

96-002-012

ORIGINAL

SALT RIVER

INDEX OF EXHIBITS

085-174

VOLUME II

RECEIVED
9-25-90

85. Weekly Arizona Miner, May 3, 1873: flat boat with 5 tons of wheat floated down Salt River and Swilling Canal to Hellings Mill
86. Weekly Arizona Miner, June 14, 1873: Hayden investigating possibility of floating logs down the Salt
87. Weekly Arizona Miner, June 21, 1873: Hayden unsuccessful
88. Weekly Arizona Miner, June 28, 1873: Hayden unsuccessful
89. Arizona Gazette, February 17, 1881: Cotton and Bingham leave for Yuma in 18-foot skiff
90. Arizona Gazette, November 30, 1881: Yuma or Bust expedition via Salt River
91. Arizona Gazette, December 3, 1881: Yuma or Bust expedition, continued
92. Arizona Gazette, February 14, 1893: officers from Fort McDowell float down to Phoenix
93. Arizona Gazette, June 3, 1885: exploration of the Salt River Canyon by boat
94. Arizona Gazette, June 5, 1885: additional accounts of exploration of Salt River Canyon by boat
95. Arizona Gazette, June 6, 1885: interview with John Meaders, one of the explorers of the Salt River Canyon
96. Arizona Gazette, June 8, 1885: account of previous exploration of the Salt River Canyon, on foot, circa 1875
97. Phoenix Daily Herald, December 12, 1888: commandant of Fort McDowell killed during canoe trip from Fort McDowell to Phoenix
98. Tombstone Daily Prospector, January 24, 1889: ferry boat floated downstream from Maricopa Crossing to Gila River
99. Phoenix Daily Herald, February 18, 1895: account of boat trip down the Gila from Clifton to Sacaton,

Maricopa County, Lower Salt River

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Evidence Item No. 012-cont'd

then overland to Phoenix, then by boat down the Salt, Gila and Colorado

100. Phoenix Daily Herald, February 25 ,1895: letter from boaters (above), describing trip
101. Arizona Republican, February 5, 1905: use of boats to rescue Tilzer family from island in the Salt River during flood
102. Arizona Republican, March 24, 1905: Jacob Shively boats Salt River
103. Arizona Republican, March 29, 1905: Jacob Shively reaches Arlington
104. Arizona Republican, December 9, 1905: engineers use boat to inspect canals.
105. Arizona Republican, October 4, 1909: Jim Meadows recounts boating the Salt between Livingstone and Tempe
106. Arizona Republican, June 28, 1910: two men boat from Roosevelt Dam to Tempe
107. Arizona Gazette, January 30, 1915: use of boats to rescue people from flooded Salt River
108. Arizona Republic, December 22, 1985: historical account of nineteenth-century attempts to float logs down the Salt River
109. Fireman, Bert M., Charles Trumbull Hayden, The Smoke Signal 19, Tucson Corral of the Westerners, Tucson, Arizona (1969:202): account of Hayden's attempt to float logs down the Salt River (see above)
110. Reed, Bill, The Last Bugle Call: A History of Fort McDowell, Arizona Territory, McClain Printing Company, Parsons, West Virginia (1977:140): account of the death of commandant at Fort McDowell in 1881 (see above)
111. Weekly Arizona Miner, December 12, 1868: Governor calls for encouragement for ferries operating on the Gila and Salt

112. Weekly Arizona Miner, February 27, 1874: Hayden's Ferry¹*
113. The Citizen, February 28, 1874: Hayden's Ferry*
114. Phoenix Daily Herald, August 15, 1881: complaints of exorbitant prices on Gila and Salt River ferries*
115. Phoenix Daily Herald, August 16, 1891: George Luhrs building skiff for the stage company to use to ferry passengers across the Salt River*
116. Phoenix Daily Herald, February 26, 1883: Monihan's Ferry Privilege Act mentioned*
117. Arizona Gazette, February 19, 1884: ferry operated on the Salt*
118. Phoenix Daily Herald, February 19, 1884: raft constructed to cross Salt River*
119. Phoenix Daily Herald, February 19, 1884: McDonald's shop constructed ferry boat for a Mr. Trumbull*
120. Arizona Gazette, March 5, 1884: new freight boat constructed*
121. Phoenix Daily Herald, March 17, 1884: Arizona Stage Company using boats to ferry passengers across the Gila and Salt Rivers, and the Ferry and Bridge Company planning ferries*
122. The Herald, April 11, 1884: Large ferry to be built for Gila and Salt River Ferry Company*
123. Phoenix Herald, March 24, 1884: Ferry running on the Salt River between Phoenix and Maricopa*
124. The Arizona Gazette, April 14, 1884: Mail for Maricopa lost in Salt River*
125. Arizona Gazette, April 21, 1884: Gila and Salt River Ferry*
126. The Herald, May 9, 1884: New ferry working splendidly*

¹ *Exhibits 112 through 128 will be withdrawn if the Commission grants First American's Motion to Exclude Evidence that is being filed simultaneously herewith.

127. Arizona Republican, February 1, 1884: The South Side*
128. The Smoke Signal, 1988: The Great Ferry War of 1905 and Other Adventures on the Gila River, Arizona*
129. Across America: The Great West and Pacific Coast by James F. Rusling, New York: Sheldon & Company 1874
130. "Weak Spots Designated", Arizona Republican, March 16, 1909 (I, 1:3-4)
131. "Partial List of Officials", Arizona Republican, March 18, 1909 (I,1:1-2 & 4:3-4)
132. "\$50,000 is Subscribed" Arizona Republican, April 7, 1909 (I, 1:6 & 7:1-2)
133. "Mesa the Battle Ground on Bridge Controversy" Arizona Republican, April 11, 1909 (II, 5:3)
134. "The Road's Condition" Arizona Republican, April 12, 1909 (II, 2:3-4)
135. "Lively Experience in the Salt River" Arizona Republican, April 19, 1909 (II, 3:4-5)
136. "Bridge Election June 10" Arizona Republican, April 21, 1909 (I, 6:2)
137. "Prohibition Again to the Front" Arizona Gazette, (Phoenix), March 1, 1909 (I, 1:5)
138. "Commission Bill is A Law" Arizona Gazette (Phoenix), March 10, 1909 (I, 1:3-4 & 3:3-7)
139. "Opposed to Issues of Bonds" Arizona Gazette (Phoenix), March 11, 1909 (I, 1:1-2)
140. "Pass Bill to Purchase Fair" Arizona Gazette (Phoenix), March 16, 1909 (I, 1:3-4 & 5:3)
141. "Twenty-Fifth Legislature Adjourns at Six Thirty" Arizona Gazette (Phoenix), March 19, 1909 (I, 1:1-4)
142. "All Plans for Harmony Fail" Arizona Gazette (Phoenix), April 6, 1909 (I 6:3-4)
143. "New Petition for Bridge Election" Arizona Gazette (Phoenix), April 7, 1909 (I, 1:3-4)
144. "The Truth About the Bridge" Arizona Gazette (Phoenix), April 14, 1909 (I, 12:3-7)

145. "Salt Crossed at Tempe" Arizona Gazette (Phoenix), April 15, 1909 (I, 7:1)
146. "Bridge Question Before Board Supervisors" Arizona Gazette (Phoenix), April 19, 1909 (I, 1:3)
147. "Exciting Experience at the Heard Crossing" Arizona Gazette (Phoenix), April 19, 1909 (I, 11:3)
148. "Bridge Election Called for June 10" Arizona Gazette (Phoenix), April 20, 1909 (I, 5:4)
149. "More About the Bridge" Arizona Gazette (Phoenix), April 29, 1909 (I, 8:3)
150. "Ideas on the Road Question" Arizona Gazette (Phoenix), April 30, 1909 (I, 11:2-3)
151. "Why You Should Work and Vote for Center Street Bridge" Arizona Gazette (Phoenix), June 7, 1909 (I, 3:6-7)
152. "The Bridge Question" Arizona Gazette (Phoenix), June 8, 1909 (I, 8:1-6)
153. "Battle of the Ballots on Today" Arizona Gazette (Phoenix), June 10, 1909 (I, 1:5)
154. "Safe Majority for the Center Street Bridge" "A Campaign for Tempe Bridge" Arizona Gazette (Phoenix), June 11, 1909 (I, 1:1-2, I, 1:4-5)
155. "No Dismay at Tempe" Arizona Republican, June 12, 1909 (I, 1:1-2)
156. "The Supervisors Accept the Bridge" Arizona Republican, May 31, 1911 (I, 8:1)
157. "The Bridge Formally Accepted" Arizona Republican, June 8, 1911 (I, 6:3)
158. "Dedication of Center Bridge" Arizona Gazette (Phoenix), June 29, 1911 (I, 1:3)
159. "Bridges are Made to be Crossed" Arizona Republican, June 30, 1911 (I, 6:4)
160. "Two Bridge Questions" Arizona Republican, May 5, 1909 (I, 2:1-4)
161. "Trip to Ancient Landmark in Tempe is Interesting Motor Tour" Arizona Gazette (Phoenix), November 5, 1930 (I, 7:3-4)

