

THE CITY WINS A WATER CASE.

A Decision Involving the Water of the Los Angeles River.

An Apportionment of Water Between the Vernon Company and Ames.

An Opinion Which Involves a Number of Important Local Interests. A Synopsis of the Decision.

Judge Shaw yesterday filed a long and important opinion in the case of the Vernon Irrigation company vs. the city of Los Angeles and H. M. Ames, involving the city's right to the waters of the Los Angeles river.

It is one of the most important decisions affecting local interests that has been handed down by the superior court. There are two controversies in this case, one between the plaintiff and the city, and the other between the plaintiff and Ames.

The contention of the plaintiff against the city is that the right of the city to take water from the Los Angeles river is limited to the amount that has been heretofore actually necessary to supply the city and its inhabitants; that it has never acquired any other right or title than this; that as the city grows and requires more water it has no right, as against other riparian proprietors and appropriators, to take more than it has formerly been entitled to receive, and the right of eminent domain and condemn and pay for the right to take out additional water; that until this is done such proprietors and appropriators may take the surplus in excess of the former use and restrict the city from increasing its division; that the city has been taking and selling water for the irrigation of lands outside the city limits, and that it has no power or right to make such a disposition or use of the water; that the plaintiff is a riparian proprietor on the river and has also made an appropriation of its waters under the civil code, and as such proprietor and appropriator is entitled to enjoy the city from using more water than it is entitled to take and prevent it from selling any water for use on outside lands, and plaintiff prays for an injunction accordingly.

In his opinion, Judge Shaw says that there are questions of great importance. It has been generally supposed that the city had the right of absolute control of the water of the river, and could use and dispose of it as it pleased and for any purpose, or allow it to flow down the river, if this right was not taken away from it, without thereby losing its right to again divert it whenever it so desired. A number of years ago the city's right to all the water of the river was disputed by the owners of the land forming the river below Seventh street, and the Los Feliz ranch, who claimed riparian rights superior to the right of the city. These claims have all been settled, either by litigation, or by the city purchasing the adverse claims for the purpose of quieting its title.

The court does not think there has ever been any controversy, prior to this one, concerning the water flowing through the city to lands below, and that this is a right which has never been taken away from the city, and that until recently there has never been any water flowing in the river south of the southern boundary of the city during the irrigation season, except in a few unusually wet years. But since the levee was built, the water has been forced to the surface of the water hitherto percolating under the sand of the river bed, and thereby cause a seepage which did not formerly exist, and which has been during the entire season to a point about 7500 feet south of the city limits. The evidence showed that after the first of June, in ordinary years, prior to the making of the levee, the water ceased to flow in the river below Seventh street, and that for some time before the first of June the stream was usually too small to be of much value to any person. It is principally the water which these levees have taken away from the city, and that the plaintiff seeks to appropriate, and which it claims the city must allow to remain in the stream for its benefit.

After discussing the conflict of authorities on the ownership of percolating water and subterranean waters, the court says that in this case there is no reason why the city should not have the absolute right to the water which it has collected, or, to use a favorite word among dealers in water rights, the right to develop, economize and utilize all water flowing beneath the surface in the bed of said river at any point or points between its source and the southern boundary of the city.

The evidence showed that while the city has always claimed and controlled this water, yet there has been usually more water in the river than has been actually required for the use of the city, and the inhabitants up to the present time, and that the city has claimed the right and power to own the water because it will be required in the future, when, by reason of the growth of the city, the necessities will be greater, and in the meantime it has claimed and exercised the right to sell the surplus to irrigate outside lands. This raised the question whether the city has the right to acquire any water supply beyond its present needs and the power to sell it for use on outside lands during the time when it is not required in the city.

The court holds that the city has both the right to acquire such a water supply and the power to sell the temporary surplus; that the city has the power to acquire and own a water supply for its inhabitants; that in the exercise of this power it has acquired and owns all the water flowing in the river and also all the water caused to flow by the erection of the levee; that this is not an unreasonable large supply; that even if it were, the plaintiff has no right to raise the question, and that, being the owner of the water, it has power to sell such portion of it as may, from time to time, be in excess of its present needs. It follows that the plaintiff has no right to any relief against the city.

