the secretary of state's office today of the articles of incorporation. The companies are: The United States Health & Accident Insurance company of Saginaw, Mich., with a capitalization of \$200,000, divided into shares of the par value of \$50 each. J. M. Pitcher is president; J. M. Pitcher, secretary; M. R. Taylor, of Salt Lake, resident agent. The Utah Arid Land & Machine company of American Fork, capitalized at \$25,000, divided into shares of the par value of \$50 each. Isaac Wagstaff is president; H. C. Hovey, vice president; J. W. Storr, secretary; William Chipman, treasurer. The company will engage in the farming and machinery business.

The Utah Land Development company of St. Paul, Minn., with a capital stock of \$25,000, divided into shares of the par value of \$50 each. O. A. Robinson is president; Grant Robinson, vice president; L. F. Grant, secretary; A. M. Allen, treasurer; E. A. Wedgwood of Salt Lake, resident agent. The company will engage in the real estate business.

TRYING TO BREAK DOWN ORCHARD.

(Continued from page one.)

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"And in the executive board," commented the interrogator, "we get back to Moyer, Haywood, Jack Simpson and Marian Moore and the others?"

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"And in the executive board," commented the interrogator, "we get back to Moyer, Haywood, Jack Simpson and Marian Moore and the others?"

O'Neill said he did not know of any conflict of opinion in the executive board as to the Magazine and had never been told the Magazine was unsatisfactory.

At this point Senator Borah began to quote from several issues of the magazine early in 1906 following the death of Gov. Steunenberg. One of these contained the express:

"The press dispatches report the dissolution of Steunenberg via the bomb route."

O'Neill said he wrote the sentence. "Wasn't it fact?" queried the witness of the lawyer.

Yes, I suppose it is," said Senator Borah.

The lawyer next read an extract from another paper which was reprinted in the Miness Magazine. It read:

STEUNENBERG'S DEATH DESCRIBED.

"A chap by the name of Steunenberg was blown up the other day at Caldwell. He came into time as the inventor of a new kind of institution known as the bull-pen. It seems a bomb was carelessly left at his gate, presumably by some Russian revolutionist. Such carelessness should be frowned down. The gate was completely wrecked."

O'Neill said he selected the clipping and had it published.

"Did you write this editorial?" appearing in the Miness Magazine of January, 1906, beginning with the statement that Steunenberg had been "blasted into eternity and thus closed the career of a man who showed no mercy." Continuing the editorial in most inflammatory terms detailed outrages in the bull pen in 1899 and the calling in of "black brutes of soldiers who outraged the wives and sisters of miners and refused the request of a miner who had been killed by a bomb upon his brow, asked for a minister and was told that he could make his confession in hell." The editorial went on to say that the death of Steunenberg was a step forward, but that the murder of one man did not destroy the system adopted by the capitalist class. In conclusion the editorial said that the sudden extermination of Steunenberg was not of great moment "because Steunenberg would continue to live."

"Did you write this editorial?" repeated Senator Borah.

"Yes, sir."

"You expressed the views of the organization?"

"I think I do."

"You are sure of it, aren't you?"

"Yes, sir, I am."

O'Neill declared that Orchard had never come to headquarters in Denver to see him and ask for money. W. F. Davis, a leading member of the W. F. M., was called to the stand and the luncheon adjournment was taken.

STERLING WON'T TALK.

Denver, June 26.—K. C. Sterling, formerly chief of the department of the Cripple Creek Mine Owners' association, who was charged by Atty. Clarence Darrow in court at Boise yesterday with being responsible for the Independence depot explosion, in which 14 men were killed and a number of others injured, is in this city at present. He declined today to make any statement regarding the case, but he was asked whether he would go to Boise as a witness in the Haywood trial or not.

STANDARD OIL CASE.

Judge Landis Denied Motion for a New Trial.

Chicago, June 25.—Judge Landis, in the United States district court today refused a new trial to the Standard Oil company, recently convicted of making shipments at illegal rates between Whiting, Ind., and East St. Louis. After the denial of the motion asking for a new trial, Atty. John S. Miller, for the oil company, entered a motion in arrest of judgment. This was promptly overruled.

Mr. Miller then asked the court to elect a particular count in the indictment on which to base