162. Sessions Laws of the Twenty-Fifth Legislative Assembly of the Territory of Arizona. (Phoenix: Phoenix Printing Co. 1909), pp. 184-185 and pp. 208-211.
163. Minutes of the Maricopa County Board of Supervisors, Book 9, p.p. 18-21 (April 20, 1909) and Book 9, pp. 65-68 (June 21, 1909).
164. Gerald A. Doyle & Associates, Ash Avenue Bridge (HAER N.o. AZ-29) Photographs, Written and Historical Data. (San Francisco: National Park Service, 1991): Photocopies of Tempe News newspaper article dated April 3, 1908 and May 7, 1909 included in HAER field notes.
165. Decree in Case #708, Wormser, et al. vs. Salt River Valley Canal Co., et al.
166. Case #88, Farmers Canal v. Grand Canal. "Complaint," filed September 8, 1879; "Answer" filed October 31, 1879; "Decree and Judgment, filed April 14, 1880.
167. Index to Sanborn Fire Insurance Co. maps for Phoenix and Tempe (dated 1911).
168. Resume of Douglas E. Kupel
169. Resume of John K. Graham
170. Resume of Stanley M. Hordes
171. Resume and SLA Project Experience of Michael E. Zeller
172. Report prepared by John K. Graham, an expert on land title issues, regarding the effect of the federal land patents that were issued with respect to the property that is located within the subject reach of the Salt River. (To be supplied)
173. Report prepared by Stanley M. Hordes, a historian, regarding the results of his research with respect to the actual uses of the Salt River during the period prior to and shortly after Arizona's statehood. (To be supplied)
174. Report prepared by Michael E. Zeller, an expert in hydrology, hydraulics and geomorphology, regarding various flow characteristics of the Salt River and changes in the flow characteristics and its alignment which occurred prior and subsequent to statehood. (To be supplied)

EXHIBIT 85

①

WEEKLY  **MINERAL**

VOL. 11. NO. 11. PUBLISHED 1881

25 CTS. A COPY. PRESCOTT, ARIZONA, SATURDAY MORNING, MAY 2, 1878. 1ST A YEAR.

SAVING IS NOT GOOD FOR THE PEOPLE AS
 THE GREAT L. WASHINGTON AND W. H. HILL
 BROUGHT THE CASE OF WASH. IN A NEW LIGHT
 DON HAYDEN WERE THE ONLY ONE IN THE
 SOUTH OF HAYDEN AND THE OTHERS
 THE CASE OF HAYDEN & CO. WILL
 BE A GREAT SUCCESS AND THE PEOPLE WILL

EXHIBIT 86

2

WEEKLY ARIZONA MINER
June 14, 1873

LATEST ARIZONA NEWS.

**Fears Concerning the Safety of
Judge Hayden and Party.**

RAID BY PIMAS, ETC.

Under date of Phoenix, Maricopa county,
June 9th, our regular correspondent sends us
the following:

To the Editor of the Arizona Miner:

Charles Trumbull Hayden left his home at
Hayden Ferry on the 24th ult., in company
with his cousin, (name not given), three
Americans and three Mexicans, eight in all,
for the purpose of prospecting along Salt
River for timber suitable to saw into lumber.

EXHIBIT 87

WEEKLY ARIZONA MINER
June 21, 1873

THE RETURN PARTY.
About which there was in each direction,
in all right: E. D. Sargent, son of the com-
pany, gave me the following particulars: On
leaving McDowell they followed up Salt river
as closely as possible for nearly 200 miles,
and discovered nothing in the channel of the
river to interfere with the floating of logs
down it. On the same they passed through
many small fertile valleys still containing the
remains of old Indian and the ruins of old
houses, but now overgrown with bushes.
They found game very common, rabbit and
cherry trees very large, and looking very
careless, but friendly. The Indians had a habit
of running out from some thicket or hole,
the party had just passed, whooping and howling
like demons, which noise often made
their hair stand on end, and, as best, was
anything but agreeable. Several times
we had passed and others they tagged and
labeled like so much merchandise. Having
found a good location where pine were plenty
and good they made a mast out of a tree and
putting some logs into the river, left six of
the party to drift them down while Hayden
and Sargent returned him by Camp Apache,
San Carlos and old Camp Grant.
Mr. Sargent describes the Indians as
in dry places. Many of the Indians were in
the mountains while those on the reservation
were drunken and quarrelsome, having dis-
tilled liquor from corn, drawn up nations.

EXHIBIT 88

WEEKLY



MINER.

Established 1864.

Volume I. . . No. 26.

TS. A COPY.]

PRESCOTT, ARIZONA, SATURDAY MORNING, JUNE 28, 1873.

[57 A YEAR.

ITEMS.

T. W. McIntosh and wife, Mr. Coveness and daughter, and a number of others, left here on Sunday to go to the Agua Caliente, to enjoy the benefit of the hot springs.

Several new granaries are being erected in town. J. George has a large one nearly completed, J. Goldwater & Bro., are constructing one of mammoth proportions, and Werner & Wertheimer have a large one under way.

The Miner Extra was received this morning, and circulated. The "boys" say that the M. E. is the liveliest paper in existence.

A new ditch, named the Whittier Irrigating Canal, is being taken out at Maryville. It is expected to be completed in one month.

A merchant in Phoenix, yesterday, charged \$100 for a small-sized grisonose. Judging by that price, the party who discovered the grisonose quarry in this Territory, a short time since, will have a soft thing of it.

The Hayden party, left up Salt River to come down in a canoe and drive some logs with them, have returned, and pronounce the scheme a failure. With much toil and difficulty, on account of rapids and boulders to the river, they descended a long way, when, having lost their arms, ammunition and provisions, excepting flour, they arrived at a canon so narrow as not to admit the passage of a log, and were compelled to abandon their boat and fuel it. Mr. Hayden is still sanguine of getting sufficient timber on this side of the canon.

EXHIBIT 89

3

Arizona Gazette.

The GAZETTE has as Large
a Circulation as any Paper
published in the Territory,
and is the Best Advertis-
ing Medium in Arizona.

PHOENIX, THURSDAY, FEB. 17, 1881

LOCAL BREVITIES.

Messrs. Cotton and Bingham will leave to-morrow for Yuma by way of the Salt and Gila rivers. They have constructed for the trip, an 18-foot skiff, flat-bottom, which will draw very little water, while at the same time it has the appearance of being very strong and durable, and able to stand pretty severe buffeting.

EXHIBIT 90

④

ARIZONA GAZETTE, PHOENIX, A. T., WEDNESDAY EVENING, NOVEMBER 29, 1881

The "Yuma or Bust" party which left Phoenix recently for the purpose of exploring the Salt and Gila rivers were seen yesterday, only twelve miles from here, all wading in mud and water up to their knees, pulling the boat, and apparently as happy(?) as mudturtles.

EXHIBIT 91

ARIZONA GAZETTE
December 3, 1881

The officers of the "Yuma or Bust" returned on to-day's stage. They report having arrived safely at Yuma six days out from this port. We have advices however, that the boat reached Gila Bend and "busted." The liquor having given out three days before, the crew subsisted on bacon straight, enduring great hardships, being compelled to wade in the water the greater portion of the time and push the craft ahead of them. The Yuma papers may enlighten us as to which account is correct, unless they have been bought off.

EXHIBIT 92

5

The Salt River is a navigable stream and should be included in the river and harbor appropriation bill. North Willcox and Dr. G. E. Andrew, U. S. A., of McDowell, landed at Barnum's pier, on the Salt River Valley Canal, at three o'clock yesterday afternoon, direct from McDowell, having accomplished the voyage from that point to this port, in a canvas skiff. The running time proper was about eighteen hours, and the trip would have been thoroughly pleasant, had rain not fell upon them, during the night in which they camped out. The jolly mariners are now enjoying a good time among their friends in this city.

EXHIBIT 93

6

Arizona Gazette.

June 3, 1885

Exploration of Salt River Canyon.

A party of five men, including William Burch, John Meadows and Lee Robinson, started in a boat from near Eddy's ranch, yesterday morning, to explore Salt river canyon, said to be about 60 miles long and through which a boat was never known to pass. The rapids with numerous projecting ledges make the trip a hazardous one, but the party have a staunch craft, 18 feet long by five feet wide, and are confident of accomplishing the passage of the canyon without any mishap. The object of the trip is to ascertain if logs could be floated through the canyon. If practical, Mr. Burch intends erecting a saw mill at the foot of the Sierra Ancha and floating the logs down the river to Phoenix. *Special Advt.*

EXHIBIT 94

ARIZONA GAZETTE
June 5, 1885

In our issue of last Wednesday we published an extract from the *Silver Bell* relative to the exploration of the Salt river cañon, a portion of the river which waters this valley, and which heretofore has never been entered or much less passed through. Yesterday James Logan, Wm. Hutch, John Meaders and Wm. Robinson, comprising the party of daring adventurers who arrived in this city, having landed their craft at Tempe and coming into this city in six days after launching their boat. They report having enjoyed a most exciting and interesting trip. Through the box cañon of the Salt river the banks frequently towered above them over 1,000 feet, and on one occasion they were wrecked, losing provisions, fire arms, etc. The object of the trip was to determine whether saw logs could be rafted to the lower Salt river, and the undisputed conclusion is that such work can be successfully carried on. In fact Mr. Hutch, who is a saw-mill man on the upper Salt river has partially contracted for the delivery of Tempe of over one thousand railroad ties. If experience should demonstrate that saw logs can be successfully floated from the timber regions to this portion of the Salt river, then the benefits derived from this exploration cannot be over-estimated.

Arizona Gazette

No. 134

PHOENIX, ARIZONA, FRIDAY EVENING, JUNE 5, 1885.

