

Newcastle conference, 37 Cavendish Rd., Jesmond, Newcastle-on-Tyne, Joseph B. Walton, president.

Norwich conference, 114 Old Palace Road, Norwich, John H. Porter, president.

Nottingham conference, 49 Sabina street, Nottingham, T. H. Cartwright, president.

Sheffield conference, 16 Middlesex street, Park Road, Barnsley, Don B. Colton, president.

Scottish conference, 130 Barrack street, Glasgow, Malcom McKinnon, president.

Welsh conference, 188 Cathays Terrace, Cathays, Cardiff, Evan R. Owen, president.

German mission, Spalding Strasse 49, I Hamburg, Germany, Peter Loutensock, president.

Netherlands mission, Isaac Hubert Straat 120, Rotterdam, Holland, A. L. Farrel, president.

Scandinavian mission, Sankt Pauls Gade 14, Copenhagen, Denmark, C. N. Lund, president.

Swiss mission, Archiv Strasse 20, Kirchenfeld, Switzerland, Henry E. Bowman, president.

### WATERS OF SALT CREEK.

The Supreme court delivered an opinion Wednesday in the case of John Hague vs the Nephi Irrigation Co., appellant, affirming the judgment of the lower court.

Proceedings in this case arose over the use of waters of Salt Creek at Nephi, Hague claiming a right to it for manufacturing purposes and the defendant the right to divert a portion of it for irrigation purposes.

The history of the case is an interesting one. It shows that the town of Nephi was settled in 1851 by nineteen families, and the year following the waters of Salt Creek was diverted from its natural channel for the benefit of the settlers.

Charles Baer has filed a \$50,000 damage suit against the National Bank of Utah of the settlers.

In 1852, a man named Baxter, Hague's predecessor in interest, built a grist mill, locating it on the stream above all the points where water had been diverted. The next year trouble was had with the Indians and Baxter was compelled to move his mill into town, which he did, locating it on a ditch. In 1854 he reconstructed the mill and obtained a right of way to carry the water to the mill. In 1860 the mill race was moved from the ditch and connected with the stream. Hague bought the place in 1862 and at that time two ditches used for irrigation and culinary purposes had been taken out above the mill but the water to supply it was permitted to flow down the stream and, after passing through it, was diverted and used for the purpose of irrigating a large body of land. For several years past the defendant irrigation company refused to permit Hague to use the water and also asserted its right to change the place of use and to divert such water above the mill as it saw fit and whenever it chose to do so. This, of course, prevented the operation of the mill, when Hague brought suit. Judge Higgins, before whom the case was tried, deciding in Hague's right to the waters for mill purposes.

The defendant insisted that plaintiff had failed to set out a cause of action in his complaint and that its demurrer to the same should have been sustained. The court finds, however, that ownership, invasion of right, and injury were clearly and distinctly alleged.

If the defendant desired a more specific and definite allegation of ownership, the court says its proper remedy was by pleading. Having failed in this it can not now be heard on that question.

"The object and intent," says the

supremacy of water and irrigation, "must be to apply it to some useful purpose, and if, by means of ditches, more is diverted than is necessary for such purposes, the excess cannot be regarded as a diversion for a useful purpose, for as matter of fact, such excess merely runs to waste and its diversion cannot result in a vested right. If therefore A., who owns and intends to irrigate but one acre of land, diverts all the water of a natural stream which is sufficient to irrigate two acres, he obtained a right only to sufficient water to irrigate two acres, and B., who also owns an acre, may appropriate the excess. If, in this arid region, the law were otherwise it would be a menace to the best interests of the State as well as to its citizens, because it would enable a few individuals, or association of individuals, by diversion of water in excess of use, to greatly limit the area of the public domain which could be cultivated, and thus deprive the State of its revenue, and citizens of homes within its borders."

"The intent to take and appropriate and the outward act, go together. If we concede that a man has right he mere priority to take as much water from a running stream as he chooses, to be applied to such purposes as he pleases, the question still arises, what did he chose to take? And this depends upon the general and particular uses he makes of it. If, for instance, a man takes up water to irrigate his meadow at certain seasons, the act of appropriation, the means used to carry out the purpose, and the use made of the water, should qualify his right of appropriation to a taking for a specific purpose, and limit the quantity to that purpose, or to so much as necessary for it." (Orton vs Dixon, 13 cal. 34.)