In regard to the controversy between the plaintiff and the defendant Ames, as to their respective rights as riparian owners of the water of the river, the court has no right to compel the city to allow the waters to flow down to them, yet, if the city voluntarily does so these rights may be fixed by judicial decree. After still further discussion of the subject it is ordered that the plaintiff as riparian owner is entitled to 100 inches 12 hours a day for five days out of 40 for use on his land, and that Ames as riparian owner is entitled to 100 inches 12 hours

THE HERALD'S WORLD'S FAIR TRIP OFFER.



First—One First-Class Ticket to the World's Fair and Return Via the Santa Fe Route. Second—One Double Berth in Pullman Palace Sleeping Car from Los Angeles to Chicago and Return.

Third—Ten Days' Board, Free of all Charge, at a First-Class Hotel in Chicago. Vote as early and as often as you please, and for any person you like, using the coupon printed below.

THE FEATURES OF THE OFFER: The liberality of this offer can be judged when it is understood that it represents what would cost the winner about \$200.

The round trip first-class ticket to Chicago will take the winner to that city over the popular Santa Fe route, the three-day line, which is the only road which has its own tracks from California to Kansas City, St. Louis and Chicago.

The sleeping cars are of the latest vestibular pattern of the Pullman palace cars, and are run through to the world's fair city without change.

The fortunate winner of the HERALD'S offer will be taken to the great show at Chicago by a most picturesque and instructive route. The road passes through eight states and territories and presents to the traveler a most enjoyable variety of scenery.

It also provides the greatest advantage of landing passengers in Chicago from 24 to 36 hours quicker than other routes.

The advantage of this offer can readily be seen. The person who gets the greatest number of votes in the time indicated will virtually be presented with a journey to and from the world's fair and a ten days' stay there at no expense.

It is a prize that any one might well be glad to get. It is especially advantageous to school teachers or school children, for it will enable them to make the trip during vacation.

A day out of 40; that when there is more than enough for these lands Ames is entitled first to divert a constant stream of 100 inches, the plaintiff is next entitled to 2000 inches and Ames may then take the surplus, if there be any. Neither party is entitled to take water to run to waste, nor at all, except for some beneficial purpose.

IN THE COURTS. Cases Which Were on Trial Yesterday.

The case of David vs. Glass, et al., was before Judge Wade yesterday, a divorce being ordered in accordance with the report of the referee.

The trial of the case of Koebig vs. the Southern Pacific company, was again on trial before Judge Wade yesterday, and a motion for a new suit was argued in the afternoon and denied.

Fred Andrews was arraigned before Judge Smith yesterday on a charge of robbery, and his time to plea was continued Monday June 12th.

The trial of the boy Emanuel Vellez, charged with burning the school house at La Osañada, was set for July 5th yesterday by Judge Smith, after he had pleaded not guilty.

A motion to dissolve an injunction in the case of the Southern California Manufacturing company vs. J. H. Todd was argued before Judge McKinley yesterday.

Alfred W. Ehrlich, a native of Germany, and Peter Moltzen, a native of Denmark, were admitted to citizenship by Judge Shaw yesterday.

A petition to sell personal property in the insolvency case of Richardson Greengard was granted yesterday by Judge Shaw.

Divorce proceedings have been commenced by W. G. Bishop vs. Susan G. Bishop.

Suits were begun by the Los Angeles Terminal Railway company yesterday against James H. Blanchard, Andrew Glassell and Uri Embody, and James H. Blanchard, Mary E. Waters and Lydia L. Conway, to condemn a right of way through lands at Garvanza.

William Rector and wife vs. Nancy E. Gaddy etrix and F. H. Thoms executor of M. R. Gaddy et al. suit on promissory note for \$2300.

Lizzie Henderson vs. London and Lancaster Fire Insurance company, suit for \$1500 insurance on a dwelling.

Petition of Harry A. Andrews for appointment as guardian of Harry Andrews, an incompetent.

Are You Thinking What you ought to take with you when you go to the world's fair? Your outfit will not be complete without a bottle of Chamberlain's Colic, Cholera and Diarrhoea Remedy. The change of water and diet, fatigue and irregular habits during your trip are almost certain to produce diarrhoea, and a dose or two of this remedy may save you serious sickness and perhaps much expense. Procure it before leaving home. 25 and 50 cent bottles for sale by G. E. Heintzmann, 222 North Main.

Avalon and Return Sunday. Special train leaves on the Terminal railway at 5 a. m., Sunday, June 11th, connecting with the steamer Hermosa at San Pedro, for Avalon, stopping on route to see the great explosion and blasting of rock returning Sunday. Fare for round trip, \$2.50.