DAILY EDITION.—PR

In our issue of last Wednesday we published an extract from the *Elber Sch* relative to the exploration of the Salt river cañon, a section of the river which waters this valley, and which heretofore has never been entered much less passed through. Yesterday James Logan, Van Dorch, John M'aulers and Wm. Robinson, composing the party of daring adventures arrived in this city, having landed their oaks at Tempe and coming into this city in six days after leaving their boat. They report having enjoyed a most exciting and interesting trip. Through the low cañon of the Salt river, the banks frequently towered above them over 1,000 feet, and on one occasion they were wrecked, losing provisions, fire arms, etc. The object of the trip was to determine whether saw logs could be rafted by the lower Salt river, and the undoubted conclusion is that such work can be successfully carried on. In fact Mr. Raich, who is a sawmill man on the upper Salt river has partially contracted for the delivery at Tempe of one thousand railroad ties. It appears almost demonstrable that saw logs can be successfully floated from the timber regions to this portion of the Salt river, and the benefits derived from this exploration cannot be overestimated.

EXHIBIT 95

ARIZONA QUARTERLY is published for the first number, and is published for the first number, and is published for the first number.

PHOENIX, SATURDAY, JUNE 6

VALUABLE DISCOVERIES Resulting from the Exploration of the Box Canyon.

An Unlimited Tinctor Supply and an Unequaled Point for Constructing a Reservoir.

Last evening the Gazette reporter interviewed J. W. Meadens, one of the members of the party which recently passed through the Box canyon of Salt river in a small boat. The party had a most interesting and exciting trip, being five days in making the voyage, which from Ancker's place, about 4 miles above the point where Tonto creek descends into the Salt river, to the dam of the Grand canal where the boat was tied up, includes a distance of about 100 miles calculating upon the obliquities of the stream. The box canyon pierces the foot hills of the Pine Peak range, which is to the north of the stream, while lower down Superstition mountain forms the south bank. The redon paper is about 60 miles in length, and begins at the mouth of Tonto creek. For a distance of about eight miles the rapids descend down the river where precipitous banks were varying from 200 to 1000 feet, then came a rolling country for a few miles and the boat entered the main boat which continued for a distance of perhaps 20 miles. Before entering the second canyon the level of the stream narrows to only 11 feet. This narrowing is perhaps the most important matter, strictly through the fact that a dam may be placed across the river at that point, and at comparatively small expense, which would form a reservoir or lake of fully 20 miles in length. The walls at this point are precipitous only for a height of 15 feet, but a granite mountain rises on one side, while rolling hills come down to the other bank. A dam of 100 feet would net be over 600 feet in width at the bottom, and sit on a high of 300 feet on the top, and would form a reservoir sufficient to irrigate millions of acres of farming lands. The water is not particularly swift at this point and Mr. Meadens thinks that engineering skill could easily devise a way for constructing a reservoir.

Mr. Meadens tells the reporter that the character of the rock forming the canyon is a dark granite, in which several thin dikes were seen.

At one point they passed through a mineral belt, the appearance of which was very good, but owing to lack of time it was not prospected. Timber exists in the Box Peak range in large quantities, some not fish are most plentiful, the party having killed some mountain sheep and several deer, while they caught large quantities of Salt river trout—called by some whitefish men. These fish closely resemble the lake trout of California but are not so large. Several of these fish, weighing eight and ten pounds, were caught by the explorers, but in great numbers fish of this species weighing forty pounds have been caught. The boat on one occasion shot under a cave, but a few feet high, and where the fish were numerous to fear that the salt had come down the fish were so thick that the boat drifted in their tracks.

During the two excursions we have referred to there are a succession of variations of river height, aggregating a distance of about thirty miles. They are all of the same character, however. The water flows a very swiftly through the most portions of the canyon, and the depth varies from six to twenty feet. The stream being held in very narrow limits. No shift would be any other above exists in the canyon, the face of the water defining everything before it. As was stated in the foregoing report of yesterday, the object of the expedition was to ascertain the practicability of floating logs down the river to this city, and the absence of dikes and the general character of the canyon demonstrate most fully that such a project may be successfully undertaken. It is in itself an important discovery, for the reason that it will open to this valley the timber belt of the Sierra Nevada, which is undoubtedly the best and most extensive in the territory.

In course the voyage of Meadens, March, Robinson, Lyman and Meadens who set off without a compass and a phenome as well as dangers. They were exploring a section now never before prospected. Looking along for a mile or two they saw on the banks of the stream a high of 1000 feet, in of course sufficiently exciting to satisfy the most adventurous. They expected every minute to strike a waterfall and have their boat dashed to pieces, as they had, but they shot the cave. The boat overran their last report and much of their supplies were lost. In case of being their vessel in the canyon they were certain would be life, that of a solution down the stream to a break in the bank or another and that might not be reconnoitered for a distance of twenty miles. The description of the survey as given by Mr. Meadens, is generally beautiful and not surprising, and if an outlet could be provided for, a fortune would soon be gained. It was a desperate undertaking, successfully accomplished, but cannot be considered a feat, hardly at all, for the reason that it was made for a favorable purpose.

Amulet



DEAR

PHOENIX, ARIZONA, SATURDAY EVENING, JUNE 6, 1896.

VALUABLE DISCOVERIES

The discovery of the gold fields of Arizona is one of the most important events in the history of the United States. It has opened up a new world of wealth and opportunity to the people of this country.

The gold fields of Arizona are situated in the mountainous regions of the state. The gold is found in the veins of the mountains and is mined by the people of the region. The gold fields are one of the great treasures of the United States.

Mr. Medicine tells the reporter that the discovery of the gold fields is a great discovery for the people of Arizona. The gold fields are one of the great treasures of the United States.

The gold fields are situated in the mountainous regions of the state. The gold is found in the veins of the mountains and is mined by the people of the region. The gold fields are one of the great treasures of the United States.

Bank Bolivia, Lopez and Alvarez are not without the assistance of the government as well as the people. The gold fields are one of the great treasures of the United States.

The gold fields are situated in the mountainous regions of the state. The gold is found in the veins of the mountains and is mined by the people of the region. The gold fields are one of the great treasures of the United States.

EXHIBIT 96

67

Arizona Gazette.

All Star (*) Local are 25 cents per line for first insertion, and 5 cents per line for each subsequent insertion. Subject to No Discount.

PHOENIX, MONDAY, JUNE 8.

1885

The Box Canyon.

In our account of the recent exploration of the Box cañon of the Salt river, we stated that the passage through the gorge by Messrs. Robinson, Burch, Logan and Meaders was the first ever made. It now turns out that we were premature in this statement. Postmaster Mowry related to the reporter this morning his recollections of the description of the cañon and a trip made through the same by Frank Middleton, now of Flagstaff, and his brother-in-law George Shute, now residing on the upper Salt river. This was eight or ten years ago. The two men started out to make the descent of the cañon on foot, carrying their rifles, blankets and food. There was much less water in the stream than at present, but nevertheless the adventurers had a very severe struggle, and came very nearly perishing before they got through. They lost their guns, and exhausted or lost their provisions when out a few days. Nevertheless they succeeded in making the trip and came on to Phoenix, where they carefully related their experience to Mr. Mowry.

Arizona



Gazette

Exploration of Salt River Canyon.

A party of five men, including William Burch, John Meadows and Lew Robinson, started in a boat from near Eddy's ranch, yesterday morning, to explore Salt river canyon, said to be about 60 miles long and through which a boat was never known to pass. The rapids with numerous projecting boulders make the trip a hazardous one, but the party have a staunch craft, 18 feet long by five feet wide, and are confident of accomplishing the passage of the cañon without any mishaps. The object of the trip is to ascertain if logs could be floated through the cañon. If practical, Mr. Burch intends erecting a saw mill at the foot of the Sierra Anchas and floating the logs down the river to Phoenix.—*Silver Bell.*

EXHIBIT 97

PHOENIX HERALD
December 12, 1888

Major Spaulding's Death.

The death of Major E. J. Spaulding, which occurred on Monday at the Meas dam on Salt River, is to be deeply regretted for a good man, a thorough and brave officer, has come to his too early grave. While coming down to Phoenix with Capt. Hatfield in a canoe and shooting as they came, they were about to lift their boat over the Meas dam when the Major attempted to remove his gun from the boat, and in doing so it was discharged, killing him almost instantly. He was Commandant at Ft. McDowell, Major of the 4th Cavalry and an officer highly esteemed by his superiors and men under him. He leaves a wife to mourn his sad demise. The widow left today with the remains on her sad and lonely journey to his former home, Kalamazoo, Michigan, where they will be interred.

EXHIBIT 98

1889
* This date is in Zarchi
(Letter to) -

Boating in Arizona.

It does one so much good to read of boating in Arizona that we produce the following account of a wreck on the Gila from the Arizonian:

On the 9th inst. the large ferry boat which had been used for years on the Salt River at the Maricopa crossing was floated down the river with the purpose of taking her to the Gila Bend crossing. Five men were manning her and everything was going on smooth until they reached a point about forty miles below Phoenix, when the boat came in contact with a willow snag just in the middle of the river. The current of the river being about at the rate of fifteen miles per hour the five men lost control of her and she struck the snag. She was cut in two parts as if she had come across a large saw. She is a total loss. Her owners, Messrs. Vol Gentry and W. Cox, valued her at about \$1,000.

VOL. III. TOMBSTONE, ARIZONA, THURSDAY EVENING, JANUARY 2, 1884. NO. 20

TOMBSTONE PROSPECTOR.

