

KNOTTY CASE IS FINALLY DECIDED

Supreme Court Hands Down Opinion Settling Mining Dispute.

DISMISSAL OF SUIT ORDERED.

Question Arose Over Deal in Which John A. McAllister Acted as Peacemaker.

Without deciding a point of law or citing an authority, the supreme court handed down an opinion on general principals today reversing the decision of the lower court and ordering the dismissal of the case of A. E. Cranney, N. W. Kimball, Joseph E. Cardon, Melvin J. Ballard, Louis S. Cardon, Jacob West, John P. Cardon, Robert Murdock, L. C. Farr, A. H. Palmer and W. G. Davis against John A. McAllister, appellant. The suit was brought to compel McAllister to account for 5,000 shares of stock he received in the Zonoli Silver-Copper Mining company while acting as peace-maker between two warring factions. It was through the clever manipulation of McAllister that the plaintiffs secured stock in the company and because he secured a block of 5,000 for his services they wanted a share in it.

According to the evidence in the case Murdock, one of the plaintiffs, met E. H. Wilson, a mining promoter at the Wilson hotel on Nov. 8, 1908. Wilson told Murdock of an option he had on the Zonoli Mining company's claims from P. D. Delmas, the owner. Wilson told Murdock that if he could raise \$15,000 that he would give him and his associates a one-hundredth interest in the claims for every \$1,000 he invested. Murdock investigated the property and found that it was valuable. When he returned to his home in Logan, he interested the others in the deal and they subscribed the necessary amount, and turned it over to Wilson, who put it in Walker Bros. bank as agreed.

OPTION ONLY ORAL. McAllister, who also lives in Logan, was one of the subscribers, and came to Salt Lake to investigate the deal further. He found that Wilson had only an oral option on the property and that Joseph Lippman, W. W. Wantland and others had a written option on the property.

Wilson and Lippman and his associates were at odds and the former had threatened suit. McAllister stepped in as peace maker and finally arranged with Lippman for stock in the company for himself and other Logan associates under the same terms as the agreement with Wilson. To ward off a suit McAllister made a final settlement between Wilson and Lippman whereby Wilson was to have 12,000 shares in the company. Of this amount Wilson gave McAllister 5,000 for fixing up their differences. It was this 5,000 shares of stock that McAllister's associates sought to have divided equally between them. The supreme court held that the plaintiffs in the action received all that was coming to them under the agreement with Wilson and that the 5,000 which McAllister received was a side issue and a reward for his services as peace maker.

DEMURRAGE CASE SUBMITTED. In the case of the United States against the D. & R. G. Railroad company, further testimony was given yesterday afternoon before Examiner George N. Brown, by N. A. Williams, freight conductor of the D. & R. G. V. A. Thompson, yardmaster at Thistle Junction; Mr. Jackson, demurrage inspector of the Intermountain bureau; and Thomas Kief, freight conductor at the D. & R. G. There was considerable cross-examination after which the case was submitted by the attorneys to the Interstate commerce commission at Washington.

CASE WILL BE PUSHED. Wade H. Ellis, acting attorney general of the United States, has sent a letter to the Commercial club traffic bureau of this city, acknowledging receipt of the petition of the shippers of Salt Lake, Provo and Ogden for an investigation into alleged discrimination in rates practiced by the railroads in this section. The letter contains the further assurance that the matter will receive the prompt attention of the department.

SUPREME COURT CALENDAR. May Term Begins Next Monday With Twenty-Seven Cases Up.

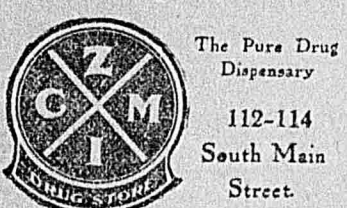
The May term of the supreme court will open on next Monday. There are 27 cases on the calendar which are to be argued at the rate of three each day. The term will close May 20. The following are the cases:

May 10—State of Utah against M. F. Hoben, appellant, state against Arthur

Protect Your Hands

From the roughness and cracks caused by household duties. We have a very good line of Rubber Household Gloves at

50c a pair Of course we have better qualities if you need them.



