

WRIGHT ACT INVALID.

So Declared by Judge Ross of the Circuit Court.

MILLIONS ARE AT STAKE.

Held to Be a Violation of the United States Constitution.

PROPERTY RIGHTS INVOLVED.

The Case Will Be Carried Before the Highest Tribunal in the Land.

LOS ANGELES, CAL., July 22.—One of the most important decisions rendered in the courts of California was given by Judge Ross of the United States Circuit Court this morning. The decision declares the Wright irrigation act unconstitutional. It was passed by the Legislature of 1887, and under it over \$50,000,000 worth of bonds have been issued.

The decision rendered by Judge Ross was on a demurrer entered in the suit of Maria King Bradley et al. vs. the Fallbrook Irrigation District. The action was a suit in equity by which it was sought to have enjoined the execution of a deed for certain land of the complainant under a sale made by the collector of the irrigation district to satisfy a delinquent assessment against the property levied under and by virtue of the provisions of the Wright act.

The announcement that the decision would be rendered this morning crowded the courtroom with some of the most prominent legal lights in California. Judge Ross occupied over two hours in reading the decision, which covered thirty-three closely typewritten pages and contained over 10,000 words.

Among the clauses of the Wright act is one which provides for the confirmation of proceedings by the Superior Court. In this particular case the Superior Court has not yet confirmed the proceedings. It has been held by the United States Supreme Court in reclamation cases that where there is a confirmation proceeding and when after the close of these proceedings the regularity of the proceedings is confirmed, then the case is adjudicated and the constitutionality of the proceedings cannot be brought up. There are several cases of this character.

Most of the bonds sold under the Wright irrigation act are in the districts in which the proceedings under the Wright act have been confirmed by the Superior Court.

without due process of law and for any other than a lawful purpose. Such questions are not to be determined by considerations of expediency or hardship. Unfortunately as it will be in the losses that will result to investors, and desirable as it undoubtedly is in this section of the country that irrigation facilities be improved and extended, it is far more important that the provisions of that great charter which is the sheet anchor of safety be in all things observed and enforced. The views above expressed render it unnecessary to consider the other objections urged on the part of the complainants.

Samuel F. Smith, one of the attorneys for the defendants, was seen shortly after the decision was rendered and said:

"We will push the case, as an amended answer will in nowise affect the decision. There will be but three points to our answer: That the petition alleges that there was no stream of water, while in fact there is enough water nine months in the year to irrigate one-half the county; that we did not include the tracts of land alleged to belong to the State and the United States, and that they were not included in the estimate of the amount necessary to irrigate the land in the district.

"This decision will affect the property rights of alien holders, and it is hard to say just how far-reaching this decision will be, or how much damage it will inflict on the State. It will, it is upheld, destroy most, if not all, irrigation districts, and will affect not less than \$25,000,000 worth of bonds.

"The gist of Judge Ross' decision is that the Wright act is unconstitutional by reason of its provisions being in no way framed for public purposes, but delegates to private parties the right to dispossess others of property without due process of law, which is contrary to the fourteenth amendment to the constitution of the United States.

"We have had all the heavy legal talent of California arrayed against us in this suit and have had no assistance of any kind from other irrigation districts. It is of the utmost importance to California's reputation that this act be upheld and we will fight it through to the bitter end."

FRESNO NOT AFFECTED.

Judge Ross' Decision Has No Bearing on the Sunset Case.

FRESNO, CAL., July 22.—The decision of Judge Ross, handed down to-day, declaring the Wright irrigation law unconstitutional, will not have the effect generally expected. It was thought by many people interested in the great Sunset district, the Turlock district and other districts that all work would have to be suspended. But this will not be so. The decision was in a case entirely distinct from that which has been in the State and Federal courts so long.

The case, for a decision in which the directors and contractors of the Sunset district have been waiting, is now in the United States Supreme Court. A decision was expected last May, but it has been deferred until October, and until that time no work will be done in the Sunset district. If the outcome is favorable the construction of the canals will be rapidly pushed, but otherwise it will be abandoned.

FIRE IN UTICA MINE.

Angels Camp Greatly Excited Over the Catastrophe.

GREAT DAMAGE CAUSED.