TOMBSTONE DAILY PROSPECTOR, THURSDAY EVENING, JANUARY 2, 1884.

Meeting in Arizona.
 It does not seem much good to read of meetings in Arizona that we produce the following account of a wreck on the line from the Arizona.
 On the 31st inst. the large freight train which had been under way on the Salt River at the Malisops crossing was derailed down the street with the purpose of taking the train to the ground. The train was running on small wheels until they reached a point about 100 feet below Pleasant, where the train came in contact with a low snag post in the middle of the street. The driver of the train being about at the rate of fifteen miles per hour the fire men lost control of it and she struck the snag. She was cut in two parts all the load came down. The train was owned by the Arizona & Western, Y. J. Gentry and W. Coe, valued at about \$1,000.

EXHIBIT 99

PHOENIX DAILY HERALD, MONDAY, FEBRUARY 18, 1895.

VENTURE SOME VOYAGERS.

From Clifton to the Gulf by Water.

Yesterday morning Amos Adams and G. W. Evans arrived in Phoenix having come all the way from Clifton to Saco-ton in a boat. These gentlemen enjoy the proud distinction of being the first men to pass through the box canyon of the Gila by water. They left Clifton on January second and launching their boat which had been specially constructed for the purpose on the San Francisco river, they journeyed down that stream to the Gila which they entered fourteen miles below Clifton. From that point they remained on the Gila, until they reached Saco-ton, travelling by that stream about three hundred miles. There they disembarked and hauled their boat to Phoenix and after laying in provisions, etc., will leave tomorrow on the Salt river, to the Gila, thence to the Colorado and by that stream to the Gulf.

EXHIBIT 100

EXHIBIT 101

14

THE ARIZONA REPUBLICAN

13 PAGES

PHOENIX, ARIZONA, SUNDAY MORNING, FEBRUARY 5, 1905.

13 PAGES

HAD TWO WARNINGS

Then John Tilzer, the Islander, Was Drowned

His Wife and Little Daughter Rescued Last Night From the Angry Waters of Salt River.

John Tilzer, who lived with his family on an island in the river at the foot of Meroueth street, was drowned yesterday afternoon while trying to rescue his wife and little daughter who had already been in the water for some time when his boat struck a barbed-wire fence. It was instantly overturned. His wife caught a glimpse of him as he was hurled downstream and he was seen no more. Mrs. Tilzer was taken from the island last night by a force sent from the sheriff's office.

This is the third time the Tilzer family has been rescued from the island and on the other two occasions Tilzer was taken away against his will. On the first time was the night when his wife says that she will never again trust that dangerous habit of his. It is doubtful, however, if she will be striking left or right when she next contemplates a rescue on the island. Mrs. Tilzer and her two children were rescued on the evening of the 21st. The river rose so rapidly that the boat was brought down that the husband had been drowned. Mrs. Tilzer at once taken to rescue his wife. Deputy Sheriff Wayne Davis started out to find a man who could row a boat under great difficulties. He searched a crowd on the street and asked if anyone knew where he could find a local man, a man by the name of C. L. Shrum of Buckeye who had just arrived in the city from the hills some 100 miles and offered his services. A boat was sent to Buckeye park at 10 o'clock and it was taken to the river by Deputy Sheriff Davis, Mr. Shrum and Charles Shrum. It was beginning to grow dark and what was to be done must be done quickly. Mrs. Tilzer was standing on the island with the waves breaking at her feet. Near her was a horse standing in water to his knees. The current beyond the island and the bank was about 100 yards wide and on the side of the island was a running, very narrow channel, estimating its volume City had the boat carried 200 yards on stream and accompanied by the deputy sheriff pushed out. The deputy had had no experience in the handling of the boat and midway while trying to clear it through a square across the current that it dipped water and was on the point of going over. Shrum quickly brought it about and a few minutes later it was driven against the island directly in the current. The deputy Shrum sent into the water and grasped the boat.

The woman and the little girl were put into it and Shrum started in the growing darkness a point on the bank about 100 yards below where he wanted to land. He did it with almost mathematical accuracy. Mrs. Tilzer did not seem to be greatly alarmed. She appeared to be amazed by the loss of her husband and thought of nothing else. The rescuers looked back to see what had become of the horse but in the darkness he was not visible. Mrs. Tilzer said that shortly before the arrival of the boat she had unfastened and loosened several cables and a rope. It came not thought that anything would be left on the island two hours later for between the time the boat set out on its mission of rescue and the time of its return the water had risen a foot. The stricken Tilzer family was taken to the office of the sheriff. Nothing had been saved. There was not even a pair of shoes among the widow and children. They were provided with shoes and clothing and taken to the Valley Lodging House for the night. Shrum, speaking of the incident last night said that he would not undertake another trip like that for \$20, though he might do so if human life were at stake. He said he did not fully realize the perilous character of it until the boat was well on the way across. He saw no sign of the horse with fence which had overturned Tilzer's boat for if it had not been washed away it had been covered deep by the rapidly rising water.

EXHIBIT 102

12

THE ARIZONA REPUBLICAN

PHOENIX, ARIZONA, FRIDAY MORNING, MARCH 24, 1905.

THE ARIZONA REPUBLICAN, FRIDAY MORNING, MARCH 24, 1905.

THE PHOENIX SHIFFARD

His Great Boat, a Suspicious Looking Vessel, Launched Yesterday.

The people that live along the lower Gila are pretty well accustomed by this time to seeing all manner of strange things drifting down on the breast of that ever surprising stream. Much odd collections as railroad bridges, ferry boats, farm houses, chicken coops, lumber yards, etc., no longer create surprise. But there was launched here yesterday something that may make their eyes bug out for it was certainly a house boat, though it may be a torpedo boat in disguise or some new monster of war vessel that has been constructed here on the quiet for the Mexicans with a view of attacking Teno's fleet in the sea while he is busy heading up Hovstevan's Baltic squadron as it enters Chinese waters.

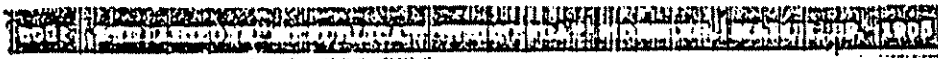
It will at the same time be a matter of news to Phoenix people to know that this city has a real ship yard and that the product of it is already in existence. The greater mind of this shipbuilding enterprise is a Mr. Jacob Shively who came here not long ago from Ashland, Oregon. While Phoenix was standing around in open mouthed wonder, not imagining before that there was so much water in the world, Mr. Shively was engaged on plans to make some use of it. He came from a country where they have had water before and a little surprise does not bewilder them. Mr. Shively is 35 years old and therefore of sufficiently mature experience to conduct his own business without taking the whole world into his confidence or asking the advice of the whole town as the average man does before he starts something.

He secured space for a drydock of the Chamberlin Lumber Co. and proceeded with the construction of the keel and first deck. A second deck was contemplated at first and the fact that the plans were changed leads to the suspicion that Mr. Shively had a war ship in mind and received a change of orders from his prospective purchaser or employer. In the event, the plans had been previously perfected. Anyhow it is surmised that a one deck or could creep about more stealthily than a formidable appearing boat. In lieu of a second deck or a cabin. Moreover, he equipped the vessel with bows for a reason about which will turn Arizona ballgame, the only thing one needs direct for in these waters. When stripped for action the wagon steel may be removed.

The boat was finished yesterday morning and the dry dock being some distance from the harbor a two horse wagon was hauled into service to assist in the launching which was accomplished without the slightest trouble. The launching was in the presence of a vast crowd of two or three men and there was no champagne wanted or other ceremony of a public character. The builder announced his intention of accompanying the crew as far as San Francisco but he was silent concerning his later plans. There are fears in some quarters that the boat may prove to be a submarine before it leaves American waters.

EXHIBIT 103

ARIZONA REPUBLICAN
March 29, 1905



WATER FRONT NEWS—A few days ago The Republican announced the launching of a strange and mysterious craft from the Phoenix Shipbuilding yards. Since then this paper has been in communication with its marine reporters at lower story ports with regard to the progress of the vessel. The following report was received yesterday from the correspondent at Arlington:—The suspicious looking vessel—brought from the Phoenix shipyard, of the 13th inst. bearing Captain Schiller and crew was sighted on the Atlantic coast about 1 1/2 days since. The captain reported having encountered rough water and fog. The vessel was semi-submarine. At a precaution against some blowers the boards were put on the vessel along the Black eye coast. She was at present near the Wolfey dam.

EXHIBIT 104

13

THE ARIZONA REPUBLICAN

10 PAGES PHOENIX, ARIZONA, SATURDAY MORNING, DECEMBER 9, 1905. 10 PAGES

THE ARIZONA REPUBLICAN, SATURDAY MORNING, DECEMBER 9, 1905

THE PRICE FIXED ON THE CANALS

But the Finding of Appraising Board is Not Disclosed.

The board of engineers of the reclamation service, which has been engaged since a week ago last Monday in appraising the property of the Arizona Water company, finished their report yesterday, finished its preparation it was forwarded this morning to the interior department. A copy of the report would be a very interesting thing to publish, a fact that seemed to be fully appreciated by the engineers, who were careful not to leave a copy of it lying around where a reporter could get hold of it. This was not disappointing, however, for an air castle had been built in anticipation.

