

SPRY CASE TO HIGHER TRIBUNAL

Justice Smith Concludes That
Fraudulent Intent Was Shown,

AND HOLDS THE DEFENDANT

Case Was Warmly Contested by Attorneys of Both Sides—Sheriff Naylor and John Morris Testify.

The question of the guilt or innocence of Samuel Spry, charged with the crime of embezzling \$52.50 from John S. Corless, will have to be settled in a higher tribunal than Justice Dana T. Smith's court.

That dignity held this morning that the state had made out its case, and the defendant was held to answer to the district court. His bond was allowed to remain at \$250, although the County Attorney was of the opinion that it should be increased to at least \$500.

The main point at issue, in the mind of Justice Smith, was whether or not the relation of agency between Spry and Corless existed at the time the money was collected and whether or not it had been proved by the prosecution. His opinion was in the affirmative, although the point was closely contested, and he thought a higher court should pass upon the matter.

Promptly at 10 o'clock Assistant County Attorney Fred Looftbourrow asked that the case be reopened. His motion was vigorously resisted by Corless' attorney, John Morris.

They argued that the case had already covered a period of two weeks in hearing and postponement and it was not fair to the accused to reopen the case at this time. The motion of the state was granted.

Sheriff Naylor and John P. Morris were sworn and Mr. Morris took the witness stand. He stated that he knew Spry, and had known him for a number of years.

"Did you see him in July?" "I did."

"Where was it?" "It was in San Francisco; but I do not remember the date, I think it was between the 15th or 20th."

Asked where he saw Spry, witness said it was in a court room called "the Hall of Justice." There were all the state cared to ask the witness and counsel for defense did not deem it necessary to cross-examine him.

Sheriff G. H. Naylor testified that he had known the defendant for four or five years and saw him in San Francisco during July.

Mr. Looftbourrow asked the sheriff if he had any conversation with Spry with reference to his whereabouts from July 2nd until he came home. Witness said he conversed with Spry on the train. At this Mr. Gustin jumped to his feet and objected to going into that conversation, unless at the time the sheriff told the defendant that he (Naylor) was an officer, and that whatever Spry said would be used against him.

"Then I will ask you what your relations were with Spry at the time," said Looftbourrow.

"I was an officer, sheriff of Salt Lake county, and served a warrant on him." "Were any inducements held out to him?"

"Not in the least." "Witness said he asked Spry at the time where he was going to when he left here. That was also objected to by counsel for defense."

"Did you say," said Mr. Gustin "anything to him as to the best plan to follow?"

"I said it would be best for him to come home."

Spry told me to get all the money and not let any of the attorneys have it."

Gustin then asked if Sheriff Naylor told Spry that any statement he made would be used against him.

"I did not," said Naylor.

The attorney argued that under those circumstances, an inducement was held out to the defendant, and he objected to going any farther into the conversation. Looftbourrow insisted that no inducements whatever were held out to Spry, but the court sustained the objection.

Answering the county attorney, the sheriff said he returned to Salt Lake with Spry as officer and prisoner, and that he did so on the authority of the requisition papers issued by the Governor. That closed the testimony for the state and both sides rested.

The prosecution asked that the defendant be held to answer to the charge of embezzlement.

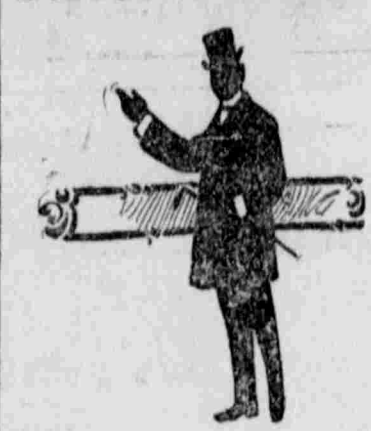
"We have proved," said Mr. Looftbourrow, "that Spry was an agent for Corless, that he collected \$52.50 with the understanding that it was to be returned forthwith by the defendant and that he violated his trust and went to Ogden, Seattle and San Francisco, and that he was brought back here under arrest."