Brown, appellant, state against Nathaniel Williams, appellant.

May 11—State against Joseph Barker, respondent; Fillmore City against Fillmore Roller Mill company, appellant; Julia Murphy against R. L. Booth, appellant.

May 12—Bullion-Beck & Champion Mining company against Eureka Hill Mining company, appellant; Edward Ryan, appellant, against Curlew Irrigation company, in the matter of the estate of Thomas Miller, deceased, Margaret Miller and others against Elizabeth Livingston, administratrix, appellant.

May 13—Joseph H. Roberts and others, appellants, against W. G. Tuttle Waddell, executrix, appellant, against William M. Waddell and others; Utah Savings & Trust company, appellant, against Adeline Stout and M. H. Walker, appellant.

May 14—William J. Barrette, appellant, against S. A. Whitney, Lena Meyer, appellant, against the Los Angeles & Salt Lake Railway company, appellant; Mary Etta Chambers against C. Frank Emery, sheriff, appellant.

May 15—S. Kozminsky, appellant, against Oregon Short Line Railway company, appellant; William Brown, Jr., appellant, against William T. Owens; Twenty-second Ward corporation of the Church of Jesus Christ of Latter-day Saints against the Oregon Short Line Railway company, appellant.

May 16—Nick Jachetta, by his guardian, Raphael Jachetta, against the San Pedro, Los Angeles & Salt Lake Railway company, appellant; Volker-Sencroft Lumber company, appellant, against Mary F. Vance; Mary E. Morris against the Oregon Short Line Railway company, appellant.

May 17—Annie F. A. Hilton, appellant, against Gideon Snyder and others; G. Harold Speight against the Rocky Mountain Bell Telephone company, appellant; Mary R. Madson and others against the Southern Pacific Railway company, appellant.

May 18—Florence, manufacturing company, against the Pacific Express company, appellant; N. F. Madson, appellant, against the Utah Light & Railway company; the Grand Central Mining company against the Mammoth Mining company, appellant.

ALL THREE SERVED.

All three of the county commissioners have now been served with a notice of the filing of suit against them and their bondsmen to recover \$5,727.59 which was paid to the Interstate commerce commission for publishing the delinquent tax lists without asking for bids as required under the law. It is expected that a demurrer will be filed to the complaint in a day or two by Booth, Lee & Badger, who have been retained by the county commissioners as counsel.

DISTRICT COURT NOTES.

The Oregon Short Line Railroad company filed suit against the Consolidated Wagon & Machine company to recover \$5,460.30. It is alleged that the railroad company shipped 12 carsloads of hay on Sept. 1, 1908, from Idaho to Salt Lake City and that the machine company has refused to pay the freight.

Frederick Heath filed an answer to the complaint of his son, Henry O. Heath, today denying that his son has seduced a girl in Salt Lake. The father asks to have his son's claims declared invalid.

Little & Little, real estate agents, have secured judgment for \$382.30 against Patrick W. German, in Judge Armstrong's court. It was given as commission for selling a certain piece of real estate.

HER DREAM OF LOVE.

Gertrude Creech was Desereted After Two Days of Wedlock.

After two days of married life, Mrs. Gertrude Creech was left stranded in a rooming house here by her husband, George B. Creech, who disappeared under mysterious circumstances, according to her complaint for divorce which she filed today in the Third district court. She asks for the restoration of her maiden name, Gertrude McFarland.

They were married in Salt Lake on

Jan. 18, 1909. On Jan. 20 he pointed out a room for her in a rooming house and never returned. She says that he left her without any money to buy clothes and food and since that time she has been compelled to support herself.

GOT THE MONEY AND LEFT.