Engineer Chandler left on last night's

M. & P. train for his home in California and Engineers Hill, Weaver, and Dunlap, accompanied by their wives and Engineer Grunsky, left for Mesa City. This morning they will continue their journey toward Hooverville, going as far as Fish creek and finishing the trip Monday morning.

Mr. Fowler, who has been somewhat delayed by the loss of a suitcase to go to Washington, will not leave until Sunday morning, instead of this morning, as originally planned. Mrs. Fowler, who has been ill for several days, though much improved, is not yet able to leave her room, or was not yesterday, and he has decided to stay here a day longer. No time will be lost for the reason that he can still get to Washington by the time the report of the engineers is before the officials for consideration, which in the natural order of things would not be before until Friday or Saturday.

Mr. Fowler and Engineer Grunsky returned yesterday morning from Mesa City, where they spent the night before after a very hard day's work in sketching and inspection, traveling about thirty-five miles. They spent Wednesday looking over the western part of the valley and traveling about forty miles, so that Engineer Grunsky has driven over more than a hundred miles of the irrigation district during his short visit and has secured a very good general idea of what is going on. He says he has been greatly impressed with the country and with its possibilities with the completion of the proposed reservoir.

Thursday's trip was devoted mainly to an inspection of diversion facilities and a hasty view of the irrigated section south of Mesa City. Starting about 8 o'clock Thursday morning, with Messrs. Fowler, McDermott, and McClung, the drive was first to the Consolidated head, then to the Tempe bridge, where an idea was gained of the height of the water in the recent flood and the damage to the bridges and canals, with a long-distance view of the upper end of the Appropriators' canal. Returning to the old mound on the Crosscut, they went north to power house No. 2 and the falls, inspecting all these properties, then the route to the Arizona head, looking over the wreck of the Arizona dam and the proposed site of the new diversion dam. Immediately after luncheon they started down the river in a boat toward the head of the Consolidated canal. They found the Salt river a poor stream for navigation, however, and in the voyage of a mile they were shipwrecked twice, though without loss of life or property. In the first incident

rest of article?

EXHIBIT 105

14

THE RIOTOUS WATERS OF LAKE ROOSEVELT

AN OLD-TIMER RETURNS TO THAT REGION.

A Man Who Carelessly Handled a Rattlesnake.

Household, Oct. 2.—(Special Correspondent of the Republican.)—The rains almost have stopped and the water that was to have taken place last Sunday had to be postponed on account of the heavy rain that was pouring up the lake and making it impossible for the steamer to leave. The water on the lake is very high, the formation, consisting from about 5 a. m. to 10 p. m. in the night.

Usually anything like a high wind lasts only for two or three hours, and the lake soon calms down again to a normal state, but on Sunday it continued calm and kept up without interruption until late at night. The water was very high, and the boat was in danger of being overturned.

The boat was in danger of being overturned, and the crew was in a state of panic. The boat was in danger of being overturned, and the crew was in a state of panic.

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EXHIBIT 106

15

WATER ROUTE TO ROOSEVELT

Accomplishment of Two
Mesa Voyagers

VIA CANALS IN ROWBOAT

Another Story of Two Men
Not Including the Dog.
The Route is Not Yet
Recommended for General
Travel

The first trip ever made from Roosevelt to Mesa by way of boat was that of yesterday when Roy Thorpe and James Crawford arrived in Mesa by way of the Mesa canal, having made the entire journey from the dam site by means of an ordinary row boat.

The original idea of the voyagers in making the trip was to enjoy the sensations of going over a route that is seldom frequented and also attempting a feat which has never yet been accomplished. It is understood that at least two parties have made the trip by boat from Roosevelt to Granite Reef, but the making of the entire trip by water from Roosevelt to Mesa is a record.

The row boat which was used throughout the journey was in a very dilapidated condition at the end of the trip. Before the start was made three bottoms had been pined in the craft and one of these had been worn through by the constant friction with the boulders and sands found in shallow waters. Many times the men were compelled to lift their craft from the water and carry it over obstacles and at other times had to haul it along the stands.

After leaving Granite Reef the boat was placed in the south side canal and followed it until the division gates were reached yesterday about noon. The remainder of the trip was made by way of the Mesa canal.

One incident of the trip was that just prior to leaving Roosevelt one of the men exchanged a faithful dog to which he had become attached, for a puppy. The idea being that the older dog would be entirely too heavy for the craft. The dog, which was left at Roosevelt, in some manner chewed the rope in two with which he was tied and followed his master the entire distance, arriving at Granite Reef but a few hours after the boatmen had left. Those who understand the Salt river will recognize that the feat performed by the dog is even greater than that by the men. Coming through Box canyon necessitated the arduous swimming for a considerable distance, while the falls this side of Mormon Flat would offer many obstacles. The men are well pleased with their adventure, but have no serious intention of attempting to go into competition with the stage company, nor did they attempt to break any speed regulations.

EXHIBIT 107

16

ARIZONA GAZETTE

PHOENIX MUST AND WILL HAVE A MAIN LINE RAILROAD

PHOENIX, ARIZONA, SATURDAY EVENING, JANUARY 30, 1915

GREATEST STORM IN YEARS POURS FLOOD INTO RESERVOIR MANY CANALS ARE DAMAGED

Big floods for gains in the Roosevelt reservoir are broken. Salt river is at the highest flood stage in years and will rise three more feet today. Much damage has been done all over the valley. Many families are homeless because of the river and creeks being on a rampage.

There are among the most important items of the story of this flood. At about this morning the water in the reservoir had risen 10.15 feet in a 24-hour period. The gain of 10.15 feet is a record for the reservoir. The gain of 10.15 feet is more than twice greater than the previous twenty-four hours, adding a record on the morning of December 31, last, during the last heavy snow melt. The gain of 10.15 feet is more than the gain of the word breaking gain in the fact that the gain of 10.15 feet is more than the gain of 10.15 feet in a 24-hour period.

The amount going over the dam is estimated to be 10,000 cfs. The amount going over the dam is estimated to be 10,000 cfs. The amount going over the dam is estimated to be 10,000 cfs.

At 5 o'clock this morning a reading on the still larger, twenty-foot gain than that shown earlier, was reported by O. McDermith, assistant project engineer. "I figure there is a gain of 10,000 cfs. The amount going over the dam is estimated to be 10,000 cfs. The amount going over the dam is estimated to be 10,000 cfs."

The river will rise three feet higher yet today according to O. McDermith, assistant project manager. Already the flood has made many people homeless and numerous narrow escapes are reported by parties coming from the neighborhood.

Homeowners and other residents of the bottom lands who phoned in this morning to McDermith's office wanted to know if it would pay to get a boat and take their families off the islands surrounded by water. McDermith told them to hurry and get boats since the river would rise three more feet this afternoon.

Appeals for help from many homeowners and residents of the bottom lands poured into the offices of the county sheriff and chief of police all day today.

At 4:30 this morning an appeal for help was telephoned into police headquarters and Chief Walter Brainerd took the patrol wagon and several officers to the scene of the flood. Sheriff Jeff Adams and a force of deputies arrived at the same time and the work of rescue was begun.

One hundred and fifty yards east of the south end of the bridge a woman was standing in an upstairs window screaming for help and the sheriff boldly pushed his horse into the torrent in an effort to reach her.

The flood was too swift for the horse to swim and he and his rider were swept down the stream. The sheriff was reluctantly compelled to give up the attempt and swam to the bank dragging the wall right exhausted horse after him.

A consultation developed the fact that the only boat available was one at the state insane asylum and the patrol wagon made a record run after the woman begged piteously not to be left alone as she feared every moment that the house would be swept away. On the return of the patrol wagon the chief and Officer Hunt made the trip in the boat in safety and brought the woman ashore.

In addition to this case the sheriff's office and police effected the rescue of many other women, men and children.

One of the most thrilling rescues made during the day occurred about 5 o'clock this morning when Sheriff Adams and his deputies discovered an old man in a small boat in the center of the river and almost directly under the Center street bridge.

The water was fast covering the island and the man as his companion was crying for help. The sheriff and his deputies were able to reach the man and bring him to shore. The man was rescued and his companion was also rescued.

big increase in the reservoir by Assistant Manager McDermith.

A report received today by R. E. Briggs, section director of the weather bureau, from J. C. Carr of Oatman ranch, on the watershed above the dam, shows the great magnitude of the snow in that section.

Carr's report was made out on January 25 and he states at that time there were sixteen inches of snow nearly up to the top of the mountain, probably about a mile from the top, and twenty-two inches on top of Babo mountain.

The morning the reclamation service received a phone message from Carr which said there was seven inches of snow at his ranch. There was snow at the ranch on the 24th. Director Briggs says that these figures show an additional inch of snow on the mountain, and that the snow on the mountain is about forty-four inches on the higher peaks on the watershed.

Salt river which passes along the southern boundary of the city is a raging torrent today and is being viewed by hundreds of spectators.

The river swept out of its banks about 4:30 o'clock this morning and is declared by many old timers to be higher than it has been in twenty years. Riverside park, except the higher ground where the baseball park is situated, is completely under water.