Seven Men Rescued by the Brave Action of Superintendent Lane.

THE WORKS BEING FLOODED.

It is Classed as the Largest Gold-Producing Mine in the United States.

ANGELS CAMP, CAL., July 22.—Not since the great cave at the Utica mine in 1889, when seventeen men were killed, has

vinza Hayward, C. D. Land and the Hobart estate own the property.

At midnight Superintendent Lane predicts that the burning chambers in the mine will be entirely submerged to-morrow and the fire squelched. A million gallons of water are flowing hourly into the mine.

AT THE COMPANY'S OFFICE.

James Cross Tells of the Mine and Its Workings.

James Cross, president of the Hobart Estate Company, which, with Alvinza Hayward, is interested in the Utica mine, said last evening, in the office of the company:

"The latest advice we have is that a stream of water has been brought to bear on the fire direct, and if it is not spread too far the flames will no doubt soon be under control.

"The Utica mine has been worked for many years," continued Mr. Cross, "and at the time of the breaking out of the fire was a most productive enterprise, and had been for two or three years, the work being done in fine bodies of ore. It has three working shafts and runs 120 stamps, which are kept at work all the time, except when the mill has to be stopped for necessary repairs. The mine, which is well timbered, gave employment to an average of 475 men a day.

"Of course, we do not know at this time the extent of the damage done by the fire, but this we do know, that the water of the old Union Ditch Company, which belongs

FIFTEEN REDS SLAIN.

Marauding Bannocks are Shot by a Band of Settlers.

FOUGHT THEIR CAPTORS.

Attempted to Escape After They Had Been Placed Under Arrest.

TROOPS HELD IN READINESS.

Wyoming National Guards Ordered to Prepare to March at a Moment's Notice.

CHICAGO, ILL., July 22.—A special to the Chronicle from Market Lake, Idaho, says:

both treaties and State laws must be respected, yet in several instances they are in direct conflict.

It was learned at the agency that at least 200 bucks are absent from the reservation, and nearly all their leaves of absence expired some time ago. Agent Teters has begun a thorough investigation of the trouble, and is making a trip through the Jackson Hole country on horseback. The trouble reported by ranchmen on the mountains of the Salt River Valley cannot be further confirmed. Agent Teters is expected back Wednesday, and an authoritative statement can then be secured of all trouble that has occurred, although even he probably cannot foretell just what will be done by the silent red men who are now said to be plotting a return to their disputed hunting grounds unincumbered by their women and children.

It is the general opinion at the agency that the Bannock braves cannot be brought back to the reservation without the use of Federal troops.

NOT MASSACRED BY BANNOCKS.

News Received That the Princeton Geological Party Is Safe.

NEWARK, N. J., July 22.—The Princeton student geological exploring party has not been massacred by the Bannock and Blackfoot Indians. A letter received here to-day from A. L. P. Dennis, son of the Rev. Dr. J. S. Dennis of New York, dated Dubois, Wyo., July 13, says the party on that date passed thirty miles to the north of the scene of war. All of the party are safe, the letter says, and unless the Government troops push the Indians on their trail they will escape.

PHILADELPHIA, Pa., July 22.—Apprehension in this city for the safety of the Princeton student geological exploring party was dispelled to-day by the receipt of a postal-card this morning from C. L. Frederick Pease, a member of the party, dated Dubois, Wyo., July 14. The card, which is addressed to his parents, says: "All are well. The mountains are covered with snow and we have to cross through it. Don't worry about the Bannock Indian troubles. They are seventy-five miles from here, but we are daily leaving them far behind."

TROOPS IN READINESS.

Ordered to Prepare for a Trip to the Jackson Hole Country.

OMAHA, NEB., July 22.—The Wyoming militia have been ordered to hold themselves in readiness to move into the Jackson Hole country at a minute's notice. The Indians are increasing in numbers rapidly and a general uprising is feared.

LARAMIE, Wyo., July 22.—Fred Hesse Jr., captain of Company A, of the Laramie National Guards, has received orders to report to his colonel how many men he can send to the scene of the Indian trouble, and to make preparations for a journey.

LED HIM BY THE EAR.

Twenty People at a Maine Re-creation Treated to a Sensation.

Smith's Novel Method of Disciplining a Recalcitrant Husband.