C. J. Anderson coaxed his wife, Mrs. Margaret Anderson, to loan him \$500 and then he left her according to her complaint for divorce which was filed today in the Third district court. She asks for the return of the borrowed money in two payments of \$250 each and for \$1,000 alimony to be paid at the rate of \$25 per month. They have two children, Bernice, 8 years old, and Leonard, 4 years old. They were married in Wisconsin on Jan. 13, 1899. In February, 1904, Anderson deserted his wife and she has since that time been unable to locate him or his whereabouts or circumstances at this time.

WILL AIR THEIR TROUBLES.

Union labor troubles will have their airing today when B. K. Melvin will be given a preliminary hearing before Judge Bowman on the charge of assault. Melvin is alleged to have thrown stones and rocks at J. L. Lusk, a member of the Bell Telephone company, and the trouble is said to have arisen out of a conflict between union and non-union workers. Melvin was charged with assault and after his plea of not guilty the hearing was set for Thursday morning.

MAY PLEAD INSANITY.

Thomas H. Hammerton, charged with forging the name of County Atty. Job Lyon to checks amounting to \$50, filed an affidavit in Judge Lewis' court this morning through his attorney, William Dunn, asking for a continuance of the trial until Dr. W. H. Brown of the Keeley institute returns from the east. It is the contention of the defense that Dr. Brown will testify that the time he forged the checks on account of a protracted spree. The case was continued without date.

CANDIDATES FOR SINGLENESS.

F. A. Olson filed suit for divorce yesterday from Mrs. May. The complaint against the increase in the duty on hosiery and gloves, signed by yourself. In reply permit me to say that the tariff bill must inevitably be unsatisfactory to the hosiery and glove makers of the country.

Mrs. Emma M. Cooke seeks a divorce from Edward S. Cooke in a complaint filed yesterday in the Third district court. She says that her husband is engaged in the hosiery business and has neglected to provide for her for more than a year. They were married here on April 24, 1906.

GOLD RAIL FILES.

The Gold Rail Mining company filed its articles of incorporation today with the secretary of state. It is capitalized for \$75,000, divided into shares of 25 cents each. The company's principal office is in the Weber mining district. A. H. Grose is president; C. H. Hussey, vice president; F. L. Wood, secretary and treasurer.

COURT NOTES.

Lily May O'Rourke and her three children brought suit today in the Third district against the Consolidated Mercury Gold Mining company to recover \$15,000 for the death of their husband and father, John O'Rourke, who was killed in the company's mine on Dec. 7, 1908. The complaint charges that O'Rourke was attempting to put a car on the track when another car ran into him and killed him.

Roy H. Powell, charged with failing to provide for a minor child, was discharged this morning after the complaint was dismissed. Powell's wife secured a divorce from him about two weeks ago, and he agreed to give her \$500 a month in alimony. The case against him would be dismissed.

The case of C. D. Harding against William Cederlof to settle the boundary to a piece of ground in Emigration canyon and to recover \$500 in damages on trial in Judge Ritchie's court today.

Mrs. Alice Norris was granted a decree of divorce today from Harvey W. Norris on the ground of non-support, by Judge Armstrong on the recommendation of Referee W. J. Harding. They were married in Stratton, Va., on Aug. 12, 1896, and have one child, 10 years old. Mrs. Norris was granted the custody of the child and suit money.

SALT LAKE TELLS OF MEETING OF WARSHIPS

Frank J. Hewlett Writes of the Welcome Extended to the Japanese at Honolulu.