Mr. Gustin for the defense said: "We insist on the discharge of this defendant on the ground that the state has failed to prove probable cause. What have they shown? That Spry was in San Francisco, and that in an interview with Watson, a newspaper man, he said he left on account of family troubles. They must prove a crime. Have they done so? They have not proved the agency, nor any element of it. Agency means employment. There must be a contract. There is no contract. Spry collected the money, but there was no agreement to return it forthwith, and there has been no fraudulent intent."

"I am thankful to say," writes J. L. Campbell, of Syracuse, N. Y., "that Hood's Sarsaparilla has cured me. For many years I was troubled with backache. At times I was so bad I had to be helped from the bed or chair. I am now well and strong and free from pain. What this great medicine did for him it has done for others."

Hood's Sarsaparilla
Promises to cure and keeps the promise. Begin treatment with Hood's today.

Strict Orders!



My wife has given me strict orders when ordering groceries to always add a can of Three Crown Baking Powder. It has been used by her now for several years with such success that she takes pride in recommending it to her friends as a powder of the highest quality, and a reasonable price, 25c per lb. You make no mistake when you use Three Crown Baking Powder, don't let your grocer sell you a substitute and tell you that it is just as good.

Hewlett Bros. Co.

SALT LAKE CITY, UTAH.

ment or circumstances of it shown. It was a trustee's demand for the money should have been made, but no demand was made, and the money has been paid. It was paid on Monday by Corless, who said: "Here is the money."

Mr. Looftbourrow replied that to prove agency it was not necessary to show compensation or contract. Spry received the benefits of the transaction, and the circumstances of his going away clearly showed the fraudulent intent on his part.

In summing up the case, the court said he had deliberated considerably on the case since it came under his notice and was informed, notwithstanding to the evidence which would be introduced and was prepared to pass on the points raised by counsel.

"The fact has been clearly established that agency must be proven. The question is a close one and it seems to me that in fairness to the defendant, while the court is of the opinion that an agency has been shown, that the matter go to a higher tribunal, there to be passed upon. I believe there is sufficient evidence to show fraudulent intent and I will bind the defendant over to the district court."

Injunction Asked.
Complaint was filed this morning in the Third district court by Samuel and George Stringfellow against R. M. Gray et al, known as Gray Brothers and J. Baumgarten. It is alleged by the plaintiffs that the defendants have had a trench made on certain property belonging to the said plaintiffs and that a brick wall is now being erected in the same. Also that this, if continued, will place a cloud on the title of said plaintiffs to the said property. Therefore the plaintiffs pray that an injunction shall issue restraining the defendants from continuing the building of said wall and ordering them to remove what is now built.

COURT NOTES.
Judge Hall this morning ordered the clerk to issue execution to the Sheriff of Salt Lake county in the case of Baumgarten vs. M. J. Ferguson. The clerk was also instructed to enter the default of the defendant in the case of Wm. G. Clark, administrator vs. Carl Valentine.

Up to \$18.00 Silk Skirts, \$9.75.
Friday, 8 a. m. to 1 p. m.
WALKER'S STORE.

BACK FROM SEATTLE.
Detectives Sheets and Janney Return From Trip to Puget Sound.

Detectives Sheets and Janney returned this morning from Seattle where they have been attending the trial of the Japanese who was charged with inducing his countrywomen to come to this country for immoral purposes. The officers say the trial lasted three days. The government had a good case against him and he was convicted without any trouble.

In speaking of J. R. Montgomery, who is well known in Salt Lake as former leader of whitebait and member of Detective Sheets said: "He has simply gone to the dogs. He had money when he left here, but when he drifted back to Seattle from the north, he was getting pretty low and now he is a wreck. He is serving thirty days for drunkenness and vagrancy and besides that he is suffering from a broken arm received in a fall while drunk. He told me it was all due to whiskey."

The officers say the Constable shooting case has blown over to some extent, and that John and his brother are out under bonds. John's bond is \$2,000, and his brother's \$500. The wife of the late Chief of Police Meredith came to the relief of his widow and raised \$5,000 for her.

According to the officers' statement, the case is blowing up in this country, and its a good place to go for a man who has a good business head.

AFTERNOON MINING CALL.
Improvement in Daly-West, Ajax, Tetra and May Day—Dalton Slumps.