Each, Me., July 22.—N. F. a wealthy liquor-dealer of Boshim by his left ear from the dining-room of the Ocean House over to Young's Hotel, and before the guests accused him of giving Miss Cowles a \$20,000 house and other gifts, while she and her children had been left entirely unprotected.

After the scene Miss Cowles and her mother drove away in a double carriage, Mr. Goldsmith joining them on the road, and Mrs. Goldsmith and a detective boarded the evening train.

Mr. Goldsmith is nearly 70 years of age, his wife about 60, and the music-teacher is not over 30 and handsome.

PROSPECT OF A STRIKE.

Trouble on the Gould Lines May Result in a General Walkout.

Caused by the Abrogation of a Contract With the Order of Telegraphers.

ST. LOUIS, Mo., July 22.—A special from Little Rock, Ark., says that unless Grand Chief Powell of the Order of Railway Telegraphers, who arrived in Little Rock to-day, effects a settlement between the telegraphers and the Missouri Pacific Railway Company a general strike on the Gould system, affecting every department of the lines, is almost certain to be inaugurated.

The trouble arose out of the order of Superintendent J. A. Edson of the Cotton Belt, a part of the Missouri Pacific system, abrogating the contract with the Order of Railway Telegraphers.

Edson issued an order on June 28 abrogating the contract between the road and the Order of Railway Telegraphers, the reason given by Mr. Edson for the abrogation of the contract was that the order was badly managed and interfered with the discipline of the road.

The dispatch from Little Rock contains the information that the order issued to the Cotton Belt telegraphers is but the beginning of a movement to be extended to other branches of the Gould system if this first move proves to be successful. Next Sunday is the date fixed for the cancellation of instructions from Washington that

WEDDED TO A COUNT.

Mrs. Spiess Became the Bride of an Italian Nobleman.

PERFORMED IN PRIVATE.

The Nuptial Knot Was Tied by One of New York's Aldermen.

OPPOSED BY BROTHER JAKE.

He Remained Away While His Sister Was Being Transformed Into a Countess.

NEW YORK, N. Y., July 22.—The Count and Countess Germalino Nasseti will sail for Europe this morning. The voyage will be a honeymoon trip, for the couple were yesterday made man and wife in what is now known as the marriage chamber of the City Hall by Alderman Frederick Ware.

So quiet was the entrance of the bride and groom expectant, and so modestly were they arrayed that very few if any save the officiating Alderman himself and the witnesses knew that the former was the beautiful Mrs. Amelia Spiess of 17 East Sixty-third street, and the latter no less a person than Count Germalino Nasseti, the Italian Consul at New Orleans, and late Vice-Consul for Italy in this city. It was a private marriage, none but a few friends of the bride being present. Among them were her two lovely daughters, the Misses Claribelle and Viola Spiess. The ceremony did not take long, and after it was over and Alderman Ware had congratulated them, the happy couple went uptown, where a wedding breakfast was served in the same unostentatious manner in which they were united.

The Countess is 33 years of age and so is the Count. They were thrown much together in society in this city, where they learned to like each other, and the liking ripened rapidly into love.

"Jake" Hess, brother of the Countess, was not one of those in the City Hall when the marriage took place, and it is understood he was not altogether disposed to look upon it with favor. This was inferred from the manner in which the ladies of Mr. Hess' household received the news and their extreme reticence. "We have absolutely nothing to say," was his answer to a reporter last night.

It was different at the house of the bride. One of the Misses Spiess said to a reporter: "The marriage was quite a private affair, and the civil ceremony was made necessary by the laws of Italy. As regards the feelings of my uncle's people, I really know nothing."

The witnesses to the marriage were Count Branchi, Italian Consul at this port, and Second Vice-Consul Alberti. The Countess will be presented at the Italian court soon after her arrival in Rome, and in the fall will return to this country.

CHEAP ORIENTAL LABOR.

Labor Commissioner Fitzgerald's Charges Discredited at Washington.

Government Officials Claim They Have No Evidence of a Conspiracy.

WASHINGTON, D. C., July 22.—The Government officials here have up to the present time, no evidence at hand sufficient to justify the belief that the charges of Labor Commissioner Fitzgerald of California that a conspiracy existed for the farming out of cheap Oriental labor to Americans, supplied by agents located in the Hawaiian Islands, are well founded.

