

SAILOR'S CASE DIVIDES COURT

Supreme Justices Differ About Status of a Marine.

MUST GO BACK TO RUSSIA

DESPORTER FROM SHIP NOT EXEMPTED BY NATURALIZATION.

Washington, Jan. 6.—Justice Brown of the United States supreme court today delivered the opinion of that court in the case of Leon Alexandroff, a Russian subject, who is under apprehension in Philadelphia on the charge of being a deserter from the Russian cruiser Variag, holding that Alexandroff should be restored to the Russian government.

In delivering the opinion of the court, Justice Brown outlined the history of the case, relating that the proceedings had been instituted by Alexandroff to avoid an order from the vice consul of Russia or the commanding officer of the Russian cruiser Variag. He said that Alexandroff had come to this country as a deserter and part of a crew detailed to take charge of the Variag, which was under construction in this country, under an order from the Russian government; that the vessel was still in the stocks when he arrived, and that it was afterward launched; that he remained here with other members of the crew during the winter of 1900-1901, receiving pay for his services; that in April of last year he deserted and left Philadelphia and went to New York where he took out naturalization papers. While there he was arrested and returned to Philadelphia on complaint of the Russian vice consul.

Justice Brown held that the orders naming Alexandroff as a part of the detail to take charge of the vessel was sufficient proof of his membership of the crew of the Russian warship, and that such orders were not void because the Variag was launched. Justice Brown also dealt with the treaty between this country and Russia providing for the surrender of deserters from Russian men-of-war, holding that it applied in this case. The opinion reversed the opinion of the circuit court of appeals for the Third circuit, which was favorable to Alexandroff.

Justices Gray, Harlan and White and Chief Justice Fuller united in a dissenting opinion delivered by Justice Gray, who held that the provision in the treaty with that government, which Russia applies only to a finished ship and the crew on board of such ship, and not a ship in the stocks.

The Variag at the time of Alexandroff's desertion was doing neither naval nor military duty, and to surrender the prisoner to the Russian government was not in conformity with the treaty with that government; neither could he surrender be urged on the ground of an observance of the comity of nations, as that plea could not be held to apply in the absence of express treaty stipulations. The treaty, he said, should be construed like any other contract, and it should not be stretched or strained in favor of another nation.

Quarter of a Million Wanted.

Washington, Jan. 6.—Representative Cummins of New York today introduced in the house a bill to appropriate \$250,000 for a new post office building in New York City.

Salt Lake People Abroad.

Seattle, Wash., Jan. 6.—W. H. Emerson of Salt Lake is at the Butler, D. M. Boyd of Salt Lake is at the Rialto Grand and William Brown of Ogden at the Stevens.

Boston, Mass., Jan. 6.—J. A. Cuzzillo of Salt Lake is at the Parker House.

NASH SAYS THE CORPORATIONS SHOULD BE UNDER STATE CONTROL

Columbus, O., Jan. 6.—The Ohio legislature convened today in biennial session. Both branches elected the officers nominated at the Republican caucuses last Saturday evening.

At noon the annual message of Governor Nash was read in both the senate and the house. It was noted for its recommendations of a new system of taxation, under which all taxes for state purposes are to be raised from corporations, franchises, the liquor traffic, etc., and all direct taxation for county, municipal or other purposes are to be left to the counties. It is a system of home rule in local taxes.

Concerning corporations, the governor said:

"Because they are created by the state and possess certificates bearing the impress of her seal, people are led to believe that they are safer to do business with and are not entitled to credit, than are private partnerships and individuals. In very many cases they are less worthy of confidence. They are authorized by the state to do business before \$1 of capital stock has been paid. The state, before she gives these corporations her approval and permits them to do business, ought to require that all their capital stock be paid in and the money invested in the business they propose to transact. She ought to make sure of this fact by a report made to some competent officer. We should go further and require reports to be filed with and inspected by this officer. This report could show, among other things, how much of the capital stock had been paid, how the money is invested, what the assets are, the amount of liabilities and the names of the stockholders. In fact, there should be such a record of every corporation, that the people may know at all times whether it is worthy of credit and confidence. I believe with some such regulations Ohio corporations would be placed upon a solid financial basis.