The stock market was very strong in spots this afternoon. Ajax started the ball rolling with a sale at \$14.2 and from this price it advanced to \$15.14. Daly West was also much stronger, sales being recorded as high as \$40.00. No sales were made on the exchange but the stock sold at \$2.00 on the curb. May Day opened at \$1.52 1/2 and sold up to \$1.65, while Dalton of Marysville slumped to 24, at which price the stock was offered at the close of the call. Lower Mammoth dropped 100 at \$3.70 and then closed with \$3.77. Tetra fell away to 99, while Sacramento slumped to 26. Little Chief was traded in at 13.

TODAY'S REALTY TRANSFERS
Following is today's record of real estate transfers, made in the office of the county recorder up to 5 o'clock this afternoon.

Sandra Blinder and wife to Sophia Gundry, warranty deed, lot 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

AMUSEMENTS.
Blanche Bates' season closed yesterday to an astonishingly large matinee turnout and to a very good sized house at night. Manager Myers stated that the matinee was at least \$300 heavier than the evening performance. The company left for the east this morning.

The next attraction at the Theater will be Henry Miller, who presents his new play "D'Arcy of the Guards" next Tuesday evening. Mr. Pyper tried to have him remain two nights with a view to presenting his comedy "The Importance of Being Ernest," but his arrangements were such that only one night could be given to this city.

PERSONALS.
J. C. Leary is back from a trip to the east. He says that the stockmen are pretty blue over the prospects for the coming winter, but that the outlook is not as bad as it is reported to be. James E. Clinton, the Idaho sheepman, is back from the coast after a business trip lasting a few days.

Seward H. Fields has returned from an extended eastern trip in which was included the Yale commencement and the Yale-Harvard boat race on the Thames. Mr. Fields, who is an old son of 22, is reported to have confined his celebrated Yale victory to a bottle of mineral water and a cigar.

At least, that is what he has been telling his friends since he got back.

Ell Sherman, foreman of the Rocky Mountain News, of Denver, is spending a week's vacation in Salt Lake. D. Pike returned yesterday from Milwaukee, where he made quite a prolonged visit after the conclusion of the Elks' convention. He reports that all through Colorado there is a great deal of interest being manifested in the coming Elks' carnival.

H. G. Harvey-Wray, who has been cashier of the Kenyon for some time, has resigned his position with that hostelry to accept a similar place with the Hotel Portland, Portland, Oregon.

He has many friends in Salt Lake who will be sorry to see him go.

Judge S. W. Stewart has returned to Salt Lake from a hunting and fishing trip to Idaho.

J. E. MacGowan, editor of the Chattanooga Times was in the city yesterday over the fact that Walker Bros. company joined the forces, and announced that the big store will close hereafter on Wednesday and it looks very much as though the big store have gained their point. Their half holiday of yesterday was spent at the various resorts and was a most enjoyable afternoon to all of them. The most enjoyable part of it, however, and the part which made them more jubilant than any other, was the fact that it seems now that the Wednesday afternoon off will be a permanent institution during the summer months.

BUSINESS AND REALTY.
The retail clerks who have been agitating the Wednesday half holiday movement were very much shocked yesterday over the fact that Walker Bros. company joined the forces, and announced that the big store will close hereafter on Wednesday and it looks very much as though the big store have gained their point. Their half holiday of yesterday was spent at the various resorts and was a most enjoyable afternoon to all of them. The most enjoyable part of it, however, and the part which made them more jubilant than any other, was the fact that it seems now that the Wednesday afternoon off will be a permanent institution during the summer months.

Kahn brothers, the wholesale grocers, have decided that an uptown establishment for a wholesale house is not only an expensive affair but is not necessary. On or about the 15th of next October they will move to a new building which A. Keyser is erecting for them on Second South street, nearly opposite the Symms Utah grocery company. The building will be of two stories and a basement, and will cost about \$20,000. It will have a frontage of 50 feet on Second South street, and a depth of 155 feet on Huron's court. A couple of railroad trucks will convey goods directly into the building, and it will be in every way more convenient than the present Main street home of the company.

The contracts for excavating for the improvements on St. Mark's cathedral was let yesterday to Keller and Rush, who will begin work immediately.

Work has begun on the superstructure of the Museum building at the University of Utah.

LATE LOCALS.
William McBratney, of Huntington, Oregon, and Anna D. Slagle, of Chicago, Miss Slagle is 23 years old and McBratney is 24.