Frank J. Hewlett, on his way to Japan and India, writes an interesting letter, telling of meeting the Japanese war ships, which are now on a visit to the United States. He says:

"The sky was bright with tropical sunshine above, and the blue waters of Honolulu bay were calm and inviting. Even the S. S. Siberia seemed to feel the glory of that early April morning, as she softly churned her way through the fleet of sailing boats, toward the shore. The passengers were gathered in the dining saloon, waiting the arrival of the quarantine inspectors. With most of them the chief topics of conversation were the principal sights of Honolulu, and the best methods of seeing them during the brief time allotted, for we had been informed that at 5 o'clock we would continue our voyage to China. Others were looking through the little circular port holes watching the clustered shipping, when the booming of guns was heard and a few minutes later scores of Japanese sampans (boats), teeming with happy oriental humanity, shouting, 'Banzai! Banzai!' passed us in the harbor. These pretty, swift craft, few Japanese banners fore and aft, and were elaborately decorated in true oriental style. It was a gala day for the Yankoes of the orient."

"Shortly after daybreak this morning the Japanese cruisers Aso and Soya were sighted off Barber's point, and at 7 o'clock they were in a huff, sailing in toward the bell buoy. The lead gray sides, four funnels apiece and war-like aspect generally presented an imposing appearance on the closer approach. The speed of the Soya is given as 23 knots, which places her in the swift class of cruisers. Her armament is as follows: Twelve six-inch guns, 12 four-inch, six three-pounders, and four torpedo tubes. On board the two

vessels are 1,500 men, about one-fourth on duty. "On our going ashore we found all the Japanese stores decorated with the white flag, with red center, even the children carried banners. During the afternoon the 1,500 men, including officers all dressed in spotless white suits trimmed with black braid, made an imposing appearance, as they marched through the principal streets. Officials and residents of Hawaii feel gratified at the honor of having the first opportunity of welcoming the ships of Japan to American waters. Officers and men of the United States navy and army are proud to be the first representatives of the service, on home stations to reciprocate the splendid welcome of Japan to the Atlantic fleet.

The Aso and Soya will remain in Honolulu harbor for a few days. After that they will proceed to the islands they will probably leave for America, and there is no question but the people of the United States will renew the Hawaiian welcome on a magnificent scale, and show them great things, such grand sights that will always remain with them as a happy remembrance. "The Aso and Soya will bring two historic ships of a historic war—a war which produced as great a naval commander as Lord Nelson, and which saw a venture in the Pacific, the utter defeat of Russia, achieved in a very few months."

DUTY ON HOSIERY.

Representative Howell Writes Mrs. Cohen Regarding the Schedule.

The following reply which was sent by Representative Joseph Howell to the protest of the Woman's "American" club of Utah, against the increase of tariff duty on hosiery and gloves, was read yesterday afternoon at the Woman's "American" club:

House of Representatives, Washington, D. C., April 19, 1909. To Mrs. Elizabeth Cohen, President of the Woman's "American" Club of Utah:

Dear Madam—I hereby acknowledge the receipt of your letter of protest against the increase in the duty on hosiery and gloves, signed by yourself. In reply permit me to say that the tariff bill must inevitably be unsatisfactory to the hosiery and glove makers of the country.

The Payne bill will pass the house this week, and I am pleased to say that in the main it is a very satisfactory law. Under the order of the house no amendments can be made to the schedule to which you invite attention.

Yours very truly,

JOSEPH HOWELL.

The secretary, after reading the letter, was instructed to write Congressman Howell again and endeavor to show him the importance of the proposed increase of duty to the women of Utah.

NEW INCORPORATIONS.

Articles of incorporation of the C. D. & G. company were filed yesterday in the county clerk's office. It was organized at Salt Lake with a capital stock of \$300,000, divided into shares of \$1 each. Of this amount 100,000 shares have been set aside as treasury stock. The company owns several claims in the Ophir mining district. The officers are: D. E. Clinton, president; Albin B. Blair, secretary, and B. F. Duncan, treasurer.

The Sevier Valley Salt company filed an amendment to its articles of incorporation yesterday in the county clerk's office. The capital stock is increased from \$11,000 to \$100,000, and the name of the corporation is changed to the Gunnison Valley Salt company. The several party will open offices in Salt Lake City and the powers and purposes of the company are enlarged.

UTAH COUNTY AFFAIRS.