A Trip Over the Surf Line of the Southern California railway (Santa Fe route) to San Diego and return will cost you only \$5 Saturday and Sunday, tickets good to return Monday. Trains leave at 8:15 a. m. and 4:30 p. m.

Saturday and Sunday. The Santa Fe will run special trains to accommodate the people.

YOUNG, THE LAMP THROWER.

His Trial Commenced for the Murder of Irene O'Brien.

The Testimony Given at the Proceedings in Court.

The Doctors Described Her Fearful Wounds and Terrible Sufferings. Her Body Covered by Burns from the Flaming Oil.

The trial of William Young, a "mac," charged with the murder of Irene O'Brien, or, as she was generally known on Alameda street, Irene Mansfield, began yesterday in Judge Smith's court.

The unfortunate woman died from terrible burns on her body, caused, as is alleged, from her clothes being set on fire by a lamp which Young threw at her.

She was at the time in her "crib" on Alameda street and Young was her "lover."

Up to her last gasp the woman protested that it was an accident, and that Young did not throw the lamp.

The court room was well filled with many of the class of people who are usually seen around Alameda street.

A strong effort is to be made to save Young from conviction, and he is defended by R. A. Ling and Z. G. Peck, while the prosecution is being conducted by Assistant District Attorney Dwyer.

It took the greater part of the day to secure a jury in the case, the following constitutes the panel as finally completed: A. E. Meigs, Frederick Colby, W. F. Hall, Walter Scott, W. F. Laney, James Low, James Olson, Frank Gerling, J. H. Betworth, W. C. Bell, George Carter and M. L. Abright.

The only witnesses examined during the afternoon were the coroner and attending physician of the deceased, and the latter had drawn a diagram of the row of "cribs" on Alameda street, where the tragedy had occurred, and fixed the distances on it.

Coroner H. G. Cates testified: I held an inquest on the remains of Irene O'Brien, May 1st, at the undertaking rooms of Orr & Sutch. Her body showed marks where the skin was taken off from her shoulder half way down the body, all the way down her back. In most cases the hair was peeled off of the right arm, shoulder, right hip and down the back; I don't know how far down the back. It might have been caused by different things.

The doctor knew nothing personally as to the cause of the woman's death. Dr. T. J. McCarty testified that he was called to see Irene O'Brien the night she was burned, April 25th. He went to a little room on North Alameda street. She was suffering from a very extensive burn. It extended from the hair line on the back of the neck all the way down the back, over the hips, down to the knees on the back of the legs. It involved the right breast and all of the right arm. It was the second door south of Lenert's saloon. It was somewhere between 10:30 and 11 o'clock at night when he was called. The burns were very severe; they were deep burns. They did reach the front of the thighs. He was with her for four hours that night. She suffered excruciatingly.

The woman died the following Sunday morning, five days after she was burned. The doctor visited her three or four times during the week. It was caused from shock, and the shock was caused by the burns.

On cross-examination the doctor stated that he informed the woman of her condition before her death. Officer Corcoran and District Attorney Dwyer were present to get her statement. Her statement was made after the witness told her she could not live.

The defense was not allowed to show by the witness what the statement was. The doctor said that the statement was not made with a view of impending death. The woman all the time thought she would not die.

There was a renewed attempt on the part of the defense to get in the statement of the district attorney and Officer Corcoran, and it is supposed to embrace her denials that Young threw the burning lamp at her. But the attempt had not been successful up to the time court adjourned for the day. The trial will be resumed this morning.

THEY MAY WED. Marriage Licenses Which Were Issued Yesterday.

Marriage licenses were issued yesterday to the following persons: Max Roth, aged 23, a native of Hungary, and Mathilde Emsche, aged 17, a native of Illinois; both residents of Los Angeles.

A. H. Fonda, aged 63, a resident of Los Angeles, and A. E. Jeffords, aged 58, a resident of Syracuse, N. Y.; both natives of New York.

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THE FOURTH.

The Finance Committee Making Satisfaction Progress.

The Fourth of July executive committee met at headquarters last evening to transact business of importance. A full attendance was present. The finance committee are out in earnest and are sure to meet with success.

All expenditures of every nature must be ordered by the executive committee and no individual is authorized to incur any debt prior to submitting propositions to this one authority.

The change in the programme making the evening allegorical parade the special feature, was met with the approval of all citizens. The suggestion is a good one, and when seen in detail will delight all.