The position of Commissioner Fitzgerald, it is said, is also overthrown by the declarations from Senator Perkins and other prominent coast politicians that there was nothing to warrant the impression that such a conspiracy existed.

A GIRL'S INFATUATION.

Left Her Home to Join a Man Already Married.

JEFFERSONVILLE, Ind., July 22.—This city was startled to-day by the announcement that Ella McCleary, the beautiful 16-year-old daughter of Mrs. J. C. McCleary, had left home and gone to St. Louis to join Fred Flynn, a married man and a former resident here.

Flynn, several months since, began paying Miss McCleary attention, but her mother, learning that he was married, ordered him from the house and accused him of being married. This he denied, but left and went to St. Louis, where he secured a position as conductor on an electric-car. He kept up a clandestine correspondence with the girl and sent her a ticket to St. Louis, urging her to join him. While her mother was in Louisville visiting relatives last week she made her preparations and left.

It is said Flynn was forced to marry his present wife at the point of a pistol.

LUCK OF A MORTAR-MIXER.

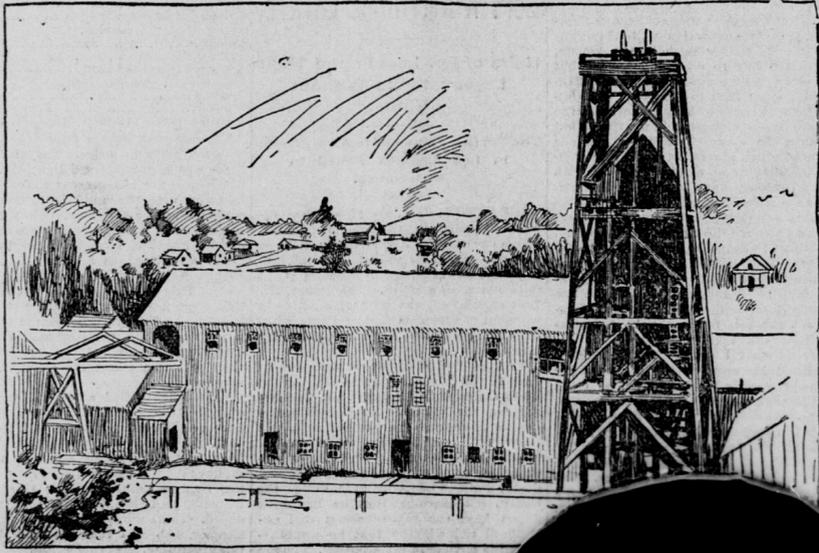
Fell Heir to a Half-Million Dollar English Estate.

DUBUQUE, Iowa, July 22.—Frank Boswell, a young man from Omaha, employed here for several months past as a mortar-mixer, has received news that he is heir to \$500,000 from the estate of his aunt in England.

Roswell left England about six years ago. Notice that he was wanted to claim the estate appeared in the newspapers and friends at Omaha informed him. He also received a letter from the attorney of the estate, sent in care of the Mayor of Omaha to which city he had been traced. Boswell declines to be interviewed on the matter until the news is confirmed and mixed mortar as usual to-day.

To Enforce Prohibition.

WICHITA, KANS., July 22.—The Board of Police Commissioners, in compliance with the expressed wishes of Governor Morrill, left for Topeka to-night for a personal conference on the subject of enforcement of the prohibition law in Wichita.



GALLOW'S FRAME AND MILL AT THE UTICA MINE. [Sketched from a photograph for "The Call".]

there been such a scene of excitement as was witnessed here last night a few minutes after 7 o'clock, when the fire alarm was sounded and it was learned that the interior of the Utica mine, the support of the town, was on fire.

Smoke was seen issuing from the Stickle and the Utica north shaft, and as soon as the first load of men ascended it was ascertained that the fire had originated in a stope at the 800-foot level, 300 feet north of the Stickle shaft.

As there are three shafts, most of the men were soon in safety, but when it was ascertained that seven men still remained on the 800-foot level, below the raging flames, the excitement that prevailed on top can only be imagined.