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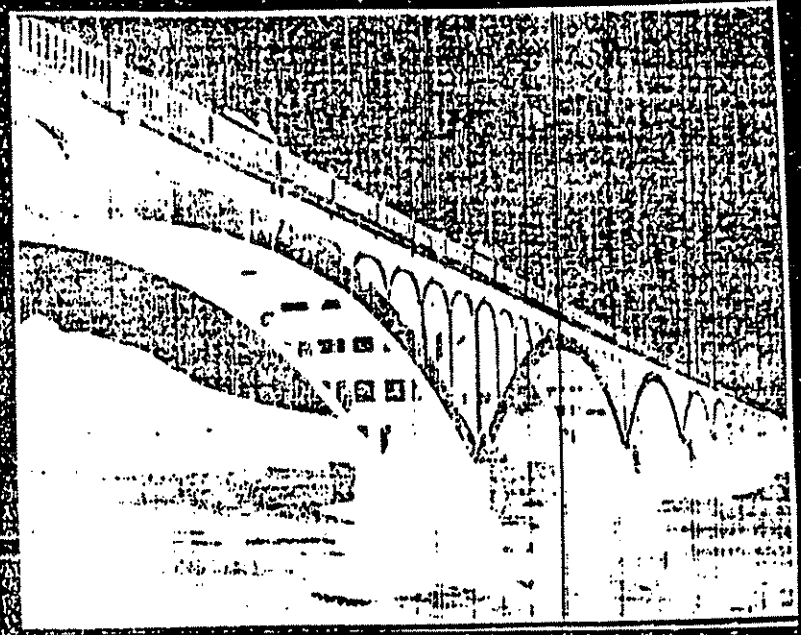
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STATE BRIDGE AT TEMPE



Highly Speed of Water Causes Breaks in the Arches of this Structure Today Such as Has Not Been Seen Since Its Construction.

was not enough time left to get a boat, so a tank top was pressed into service. It was lowered and the prospector got hold. He was then lifted up over the side of the bridge to safety.

At noon the little burro was still riding and the burro will be drowned if it gets much higher since the main current is too strong for man or beast to tackle.

A horse at the H. C. Cook home at the south end of the bridge on the east side, was up in water almost to its neck at noon. The family had fled from the scene.

John Clark and family who were living in a tent had a narrow escape from drowning. Clarke's sister got up about 5 o'clock to get breakfast for her brother who is a contractor. She discovered the water on each deep in the tent. During the night they had heard the roar of the river but did not think it was so high. It had roared the night before.

Summoning her brother and the other members of the family they hurriedly gathered up all their belongings. Before they had fled to a place of safety the water was several feet deep. When last seen they had staked camp out in a field about a half mile south of the river. Chickens, two turkeys, a dog and a horse were remembered and composed part of the belongings huddled up out in the open field.

It is difficult to estimate the damage done to Riverside park. This is the first time since the park was constructed that it has been under water. The current is especially strong between the dancing pavilion and dining room of the park. No doubt many of the animals and plants in the cases have been drowned. A large red parrot has about a foot left of his case and to visitors to the flood scene today is continually calling "hello."

The case of two ducks is under water except about six inches from the top. The ducks seem to enjoy the flood.

The water completely covers the huge bathing pool and it is hard to tell that a swimming pool ever existed.

The Salt was twelve feet deep at Tempe this morning. It is about a mile wide at the Center street bridge. Warnings to residents of the lowlands about Buckeye, Arlington and other towns along the lower Gila to flee to higher places of safety were issued at noon by R. E. Briggs, section director of the weather bureau. The stage of seven feet is reported this morning from the Gila river at Florence. Briggs further says in his report.

The Verde river is in flood and reports of severe rain in the watersheds of the Verde and the upper Gila rivers, as well as generally over the state indicate that the re-

ARIZONA GAZETTE
January 30, 1915

rising flood water in the lower Gila river will reach a stage as high and probably higher than in the freshest of last month.

There was a foot of snow at Prescott this morning and it was still melting. The total precipitation at Flagstaff this morning for twenty-four hours had been 2.1 inches. Los Angeles 1.17 and Yuma .31.

The total rainfall in Phoenix for the present storm had been 1.69 inches up to 7 o'clock this morning. Of this amount .90 fell last night. It was raining at Tucson at 8 o'clock last night.

EXHIBIT 108

Pioneers tried to float logs down Salt River for sawmill in Valley

By EARL ZIMMER
Special Features Staff

Tempe might have been a small town early in its history if Charles Trumbull Hayden had succeeded in floating logs down the Salt River from forests in mountains east of the Valley.

The year was 1877, and Hayden was building a flour mill at Hayden's Ferry — or Tempe — and needed lumber.

But the Salt River Valley was without trees suitable for lumber, and lumber was expensive to import. As a result, the hamlets of Tempe and Phoenix were adobe towns.

In May 1878, Hayden organized a party of eight men to go up the Salt River, fall some trees and find out if logs could be floated to Hayden's Ferry.

The men departed May 24 and traveled into country occupied by Apaches, who, in that period, were not always peaceful.

About three weeks later, Hayden returned to the Valley. He informed a correspondent for the *Arizona Miner of Prescott* that the Indians were numerous but friendly and that there was nothing to prevent sending logs down the river.

The party had made a canoe from a tree and put some logs in the river. Six of the men traveled with the logs while Hayden and a second man returned to the Valley.

On June 26, the *Miner* correspondent sent the following mystic report:

"The Hayden party ... have returned, and pronounce the scheme a failure. With much toil

and difficulty, on account of rapids and boulders in the river, they descended a long way, when, having lost their arms, ammunition and provisions, excepting flour, they arrived at a canon so narrow as not to admit the passage of a log, and were compelled to abandon their boat and foot it. Mr. Hayden is still anxious of getting sufficient timber on this side of the canon."

In July, Hayden made a second expedition to the mountains in pursuit of timber. This trip apparently was unsuccessful, too.

In May 1885, another expedition was made on the Salt River to determine if sawed logs could be carried downstream to Tempe.

This time, William Burch, a sawmill operator upstream on the Salt River, contracted to deliver railroad ties to Tempe.

Burch was accompanied by three men. They launched a boat in the Salt River about four miles above the river's junction with Tonto Creek in the Tonto Basin. Six days later, they reached Tempe.

The men reported that at one place, the river narrowed to 11 feet. They thought that would be an excellent place to build a reservoir to store water.

A Phoenix newspaper, *The Arizona Gazette*, said, "The abundance of drift and the general character of the canon demonstrates most fully that such a project may be successfully undertaken. This ... will open to this Valley the timber belt of the Sierra Ancha."

The newspaper's optimism, however, apparently was never rewarded.

EXHIBIT 109

THE SMOKE SIGNAL

AUG 31 1972



Published occasionally by THE TUCSON CORRAL OF THE WESTERNERS, TUCSON, ARIZONA

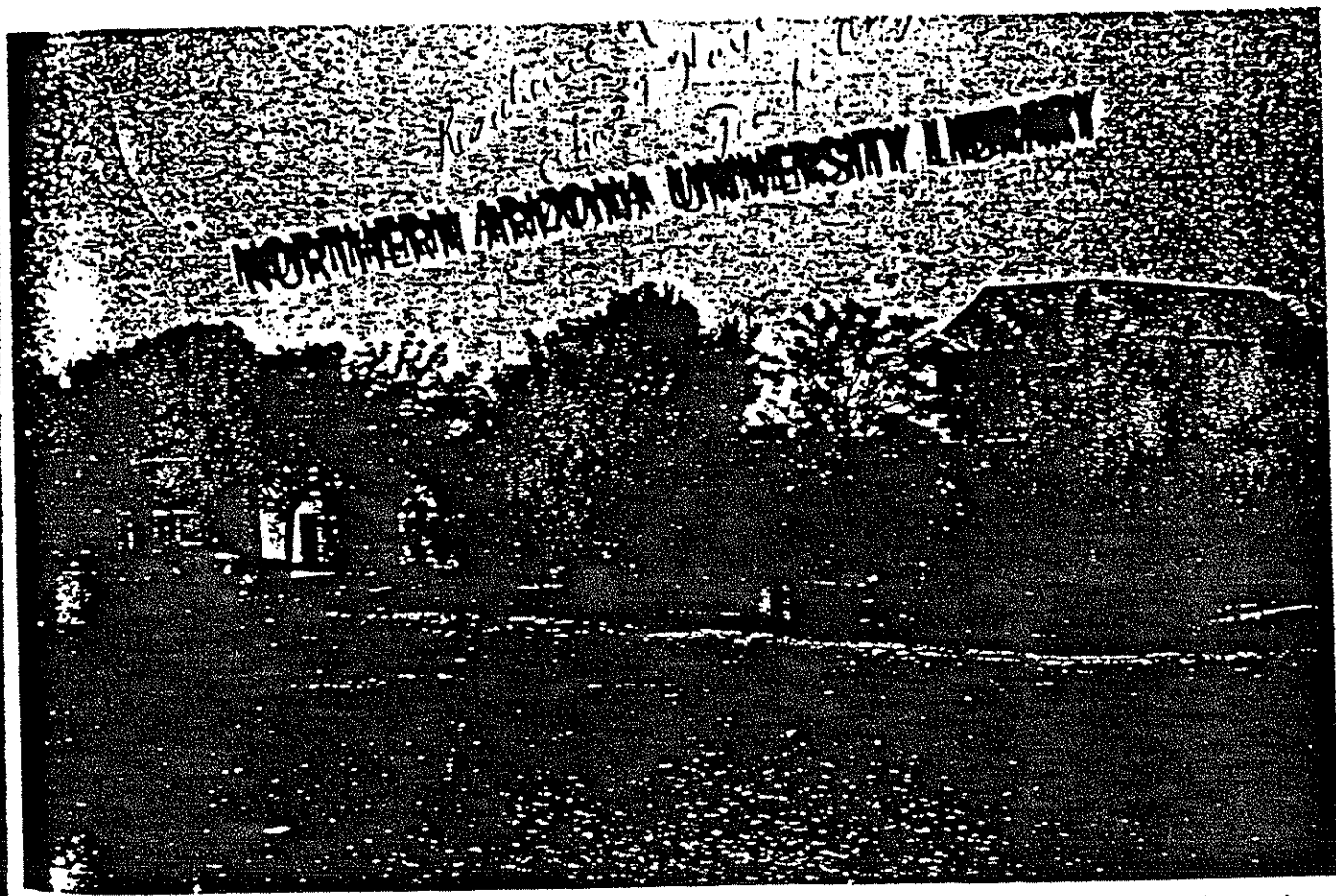
No. 19

CHARLES TRUMBULL HAYDEN

BY BERT M. FIREMAN

Executive Vice President, Arizona Historical Foundation

This paper was presented on April 19, 1968 at a luncheon in La Casa Vieja at Tempe during the 9th Annual Historical Convention