Marriage licenses were today issued by county clerk James to the following couples: 43. The Rev. of Denver and Maud Atkinson, of Pawnee City. He is 31 years old and Miss Atkinson is 28.

The petition of the Utah Society of the Army of the Philippines, asking the \$250 appropriation as a settlement of visiting members of the society on August 13, 14, and 15 has been approved by the mayor, and the amount will be paid the society.

The petition of J. S. Bransford, Mrs. Emory-Holmes and others, that the council order the laying of a suitable cement sidewalk not less than five feet wide from the Eagle Gate along north State street on the east side to First street thence along the south side of First street to A street, has been approved by Mayor Thompson.

The ordinance providing for the annual appointment of a day foreman and a night foreman of street sprinkling which was passed by the city council August 6, was approved by Mayor Thompson today. The ordinance provides that the mayor shall make the appointments by and with the advice and consent of the city council, and that the appointees shall each receive a salary of \$75 per month.

The stockholders of the Rapid Transit company and the Salt Lake City Railway company did not meet at noon today as advertised owing to the fact that the articles of incorporation of the Consolidated Railway & Power company had not been filed by Attorney Critchlow up to that time. The meeting was accordingly postponed until 4:30 this afternoon, by which time it was expected that all would be in readiness.

At this time the stockholders will get together and formally vote upon the transfer of the assets of the two companies to the big \$4,000,000 corporation, which from this time on will operate the electric transit business of Salt Lake City.

Tomorrow the public will not be aware of any outward or visible sign of the consolidation, and for the present to all intents and purposes the two companies will retain their identity. Toward the end of the month Secretary Wells, however, expects to close up the Rapid Transit offices in the Galena Block on State street and second South and transfer the force and books to the general offices of the new company in the Hooper building. Not until this action is taken will the public appreciate the boon of the consolidation, for a few weeks later it is anticipated that transfer will be issued to any part of the city over either of the old lines.

It is expected that the meeting today will be of a purely formal nature and that no discussion of the future policy of the new company will come up. No line yet been given the printer for the new certificates and the stock will be turned in this afternoon and receipts given for the same which will later be exchanged for the new paper when issued.

AGENCIES TO COMBINE.
Consolidation of Railroad Offices in the Northwest September 1.

Portland, Or., Aug. 7.—The Oregonian tomorrow will say: Another step in railroad consolidation is reported to take place in Portland, Tacoma and Seattle on the 1st of September. This will be no less than the consolidation of the city offices of the Union Pacific (Oregon Railway & Navigation) and the Southern Pacific. The general offices of the two companies in Portland are not to be disturbed. V. A. Schilling will be the agent, and he will be assisted by C. W. Stinger and J. L. Snip. The Southern Pacific office, Agent J. B. Kirkland of the Southern Pacific, it is understood, will be taken care of elsewhere.

On the same date it is said the offices of the two companies at Seattle and Tacoma will be consolidated in each place. This consolidation will be effected by putting all the business of both lines in that field in the hands of the present Oregon Railway & Navigation agent, who will thereafter represent the interests of the Harriman group and not merely the separate Union Pacific.

Wherever known this announcement is interpreted as a precursor of consolidation of the general offices in Portland. The impression is strong that General Freight and Passenger Agent Markham of the Southern Pacific will be made general freight agent of the combined interests, and that Traffic Manager Campbell and General Passenger Agent Craig of the Oregon Railway & Navigation will hold the same offices in the consolidation. Thus the traffic staff will be Campbell, Markham and Craig, and they will have charge of the Oregon Railway & Navigation and Oregon & California business. No date is yet set for this merger of general offices, but it is believed that it will not be postponed beyond the first of the coming year.

SPIKE AND RAIL.
Donald Rose of the Illinois Central is up north.

Trains Nos. 3 and 6 on the Rio Grande Western came in today each in two sections.

The Under Two Flags company started for Pueblo this morning over the Rio Grande Western.

General Attorney Parley L. Williams of the Oregon Short Line has returned from Elko.

Washouts on all roads seem to be universal in the west from Mexico up to Canada.

"What will September 1 bring forth?" is the question that is agitating local Harriman employees.

The Union Pacific examiners in two specially constructed cars arrived in Salt Lake this afternoon.

The Omaha papers predict that the Union Pacific force will be almost entirely reorganized September 1.