Superintendent Tom T. Lane headed a rescuing party and put in a bulkhead of sufficient strength to restrain the smoke for a few minutes within the stope. The heroic young superintendent then gave the signal to be lowered 100 feet. The lamps of the seven imprisoned men had been extinguished and five minutes were consumed in groping their way to the skip. When the party reached the top they were in an exhausted and fainting condition, but all soon reached the surface in safety. Had Tom Lane hesitated two minutes the men would have perished, and the seven miners owe their lives to his bravery.

When it was ascertained to a certainty that no others remained in the mine, after the smoke and gas had begun to pour forth in such volumes as to repel all attempts to descend, the mouths of the shafts were sealed and an endeavor made to smother the fire with steam. After this had proved ineffectual orders were given to flood the mine. Every man in the town volunteered his services and worked as though his existence depended upon his efforts.

Although the mouths of the shafts were closed the gas found many avenues of escape through fissures in the ground caused by abandoned shafts and the porous character of the earth.

Thirteen hundred inches of water are pouring into the mine. It is estimated it will require 18,000,000 gallons to reach the stope where the fire began, and that ninety hours will be consumed in getting this water to the seat of the fire, and it will take three weeks or more to get the water out. This is a favorable view of the situation. Many of the miners predict that a large area of the underground workings will be burned before the water will reach the fire.

The loss cannot be estimated with any degree of correctness, but assuming that the fire is confined to a radius of a hundred feet, water and flames will probably do damage to the amount of a quarter of a million.

It is believed that the fire was caused by a blast which was set off just before the men came off the 6 o'clock shift.

Scores of employees are stationed along the Utica Company's ditches and pipes as a protection against any malicious interference with the water system.

In a bulkhead in the Utica shaft last night, a few feet from the surface, 108 men were overcome by the gas. Some of them were in a serious condition, but it is now believed all will recover. The fumes of the rising carbonic acid gas were so intense last night that many families in the neighborhood had to seek other quarters.

The Utica is the largest gold-producing mine in the United States. It is said to yield far in excess of \$500,000 per month. Over 700 men are employed, and at least 500 of them will be thrown out of employment for six weeks or two months. Al-

to the Utica Company now, and between 18,000 and 20,000 miners under a strong pressure, has been the mine for the purpose of this. This will stop the fire unless should give out before the mine. At all events, the fire and the occasion some delay before the water is pumped out."

SWEEP BY A CYCLONE.

Death and Destruction Visited Upon a New-Mexico Town.

Twenty People Said to Have Been Crushed to Death Beneath Falling Buildings.

WHITEWATER, N. Mex., July 22.—Couriers arrived here to-day from Silver City with the startling news that a cyclone and cloudburst had swept down upon that place, carrying death and destruction in its path. The couriers said they had none of the particulars of the disaster, except that the report was that twenty people had been crushed to death by the collapse of the Immer House, the largest hotel in the place, and in other buildings that were ruined.

The Santa Fe officials declare that their advices are that no lives were lost, but five hotels and several buildings were ruined. They had only meager bulletins, and said all communication with the ill-fated town had been cut off by the cloudburst.

All the bridges on the Silver City division of the Santa Fe road have been washed out and large sections of track have been carried away. The greatest apprehension is felt for the people of Silver City. It is feared many of them have perished. A relief party has started out from here. Its return is waited with the greatest anxiety.

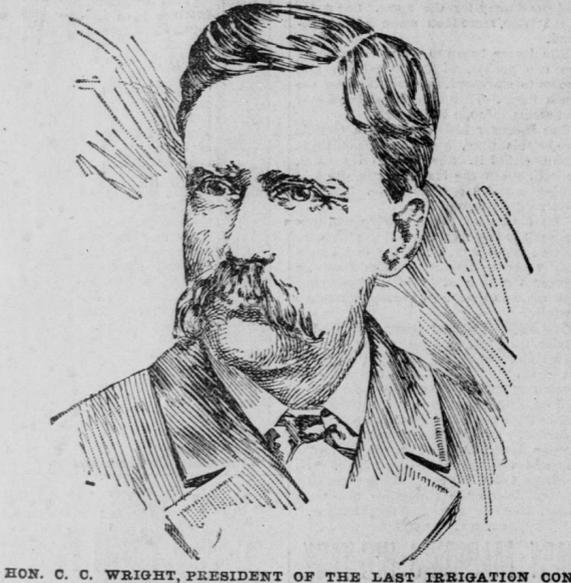
Silver City is a pretty little city, built in the canyon at the foot of Mogollon Mountain. It has about 3500 inhabitants. The water burst forth above the city, and was preceded by such a rumbling that warning was given in time for great numbers to escape. No idea can be given at this time as to the loss of life, but it may have been greater than at first reported.