The following is the list of subscribers to the finance committee yesterday afternoon: First National bank, \$50; Bank of America, \$20; Banning Bros., \$25; Los Angeles Lighting company, \$25; Haas, Baruch & Co., \$25; Howell Craig, \$25; Farmers and Merchants bank, \$20; Southern California railway, \$50; A. C. Billicke & Co., \$25; Los Angeles Electric company, \$25; M. A. Newmark & Co., \$25; Crane company, \$15; George H. Bonebrake, Joe Cross, J. E. Hall, the City bank, State Loan and Trust company, Llewellyn Bros., Mathews-Bosbyshell company, W. C. Patterson, Bishop & Co., Whittier, Fuller & Co., Busch & Hannon, W. H. Maurice, Union Hardware company, Henry King & Co., Pacific Crockery and Tinware company, Germain Fruit company, Harrison & Dickson, Western Commercial company, P. H. Mathews, Meyerberg Bros., Dan Freeman, H. J. Woolcott, H. Jevne, Thomas Holmes, \$10 each; W. T. Johnson, H. T. Gage, W. W. Seaman, C. H. Montgomery, Burtell & Buckner, J. R. Mathews, C. W. Hicks, \$5 each.

RAILWAY NOTES. General Manager Wade's Order—Port Los Angeles' Advantage.

General Manager K. H. Wade of the Southern California Railway company yesterday issued the following order: On and after June 8th the general freight and passenger departments of this railway will be separated and the following appointments will be effective: Mr. S. B. Hynes, general freight agent; Mr. T. A. Whitmore, assistant general freight agent; Mr. H. G. Thompson, general passenger agent; Mr. H. K. Gregory, assistant general passenger agent—all with headquarters at Los Angeles, Cal.

Assistant General Passenger and Freight Agent John M. Crowley of the Southern Pacific company has issued a circular to merchants calling attention to the advantages Port Los Angeles offers to shippers. He states that freight arriving at the port at 2 a. m. will be ready for delivery in Los Angeles at 9 a. m. the same day. The big steamers Santa Rosa and Corona have issued a four-day schedule of stops at the port.

BOARD AT WHITTIER. Trustees Defend the Charges Made to the County.

A Protest Against the District Attorney's Opinion State Before the Superior Court—The Proceedings of Yesterday.

Yesterday afternoon the matter of the Whittier reform school came up before the board of supervisors, and a very lively hearing took place.

In reply to the opinion of District Attorney Dillon rejecting the demands of Superintendent Lindley, the trustees of the school filed quite a long communication. It was signed by E. L. Stern, J. M. Elliott and F. M. Gibson.

These gentlemen, Dr. Lindley and several prominent citizens, filed into the room of the board late in the afternoon, and speeches were made by several of them in defense of the management of the institution.

The subject of the expenditure of \$25 per month for each inmate was thoroughly discussed, and the trustees earnestly urged that it was a moderate amount with which to meet the requirements. They claimed that that amount included besides the maintenance of the inmates, the necessary for all the materials for the workshops, and also that 75 acres had been set out to fruit trees this year.

Dr. Lindley became very much excited when called upon for a statement, and spoke warmly in favor of the necessity for the \$25 per month to enable the state to do what is attempted to be done at this school.

The communication of the trustees set forth in detail the nature of the work being done at the Whittier school, and itemizes the uses to which the monthly allowance is put.

At the conclusion of the hearing the board accepted an invitation to visit the institution, but no date was fixed for the visit.

YIP KAN. He Will Also Get Out on the Long Residence Plea.

Yip Kan, the second Chinaman arrested under the exclusion act, was brought before United States Commissioner Van Dyke yesterday afternoon for examination.

His counsel, Frank Thomas, stated that he had just obtained information of witnesses in San Francisco by whom he expected to prove that the defendant had been in this country 20 years, and asked a continuance in order that he might get them here.

There was some little discussion over the matter between Mr. Thomas and District Attorney Denis, and a continuance was granted until next Tuesday.

No further warrants were yesterday placed in the hands of the marshal to be served under the complaints now on file.

THE LAND TO BE CONDEMNED.

Another Whack Taken at the Water Question.

The Council Orders Proceedings to Be Commenced in Court.

Though Another Bond Election Will Have to Be Called, the City is to Be Involved in a Suit Which May Be Abandoned.