PROVO, May 4.—The board of county commissioners met yesterday and decided the following business: The county clerk was authorized to join with the city council in asking the department of the interior to send a road expert here to take charge of the construction of the Provo-Olmsted boulevard. This was after a report had been received from W. H. Ray of the county engineer, that the road expert to the effect that between \$7,000 and \$8,000 of the amount pledged to be raised by popular subscription for construction of the boulevard had been subscribed, and that there was no doubt whatever of the full \$10,000 being secured.

Ray stated further that President Brimhall of the Brigham Young University had offered 500 days' work to be given by the students. He had also requested that the board of county commissioners make him deliver a course of lectures on road building before the students.

Road supervisor Clinger brought up the matter of the lower bridge over the river bridge from high water, and it was decided to take up the matter with the city council and unite with the city in asking the department of the interior to send a road expert here to take charge of the construction of the Provo-Olmsted boulevard. This was after a report had been received from W. H. Ray of the county engineer, that the road expert to the effect that between \$7,000 and \$8,000 of the amount pledged to be raised by popular subscription for construction of the boulevard had been subscribed, and that there was no doubt whatever of the full \$10,000 being secured.

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The treasurer's reports showed the following amounts collected: General fund, \$1,378.66; balance on hand, \$1,494.78; States jurors and grand jurors, \$9.50 over; county school fund, \$1,398.81; balance on hand, \$573.02; State school fund, \$1,747.74; balance on hand, \$15.10.

During the day the commissioners made a tour of inspection of the county infirmary and grounds, which were found to be in a very satisfactory condition.

ROBBERIES REPORTED.

PROVO, May 4.—On Saturday afternoon Mr. Johnson, of the Johnson Paint & Glass company, located in the Eldridge block, had taken out \$50 in checks and one \$10 bill to deposit in the bank. A customer whom Mr. Johnson cannot very accurately describe came in for some oil, while Mr. Johnson went out of the room to get it. After the customer had paid for the oil, and left Mr. Johnson looking for the checks and money, which had been left on the counter, but he found they had disappeared. It is not known, of course, that the man who bought the oil took the money, but if he knows he might be able to tell whether other people came into the store while Mr. Johnson was out, and Mr. Johnson is therefore anxious to locate the customer.

Between Saturday night and Monday morning a Miss Chipman, who boards with Mrs. Belle Nelson lost \$45 by robbery. She had this amount in a purse in her trunk, Saturday evening, and Monday morning the money was gone, nothing else was taken. The officers are of the opinion that the theft was committed by some one well acquainted with the premises.

TRESPASS DAMAGE SUIT.

PROVO, May 4.—James L. Meldrum has commenced suit in the Fourth district court against N. N. Hinckley and Edwin S. Hinckley to quiet title to 60 acres of land north-east of Provo. Five hundred dollars damage for trespass and destruction

B. Y. UNIVERSITY IN LINE FOR BIG GIFT

Eligible for Benefits of Manifold Rockefeller Fund Offered Denominational Colleges.

(Special Correspondence.)

PROVO, May 4.—Prof. H. H. Cummings, superintendent of Church schools, addressed the students of the Brigham Young university yesterday morning at devotional. Prof. Cummings has just returned from New York, where he appeared before the commission having charge of the distribution of the Rockefeller \$25,000,000 fund to be given to denominational colleges in the United States. Prof. Cummings said that only twenty-nine institutions of learning out of 500, which applied, were considered eligible under the provisions of the trust, and that the Brigham Young university is one of the 25. The amount this popular institution of learning will receive is not known, but Prof. Cummings asked for \$250,000. In order to assist the commission in its determination, Secretary Holt has prepared information touching the finances and educational standing of the university, which will be forwarded to New York. The sum, whatever it may be, will not be paid outright but invested and the dividends paid to the university.