"The publicity which would be given by such action could not, by any possibility, injure a really worthy and sound corporation. It would protect the public against unworthy and failing corporations. As matters now stand, the secretary of state knows nothing about a corporation after it leaves his office with a charter from the state. He cannot even tell how many of the 40,000 or more corporations chartered by the state during the last fifty years are now doing business. He is still living in the past. The state creates the corporation, it is to do business, sends it out in the cold and knows nothing more about it forever. It is high time that a change should be made.

BOY BANDIT IS CAUGHT

Only 14 Years of Age He Takes Part in a Fatal Battle in Montana.

BANK SHUTS ITS DOORS

Inability of a Sugar Concern to Meet Liabilities the Cause.

Grand Junction, Colo., Jan. 6.—The Colorado National bank today closed in the hands of W. T. Dowry, its assignee. Cashier J. E. McFarland issued a statement to the effect that the closing of the bank was due to the inability of the Colorado National bank of Hanover, N. Y., and that in order to bring about the most satisfactory settlement for all concerned it was decided to close for a period of two or three weeks.

McFarland is also manager of the best sugar company. Some time ago the bank secured the loan of \$50,000 from the Hanover National bank of New York for the Colorado Sugar company of this city.

The New York bank recently forced the Colorado National bank to suspend, compelling the local bank to suspend. A meeting of the directors of the sugar company will be held this week in Denver to take steps for the protection of creditors. It is claimed that the deposits of \$100,000, and within three or four weeks will resume business.

The Colorado State bank closed its doors in 1902, but was reorganized within a short time afterward. T. M. Jones is president.

MARRIED AND ROBBED WHILE HE WAS DRUGGED

Kansas City, Mo., Jan. 6.—Melbourne MacDowell, the actor, who ended an engagement here yesterday, today in Kansas City, Kan., signed a sensational deposition in his suit against Clarence M. Brune, a theatrical manager.

MacDowell, in his deposition, swears that in New York while intoxicated he was seduced to sign bills of sale conveying the rights to the Sardou plays to Brune for \$500. He asserts that fraud was used in bringing about the transaction, and asks that it be set aside. The suit was filed in Ramsey county, Minnesota, and seeks to recover damages and to restrain Brune from producing any of the Sardou plays.

Other sensational statements are made by MacDowell in his deposition, one of which is to the effect that he was drugged in New York, put on board a steamer and taken, first to Boston and then to Newport News, and that he was held there while still under the influence of the drug. He was kidnapped.

To Cure a Cold in One Day.

Take Laxative Bromo Quinine Tablets. All druggists refund the money if it fails to cure. E. W. Grove's signature is on each box. 25c.

Do You Need a Watch?

My special sale will begin Wednesday morning, Jan. 8. Come early. W. W. Hall, jeweler, 227 Main.

COURT UPHOLDS THE SALARY LAW

Declares Granting of Increased Stipend Constitutional.

GOVERNOR GETS EXTRA PAY

STATE OFFICIALS WILL GET RAISE OF \$4,800.

Table showing Present Yearly Salary, New Yearly Salary, and Increase for various state officials.

The Utah supreme court yesterday held the state salary law constitutional. This means that six state officials now holding office will be paid \$4,800 more than formerly, receiving all back pay held up by State Auditor Tingey, pending a decision as to the legality of the law.

The case decided was the application of Governor Heber M. Wells for a writ of mandamus compelling State Auditor Charles S. Tingey to pay him the increased salary granted him by the recent legislature. The court granted the writ. The principal reason claimed for this decision is that the constitution fixed the salaries "until otherwise provided by law." It is held that this is a merely temporary provision, intended to apply only until the legislature should fix the permanent salaries.

Therefore, it is argued, the raising of the salaries in this instance was immediately in force, although any subsequent act raising salaries would not apply to incumbents, owing to the express provision of the constitution.