A special meeting of the city council was held yesterday morning at 11 o'clock to take action upon the proposed condemnation proceedings for headworks for the city waterworks system.

The meeting was in response to a call signed by councilmen Munson, Rhodes and Campbell.

All the members of the body except councilman Fassell were present.

An ordinance was presented by the city attorney declaring it necessary for the council to secure land in the Providence rancho as a location for headworks for the water system, and giving an elaborate description of the 314.82 acres of land required for the purpose.

The ordinance provided for the commencement of condemnation proceedings in the superior court.

After it had been read Councilman Munson moved that it be adopted under suspension of the rules.

Councilman Gaffey asked if it would not be a better course to call a special election to vote bonds before commencing condemnation proceedings.

President Teed thought that when an election was held, if the bonds failed to pass, it would be easy enough to abandon any condemnation proceedings that had been begun.

Mr. Burr Bassell of the city engineer's office stated that from the engineer's standpoint the land was needed, and that \$30,000 was a fair price for the land as long as the city had failed to accept the option offered it, condemnation proceedings were advisable.

Mr. Rhodes said that he thought steps should be taken to secure the land.

On motion of Mr. Munson the ordinance passed, and was taken at once to the mayor for his signature. He also moved that if it was signed the city attorney be directed to begin the condemnation suit that very day. This motion also prevailed.

A TENDER MADE. At 2 o'clock in the afternoon Mayor Rowan signed the ordinance, and the city attorney immediately commenced the draught of the complaint, which was filed in the superior court about half past four o'clock.

Messrs. Pomeroy and Hooker appeared in person and served the following papers, which was also addressed to the council. A similar one was addressed to the city attorney and treasurer:

"The undersigned herewith tender to you in full performance by the undersigned of the conditions by them to be performed, a deed of the tract of land comprising a portion of the Rancho Providencia and Scott tract, together with certain water rights and the appurtenances in the county of Los Angeles, and state of California and being the property and premises described in a certain agreement to sell said premises to the said city of Los Angeles, dated the 80th day of March, A. D. 1885, and signed by the undersigned parties hereto, and which said agreement is recorded in the office of the county recorder of Los Angeles county, California, and reference being had hereto.

And the undersigned hereby demand of you as a condition of the delivery of the said deed that you and the said city forthwith for the said city of Los Angeles, pay to the undersigned the sum of \$30,000 in lawful money of the United States.

This tender and demand are made in the performance of and in accordance with the terms of said option agreement and your resolution to accept the same, notice of which was served upon the undersigned on the 20th day of May, A. D. 1893.

Neglect of the hair often destroys its vitality and natural hue, and causes it to fall out. There is no safe and sure remedy for it. It is in its hair only apply Hall's Hair Renewer, a true remedy.

DIED. METCALF—In this city, June 8th, William Metcalf, aged 72 years. Born in Yorkshire, England.

Funeral today at 2 o'clock from the residence of his daughter, Mrs. Cecile Hommel on Temple street, opposite Fanning street.

DETROIT PAPERS PLEASE COPY. SHILOH'S VITALIZER. Mrs. T. S. Hawkins, Chattanooga, Tenn., says: 'Shiloh's Vitalizer' SAVED MY LIFE. I consider it the best remedy for a debilitated system I ever used. For Dyspepsia, Liver or Kidney trouble it excels. Price 75 cts.

SHILOH'S CATARRH REMEDY. Have you Catarrh? Try this Remedy. It will positively relieve and cure you. Price 50 cts. This Remedy for its successful treatment is furnished free. Remember, Shiloh's Remedies are sold on a guarantee to give satisfaction.

Sold wholesale by HAAS, BARUCH & CO. and retail by druggists. 12-14 1/2.

GRAND OPENING. SPRING AND SUMMER GOODS. Prices that Defy all Competition.

I have just purchased 1000 full pieces of the Best English. DIAGONALS, CHEVIOTS & SERGES. These will be mostly worn this season.

JOE PONEHM, The Tailor. 143 SOUTH SPRING ST. LOS ANGELES. Branch of San Francisco.

Albany Dental Parlor. Rooms 22, 24 & 25. Schumacher blk. Los Angeles, Cal.

A SET OF TEETH, \$5. All operations painless to a degree that cannot fail to satisfy. All work warranted. Consultation and examination free. Office hours: 8 a. m. to 9 p. m. Open evenings from 7 till 10 o'clock. 3-11 1/2.

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