PROVO, May 4.—At the meeting of the city council, last evening, \$100 was appropriated to the watermaster for cleaning ditches. The watermaster reported that it was impossible to collect taxes in water districts to do the necessary work. The watermaster was instructed to commence suit against delinquents. A petition from the Provo Juvenile band, for \$50 a month for maintenance was referred to the committee on finance. The band in return offered to furnish free music for all public occasions.

The petition for sidewalk paving on Second South, between First East and Seventh East streets, was referred to the committee on streets and alleys. Five Chinese Americans recommended the advance in the salaries of fire teamster and assistant fire chief to \$60 a month; referred to the committee on fire department and mayor.

County Assessor Beck reported that the assessed valuation of Provo City property for 1909 outside of property assessed by the state board of equalization, amounts to \$2,580,270.

City Engineer Jacobson recommended that steps be taken for the regular extension of the waterworks system. A communication was received from Joseph B. Mumford, president of the Provo Reservoir company, asking for a conference with the council for the purpose of discussing the differences between the city and the reservoir company in relation to water appropriation of Provo river by the reservoir company; referred to the committee on waterworks, the city attorney, and the mayor.

W. H. Ray appeared and asked the council to join the county in requesting the presence of a road expert to come from Washington to take charge of the construction of the boulevard referred to; referred to the mayor with the request that he join the commissioners in the matter as the representative of the city.

Contracts for sprinkling at \$3.50 a shift were awarded as follows: A. H. Knudsen, C. H. Cook, John E. Cook, A. E. Halladay, Charles E. Jones.

The committee on waterworks reported that the following business of the Blue Cliff Canal company for damages alleged to have been done by the city to the company's canal.

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of fences by defendants is asked for, and that the defendants be restrained from trespassing upon the land in question and from tearing down the fence, pending the termination of the suit.

SESSIONS-LOWE NUPTIALS.

PROVO, May 4.—A marriage license has been issued to Wesley Lowe of St. Louis, Mo., and Nellie Sessions, of Provo.

UNUSUAL THINGS IN WALL PAPER

Any one can furnish Wall papers that have only house cleaning qualities. To produce artistic effects requires talent and study. All our previous efforts are surpassed in excellence, good taste and merit. We have everything for a distinct purpose, and a vast variety to select from. Geo. W. Ebert & Co., 51 Main.

CALIFORNIA EXCURSIONS Via O. S. L. & S. P.

May 6th to 13th inclusive, San Francisco and return (one way via Portland), \$46.50. To Los Angeles and return, \$35.75. To Los Angeles and return (one way via Portland), \$55.75. Tickets limited to October 31st. Stopovers, City Ticket Office, 201 Main Street.

HARBACH.—In this city, May 3, Fred Harbach, in his seventy-seventh year, at the residence of his daughter, Mrs. Mary Harbach, of 822 Third avenue, Interment in Des Moines, Ia.

RICHARDS.—In this city, May 3, Edward Richards, in his sixty-sixth year, at his residence, 163 south Eighth street, Interment in Denver, Colorado.

THOMASSEN.—Mrs. P. O. Thomassen died at her home. Funeral was held at 2 p. m. today.

R. E. Evans, Florist, 36 S. Main St. Floral designs a specialty. Phone 981.

FUNERAL NOTICE.

The funeral of David Evans will be held tomorrow morning at 10 o'clock, at the residence, No. 251 Fifth East street.

The funeral services for J. Howard Woodbury, who died of peritonitis at St. Mark's hospital Sunday, will be held at the church ward meetinghouse Thursday at 2 p. m.

MURRAY.—Mrs. Harriet Ann Smith Murray died at Murray Saturday night from a stroke, aged 76.

Funeral services will be held Tuesday at 2 o'clock from Murray First ward chapel.

LAUGHLIN.—In this city, May 5, Mrs. Gertie Laughlin, aged 24 years, wife of William F. Laughlin and daughter of Mr. and Mrs. I. Spary.

Funeral services were held from the family residence, 725 east Third south today, at 3 o'clock. Interment at Mount Olivet.

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