The court also cites another case reported in 37 cal., 282, which says, "The doctrine is that no man shall act upon the principle of the dog in the manger, by claiming water by certain preliminary acts, and from that moment prevent others from enjoying that which he is himself unable or unwilling to enjoy, and thereby prevent the development of the resources of the country."

The appellant cites other errors in the proceedings but the court finds no reversible error and affirms the lower court's judgment.

Justice Barch delivered the opinion which is concurred in by Chief Justice Zane and Justice Miner.

### MEMORIAL SERVICES

Memorial services were held in the Union ward meeting house, Salt Lake county on Monday, March 14th, at 2 o'clock p. m., in remembrance of the late Elder Joseph Henry Jensen, of that ward, who died while on his mission in Sweden, March 8th, 1898, aged 27 years, 4 months and 14 days.

Bishop Ishmael Phillips called the large meeting to order, and the ward choir, led by Conductor Wm. E. Cox, sang the hymn commencing: "Though deepening trials throng your way."

Bishop John A. Egbert, of the West Jordan ward, offered the opening prayer.

The choir sang: "When first the glorious light of truth."

A short biographical sketch of the life of Elder J. H. Jensen was read by Elder Alfred Robbins, of the M. I. A., of which the deceased had been a member, and who left his home on his mission on May 25, 1896, and arrived in Sweden about the 18th of June.

Elder Theodore Toblason, late president of the Gottenburg conference, in Sweden, was the first speaker, and referred to the faithful labors of the deceased in that conference. The young Elder made rapid progress in the Swedish language on his arrival in his field

of labor, won the esteem of his fellow-laborers and made many friends outside of those of his own faith, and was a willing and energetic worker.

The speaker also described the ceremonies observed by the Saints of Gottenburg at each conference, at the grave of the late Elder Quist, of Big Cottonwood, Salt Lake county, who also passed away, five years ago, while on his mission in that place, and he believed the Saints there would also do honor to the memory of our lately departed brother Jensen.

Elder Toblason spoke many comforting words to the parents (Elder Peter Jensen and wife Ellen) and other relatives and friends present. He also read an excerpt taken from a book called "Hope of Zion," printed in the year 1739, and published by Lustias Gratiana, at Basel, Switzerland, describing the condition of the religious world in his day, and predicting the coming forth, within the following 100 years, of the true Gospel, with all its gifts, officers, etc. The speaker also exhorted those present to live exemplary lives and keep the commandments of God.

The choir sang: "Afflicted Saints to Christ draw near."

Elder David Amundsen, who recently returned from Norway, and was the last one present, who had seen and talked with Elder Jensen, briefly addressed the assembly on the labors of Elder Jensen.

Elder Joseph E. Taylor, of the Salt Lake Stake presidency, was the next speaker, and referred to the prediction of Lustias Gratiana, stating that he had sent to Switzerland for a verified German copy of the same. He then discoursed on the resurrection of the dead for a short time, and spoke of the advantage and importance of keeping individual and family records. He made comforting remarks to those called to mourn, and pointed to the time when the faithful would come forth clothed with immortality and eternal life, of which number he felt sure Brother Joseph H. Jensen was one.

The Union brass band, of which Brother Jensen was a member, rendered "Nearer, my God, to Thee."

Bishop Phillips offered the closing remarks in his usual fatherly manner, eulogizing the departed and giving comfort to the bereaved.

The choir sang the hymn, from the S. S. Union tune book, "Wanted on the Other Side," and Elder John G. Sharp pronounced the benediction.

C. DENNEY.

Many sermons cease to be interesting when the dinner bell rings.

Tuesday afternoon Charles Sexton left San Barbara, Cal., for Carpinteria to purchase a gasoline engine. Wednesday morning he and his friend, Paul Higgins, went to the blacksmith shop of Higgins's father to make some needed repairs to the engine. It was found that the boiler wanted a new pipe and the men secured a piece about four feet long. It was too long for the purpose and they proceeded to cut it. The pipe was laid on the anvil. Sexton held the cutter and Higgins struck it with a sledge hammer. No sooner was the blow struck than an explosion took place which hurled both men violently to the floor and wrecked the building. When the neighbors reached the scene they found Higgins dead, his face and hands frightfully mangled, and from his wounds it was evident that he died instantly. Sexton, though horribly injured, still possessed strength sufficient to enable him to crawl away from the building. His feet were crushed, his fingers were blown from his hands and a piece of pine was driven almost through his body. Sexton lived an hour after the disaster, uttering heartrending cries for his mother. It seemed that his only earthly wish was to see her.