Now occupied by a steak house, this was the birthplace and boyhood home of U. S. Senator Carl Hayden. The first section of the home was erected in 1871 by workmen employed by his father, Charles Trumbull Hayden. When this picture was taken, around 1900, the old house (La Casa Vieja) had been improved by a second-story addition and was used as a hotel. The Hayden general merchandise store was located in the south wing of the large structure, where the wagons are waiting. The original structure of the Hayden home is still intact and in daily use, and is the oldest building in the Salt River Valley.

— All photos from the Hayden Family Papers, Arizona Collection, Arizona State University

Fifteen years later in 1900, as Charles Trumbull Hayden himself was buried at Double Butte Cemetery, his son Carl, a recent graduate of Stanford University who had taken over the family business only the year before, showed equal spirit when with profound respect he eulogized his father as a pioneer builder. Carl evidently wrote notes for the funeral message as he waited in the Williams Hotel at Maricopa for the arrival of the Southern Pacific train bringing his sister Sallie home for their father's funeral. His first three pages of those notes have survived the passage of years. They are now preserved as a cherished part of the Hayden Family Papers in the Arizona Collection in the Charles Trumbull Hayden Memorial Library at Arizona State University.

Studies of Arizona history have revealed no pioneer who was more ambitious for the advancement and progress of Arizona than Charles Trumbull Hayden. The list of plans and schemes and undertakings to which he gave support and funds is almost endless. To mention a few:

On November 17, 1870—more than three years before he was able to terminate his Tucson business affairs and move to Tempe, and a year before the date generally given for Hayden's entering business life in Tempe—he joined with three other men in organizing the Hayden Milling and Farming Ditch Company.

NOTICE

Notice is hereby given that we, the undersigned, have taken up and do claim for milling, farming and other purposes, sections 28 and 29, Government survey, on the south side of Salt River, taking in two Buttes on either side the main road from Phoenix to Gila River, and all persons are hereby notified of the same.

Charles T. Hayden
J. W. Fields
A. F. Garrett
E. K. Brown⁴

Their announced plan was to homestead the two sections of land which included the buttes, and to dig an irrigation ditch to bring much of that land under cultivation as well as furnish water power for a grist mill. Thus the Hayden milling enterprise was launched. Shortly thereafter Jack Swilling was in charge of a crew of men hired by Hayden to start bringing water to the land. He purchased shares in the McKinney-Kirkland Ditch, the first to be taken out of the Salt River along its south bank. To obtain delivery of the water Hayden directed Swilling and his workmen to bring it around the south flank of the buttes to the west side, where a drop of 23 or 24 feet was to furnish power to turn the stones of the mill. After emerging from the mill race the water would be directed westerly in a ditch that was to irrigate crops and the orchard that was being planted by summer.

Having begun his investment in the Salt River Valley with the Hayden Milling and Farming Ditch Company, he never ceased efforts to broaden the economic base of the community. All his lifetime he was the town's principal employer. Newspapers frequently told of new enterprises he had undertaken, either alone or with working partners. He traveled a great deal promoting and advertising, buying and selling. In the winter of 1873 the Hayden Ferry was in operation, making it possible for travelers to cross the river during the flood-swollen months when the Salt carried the melting snow of the high mountain country. During one rainy summer in 1884, the ferry was pulled loose from its mooring and lost downstream three times. Each time it was towed back to the crossing and new cable and ropes were strung across the river to restore traffic. Once a smaller boat owned by Hayden was pirated by boat-thieves. Since they were not caught, history fails to tell whether in pioneer Arizona the penalty for piracy was the same as for horse thieves. The boat was found at Gila Bend, which shows that the Salt and Gila were running strong. At another time he had that box hauled by wagon to the Gila River on the road to Maricopa Wells when the Gila was in flood and its ferries had washed away.

As early as 1874 Hayden was energetically urging citizens of Arizona to give support to projected plans of the Texas-Pacific Railroad to extend its lines westward from Texas through southern Arizona, advocating a river crossing at Ehrenberg because that would bring the main line through the Salt River Valley.

Even before the flour mill was in operation at Tempe, Hayden had led a party eastward along the Salt River into the Sierra Anchas to cut logs and float them down the Salt River to Tempe. He hoped to have the Hayden Ditch at the same time provide water power for a flour mill and a sawmill. High up-river the men cut Ponderosa pine logs. They fashioned one into a canoe, then took to the canyons of the Salt in an attempt to drive the logs down to the Salt River Valley. The effort failed, the narrow canyons and boulders of the river jamming and tearing the logs and upsetting the improvised canoe. Ever resourceful, Hayden turned up the Verde, thinking it the next-best stream to provide logs for the needs of central Arizona. When this effort failed also, he salvaged part of the idea, at least, by devising a power take-off at the mill to operate power saws in his carpenter shop.

During his boyhood in Connecticut he saw the potential of using flatboats to haul goods. Before the Hayden Mill was ready to grind wheat, a flatboat loaded with five tons of grain at Hayden's Ferry was floated down the Salt to the point where the Swilling Canal took off from the north bank of the river, and then was poled along that canal for delivery to Helling's Mill.

EXHIBIT 110

**THE LAST
BUGLE CALL**

**A History of Fort McDowell
Arizona Territory
1865 - 1890**

**By
Bill Reed**

**McClain Printing Company
Parsons, West Virginia
1977**

confronted by their accusers, they vigorously denied their guilt, and in an effort to extract a confession, some of the men tied ropes around the necks of the suspects, threw the ropes over a support, and several times lifted the men from the ground. When they were finally released, they went to Phoenix, reported the matter, and filed charges against the perpetrators. Under-sheriff Rodgers and Constable Blankenship went to the post to arrest the six or seven men involved in the affair.⁶³ The commanding general of the department ordered a full investigation and suggested that the guilty parties make some compensation to the abused Chinese to avoid a trial and the subsequent embarrassment to the service.⁶⁴ This was, apparently, done as Ah Sing remained on the rolls as a packer for sometime thereafter and there was no further mention of the event.

One more tragedy was to occur before the post was abandoned. Major Edward J. Spaulding, commanding Fort McDowell, in December 1881, left the garrison with Captain Charles A. P. Hatfield bound for Phoenix in a canoe. They planned to hunt along the way and both had their guns. At the Mesa Dam they climbed out of their craft to lift it over the obstruction and as Major Spaulding removed his weapon from the canoe it accidentally discharged, killing him instantly. His widow accompanied the remains to Kalamazoo, Michigan, where he was buried.⁶⁵

By the summer of 1889, Fort McDowell had become a tourist attraction. Visitors were advised that fine room and board was available at sixteen dollars per month and hunting, quail and rabbit, was excellent. A new artesian well was being drilled, in July down 435 feet, discharging a one-inch stream ten feet into the air⁶⁶ but the use of the post for tourist purposes was to be short-lived.

General Order No. 43, dated April 10, 1890, Adjutant General's Office, Department of the Army, Washington, D.C., called for the abandonment of several posts. Included was Fort McDowell. At the time the post was garrisoned by

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EXHIBIT 111

THE WEEKLY



ARIZONA MINER.

VOLUME V.

PRESGOTT, ARIZONA, SATURDAY MORNING, DECEMBER 12, 1908.

NUMBER 49.

ARIZONA MINER.

GOVERNOR'S MESSAGE.

PUBLISHED EVERY SATURDAY MORNING.
AT PHOENIX, TERRELL COURT, ARIZONA.

Tucson, Arizona, November 10th, 1908.
Gentlemen of the High Legislature, Assembly:
You came together in the recesses of the year
past, to give the most interesting lesson, and I trust
it will be our ambition to signify the first
meeting of the Legislature here by a firm in-
quiry into the wants of the people, a careful con-
sideration of the interests and a thorough and
effective performance of your whole duty as their
chosen representatives.

These measurements should be given to the
entirely correct who have each taken the
place on the hills and Roll Street, such factors be-
ing as elevation and soil, to ensure accuracy in
from the base and representing the
vertical distance from the base to the
top of the hill to be ascertained.

EXHIBIT 112

WEEKLY ARIZONA MINER: PRESCOTT, FEBRUARY 27, 1874.

Maricopa Wells, Feb. 23.—Mr. Burt
rived last night from Phoenix, on
Tucson. He reports that Salt River is
slowly at Whitlow's ferry. Also, that
Apaches had been in that vicinity, one
of which had some forty head of stock
were running off.