HIS SANITY IN QUESTION.

Charles Searing Examined in a Brooklyn Court.

NEW YORK, N. Y., July 22.—Charles Searing, a nephew of Bishop Goodsell of California, was before Judge Clement of the City Court of Brooklyn to be adjudged as to his sanity. When questioned he said that he had resided for some months at the Epileptic Home, where he paid \$75 a week for his board. A few weeks ago his funds became low and he was unable to continue the payment. He was then removed to the Flatbush Asylum, Mrs. George A. Draatt, his sister-in-law, declined to be responsible for his maintenance at the home.

Searing said that he has had regular recurring fits of epilepsy. He was formerly a salesman for the International Oil Works, 639 Grand street, this city, who now owe him some money. Judge Clement ordered a further examination to be made and to bring Searing before him in two weeks.



HON. C. C. WRIGHT, PRESIDENT OF THE LAST IRRIGATION CONGRESS AND AUTHOR OF THE DISTRICT LAW OF CALIFORNIA. [Reproduced from a photograph.]

The Supreme Court has under consideration a case in which the proceedings have been confirmed and the constitutionality of the act challenged.

Attorneys for the irrigation districts say that if the United States Supreme Court follows the decision it made in the Hagan reclamation case and others it will pronounce the confirmation acts of the Superior Court adjudicated matter that cannot be opened. This will legalize \$40,000,000 or more of the irrigation bonds that have been issued in which the proceedings have been confirmed.

However, the decision of Judge Ross invalidates \$25,000,000 worth of bonds of irrigation districts in which confirmation proceedings have not been had.

The main points on which Judge Ross decided the case were that under the Wright act the land was taken from private owners without due process of law and that it was not for public purposes. It was not like taking property for a highway, but was the taking of property for the benefit of property owners, whether they be few or many. Closing Judge Ross states:

"The fact that vast sums of money have been invested in works constructed under and in pursuance of this legislation and that bonds running into millions have been issued and sold thereunder, and that many individuals may not otherwise be able to secure water for the irrigation of their respective tracts of land, and that the validity of the legislation has been several times sustained by the Supreme Court of the State, while demanding on the part of this court great care and caution in the consideration of the case and casting upon it a very grave responsibility, cannot justify it in failing to declare invalid legislation which, in its judgment, violates those principles of the constitution of the United States which protect the private property of every person against forcible taking

done entirely, unless another law is passed by which the difficulties may be overcome. Judge M. K. Harris, who is the attorney for the residents of the Sunset district who are endeavoring to have it disorganized, said to THE CALL representative to-night that Judge Ross' decision will have no effect. The opinion of Judge Ross may possibly lead to another fight by those who favor disorganization if they are defeated in the case now pending in the Supreme Court.

MANY ARBITRARY FEATURES.

It Took Private Property Without Due Process of Law.

Judge B. F. Lee of Los Angeles, who, with his wife, is visiting in this City, was seen at the Baldwin last night in relation to the decision of Judge Ross declaring the Wright irrigation act unconstitutional. He is not connected with the case in question and was unable to go into its details but believes that the United States Supreme Court, should the question be taken to that high body, will sustain the Circuit Court.

"The act," he said, "possesses many arbitrary features, as it takes private property without due process of law, and is not for public purposes. Irrigation districts were formed, bonds issued and a tax levied, which in some cases was greater than the ordinary tax levy. To small landholders this was oppressive, notwithstanding the common benefit that must and was intended to come to all. This doubtless prompted, in a great measure, Judge Ross' decision.

"In many cases condemnation suits were tried before the Superior Court, as was provided for in the act, and these settlements will not be affected by the Circuit Court's action. But in others, where the

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