Governor Wells learned of the decision yesterday on his way home from Nevada. He had little comment to make last evening.

"I expected it," he said. "There was no other way to decide it."

The decision was written by Judge Baskin in dissent. Justice Harlan, Bartsch and District Judge Morse, who sat in the case in place of Judge Miner. The decision in full is as follows:

The state of Utah, ex relators, Heber M. Wells vs. Charles S. Tingey, state auditor, respondent.

On the petition of Heber M. Wells, governor of the state, an alternative writ of mandamus was issued out of this court, directing the respondent to draw and deliver to the petitioner a warrant or warrants for the unpaid balance of his salary as governor, alleged in the petition to be due and unpaid, and for which the respondent is liable to issue to the petitioner a state warrant.

The respondent demurred to the petition and alleged that the facts stated therein failed to state facts sufficient to constitute a cause of action or justify the issuance of a prerogative writ of mandamus.

It appears from the facts admitted by the respondent that in November, 1900, duly elected governor of the state, and that the respondent was so elected and began on the first Monday of January, 1901, and that upon that day he duly qualified and entered upon the duties of his office as governor of the state.

It is also admitted that the salary of the governor, as fixed by section 2 of the constitution, which is as follows:

"The governor, secretary of state, auditor, treasurer, attorney general, superintendent of public instruction and such other officers as may be created by law, shall receive for their services quarterly, a compensation as fixed by law, which shall not be diminished or increased so as to affect the salary of any officer during his term, or the term of any officer elected or appointed by this constitution, unless a vacancy occur in which case the successor of the former officer shall receive only such salary as may be provided by law at the time of his election or appointment. The compensation of the officers provided for by this article, until otherwise provided by law, is fixed as follows: Governor, \$20,000; secretary of state, \$10,000; auditor, \$8,000; treasurer, \$7,000; attorney general, \$6,000; superintendent of public instruction, \$5,000. To be paid quarterly. The salaries of the state officers in section 1 specified, shall be paid by warrant upon the state auditor, and shall be paid by the state treasurer at the end of each quarter, out of the amount of salary due each of such officers."

By an act approved March 23, 1901, an appropriation was made necessary to pay the annual salaries fixed by the said act of March 14, for the years 1901 and 1902.

Neither the validity or the constitutionality of the act increasing the salaries is questioned. It is conceded that the act properly applies to and fixes the salaries of future incumbents of the offices mentioned, but the parties disagree as to whether it applies to the respondent, who was elected and whose term began before the act was passed. No other question is involved.

It is clear from the language of the act and from the fact that during the same term at which it was enacted, the legislature appropriated money to meet the increased salary of the officers mentioned who had, before the passage of the act, been receiving the salaries then in force, that the legislature intended the act to apply to all incumbents of the offices then serving their terms. This appropriation is, by implication, an appropriation to all incumbents of the offices then serving their terms, and the section of the constitution quoted limits a legislative construction of the act and the section of the constitution under consideration. This being so, under the well settled rule of construction, the act must construe the act in accordance with the legislative intent, unless the clear and manifest intention of the legislature is shown to the contrary.

In the case of Ogden v. Saunders, 12 Wheat., 232, 239, Mr. Justice Washington, in his opinion, said:

"I shall now conclude this opinion by repeating the acknowledgment which candor compelled me to make in its commencement, that the question which I am now examining is involved in difficulty and doubt. But if I could rest my opinion in favor of the constitutionality of the act, I should be satisfied to leave it to the wisdom of the legislature, by which any law is passed, to presume in favor of its validity, until its violation of the constitution is proved beyond a reasonable doubt. This has always been the language of this court, when that subject has been presented for its consideration. In Grenada county supervisors v. Brogden, 12 U. S., 283-9, it is said in the opinion of the court, delivered by Chief Justice Marshall: 'It is but a decent respect for the wisdom, the integrity and the reasonable confidence of the legislature, by which any law is passed, to presume in favor of its validity, until its violation of the constitution is proved beyond a reasonable doubt. 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