The Gila is still high, but can be
safely at Morgan's Ferry, three miles
here. The first mail from beyond the
Salt River for nearly two weeks is
to-night. The freight from Yuma is to
have been so time all the time, except
couple of instances, when they were
wait for low water.

Weather clear and pleasant.

Phoenix, Feb. 23.—Mr. C. E. Hays
rived in town to-day from the
reports that numerous Indians are to be
in that vicinity. A band of seven or
over eight at the foot of the hills near
town. They have stolen four steers
C. W. Bunch's ranch, and nine more
missing by various parties. A company
about six or eight was formed to guard
them, but concluded that in view of the
number of Indians the attempt would be
unsuccessful.

A new ferry boat has been built at
this crossing, so that in future the
the river will cause no delay to passenger
mail.

EXHIBIT 113

THE BUTTE HERALD

SATURDAY, JANUARY 28, 1874.

SALT RIVER VALLEY.

PHOENIX, February 25.—C. T. Hayden arrived in town today from Tempe. He reports numerous Indians in that vicinity: A band of seven camped over night at the foot of the hills near the town. They have stolen four animals from C. Hensch's ranch and nine more are reported missing by various parties. A company of six or eight men was formed to go after them.

In view of the number of Indians the attempt would be useless. The Indians were followed and tracked as far as the Pinal mountains, after which pursuit was given up.

A new ferry-boat has been built by Hayden's crossing on Salt river so that in future the rise of the river will not cause delay to passengers or mail.

The weather is clear and cold; mountains around the valley are covered with snow.

EXHIBIT 114

August 15, 1881

THE PICCNIX HERALD.

Monday, August 15, 1881

LOCAL LINES.

Well, Well, I should smile!

Some says there is a fruit called a "plumb."

A new quartz mill is advertised for sale in the HERALD.

Some one had better start a ferry boat on Washington street. It should pay good.

This is St. Mary's Day and the Mexican population is celebrating in consequence.

As will be seen by our adv. col. some Mrs. Annie White intends to go into business as a sole trader.

There is genius "man" game running in one of the Chinese stores of this city, engineered by a white man.

One melancholy drunk was up before Judge Campbell this morning and was sentenced to \$10 fine and five days in jail.

Arizona is a dry and arid country. Wonder what the sentiments of a tender foot, coming into the Territory at this time, are in regard to the matter.

The rain started in again last evening with renewed vigor and up to the present time has kept up nearly steadily, with a prospect of plenty more to come.

Postmaster Mowry is about the steadiest man in the country. For the past three years he has not missed a day at his office. Such vigilance is to be commended.

Today is the time set for the regular meeting of the Supervisors, but they failed to come to time. Guess the booming river and fathomless mud were too much for Supervisors Hayden and Gray.

Much complaint is made of the exorbitant prices charged by the ferry men over the Salt and Gila Rivers. It is suggested by a citizen that the Board of Supervisors fix a rate of charges for the ferrymen, as the river, from present appearances, will remain up for some time.

EXHIBIT 115

August 16, 1881

THE PHOENIX HERALD.

Tuesday.....August 16, 1881

LOCAL LINES.

The Black Canyon will left to day
in a hurry with J. W. McGinn as
driver.

All members are requested not to
forget the regular meeting of Art
Dana Lodge No. 237, P. & A. M. this
evening.

The protected and severe rains
have slightly damaged several alkali
walls, among the number being those
of Collins & Seand's mine.

The Grand Canal Mills have start
ed and will now exchange flour bran
and shorts for wheat on more liberal
terms than ever before.

George H. N. Luhn is building a
large skiff for the stage company, to
be used in transferring passengers
and mails across the stormy waters
of the Salt.

EXHIBIT 116

February 26, 1883

DAILY PHOENIX HERALD

J. J. GOSPER, W. A. MORFORD

GOSPER & MORFORD,
PROPRIETORS

Subscription Rates.

Daily Herald, per week..... 25¢
Daily Herald, six months..... \$ 5.00
Daily Herald, one year..... 10 00
Weekly Herald, three months... 1 25
Weekly Herald, six months... 2 00
Weekly Herald, one year, in ad-
vance..... 4 00
Same on time..... 5.00

ADVERTISING RATES THROUGH THE ADVERTISING
CLUB AND JOB RATES.

Take orders on file at all the Principal
Newspaper Agencies in San Francisco
and Eastern Cities.

E. U. Dobb, at Merchants' Exchange, is our
Special San Francisco Agent.

J. E. Bates, of Park Bldg. will act as our
New York Agent.

L. P. Fisher, at Merchants' Exchange,
San Francisco, will have the Herald on
file and attend business.

W. A. Morford, Editor and Manager.

Monday, Feb. 26, 1883

Monroe's Ferry Privilege Act is
meeting with great opposition from
your county.

EXHIBIT 117

Arizona Gazette.

One (1) Line is 10 cents per line for first insertion, and 5 cents per line for each subsequent insertion. Subject to No Discount.

PHOENIX, TUESDAY FEB. 10.

LOCAL BREVITIES.

1884

The river this morning was reported as being four feet higher than it was yesterday, and it was deemed unsafe to ferry passengers, nothing but the mail being carried across by the boat. The warm weather is melting the snow and a further rise is anticipated.

EXHIBIT 118

PHOENIX DAILY HERALD
February 19, 1884

A raft is being constructed on the Salt River to ferry across goods, as there is little prospect of the river's being fordable for some time.

EXHIBIT 119

February 19, 1884

THE HERALD.

COUNTY OFFICIAL PAPER.

Published Every Evening Except Sunday.

Tuesday . . . February 19, 1884.

LOCAL LINES.

Mr. Trumbull has had a boat built
at A. J. McDonald's shop, and took
it down to the river this morning,
where he will use it in getting over
some 60,000 pounds of freight that
lies on the other side, but is not
well suited to that side. Mr.
Trumbull is to receive 12 1/2 cents per
100 lbs. for bringing the freight over,
and doubtless plenty more will fol-
low, if he is successful in the at-
tempt.

Mr. Trumbull has had a boat built
at A. J. McDonald's shop, and took
it down to the river this morning,
where he will use it in getting over
some 60,000 pounds of freight that
lies on the other side, but is not
well suited to that side. Mr.
Trumbull is to receive 12 1/2 cents per
100 lbs. for bringing the freight over,
and doubtless plenty more will fol-
low, if he is successful in the at-
tempt.

EXHIBIT 120

Arizona Gazette.

ARIZONA ("") Local are 10 cents per line for first insertion, and 5 cents per line for each subsequent insertion. Subject to No Discount.

PHOENIX, WEDNESDAY, MARCH 5

LOCAL BRIEVITIES.

1884

The river rose nearly four feet last night, and has not yet reached its flood. In this connection it will be good news to our business men to know that the new freight-boat, the dimensions of which are 11x28 feet, will be completed and ready for business to-morrow.

EXHIBIT 121

March 17, 1884

THE HERALD.

COUNTY OFFICIAL PAPER.

Published Every Evening Except Sunday.

Monday March 17, 1884

LOCAL LINES.

Blacks.
Location Notices,
Quit-Claim Deeds,
Mergals and Sale Deeds,
Bonds and Mortgages, and Jus-
tice's Blanks of all kinds, for sale at
the HERALD office.

St. Patrick ball tonight.
St. Patrick dinner today.
St. Patrick race this afternoon.
St. Patrick big head tomorrow.
St. Patrick's Day, and a full moon
is it in, or w.

Good sweet potatoes at Whippley's.
The demand for real estate is on
the increase in the valley.

Trains are reported as running
regularly from Tucson eastward.

Call for Beera beer at the Beera
Beer Depot.

The telegraph line to the north is
at this writing again open.

The weather gives indications of
a permanent clear up.

A neat office is an eligible local-
ity, to rent on reasonable terms. In-
quire at the HERALD office.

Mails are coming in regularly now
from Prescott, but being potholed by
Prescott and way mail.

Harry Brock, of the Quit-Claim Pro-
cessor, has been made a Notary Pub-
lic for Quibria.

The spring mill about down on
Saturday night till means of moving
freight are again opened.

Another epidemic joint is reported

The telegraph line is up over the
Salt river, but down at the Gila, and
yesterday went down to the north,
so that yesterday and this morning
we are completely without commu-
nication with the outside world.

From a private letter we learn that
nothing official has yet been receiv-
ed at Maricopa as to when the regu-
lar trains will begin running, though
it is reported that they will go on to
Los Angeles today or tomorrow.

The railroad company is making
every exertion to open the road east-
ward to Los Angeles. Construction
trains and men have been brought
from divisions east and the work is
being crowded with all possible
speed.

The report has been circulated in-
dustriously in Tucson that the stages
from Maricopa to Phoenix were not
running. We beg leave to say that
with the exception of a day or two
about ten days ago, the stages have
been making their regular trips.

Mr. Geo. Tassan, an old-time Ariz-
onensis and at one time a resident of
Phoenix, returned by his old stamp-
ing grounds from Texas yesterday.
He arrived in Tucson a week ago
and has been waiting for passage
since, till on Saturday he mounted a
construction train and got through
to Maricopa.

The railroad eastward from Mari-
copa has not been washed out, as
reported, but mail and express trains
have not been running further west-
ward than Tucson on account of the
breaks in the road west of Maricopa.
We cannot understand, however,
why the railroad company does not
forward the mails for this section of
country.

The stages of the Arizona Stage
Company are and for some time
have been running on regular time,
making the transfers across Gila and
Salt River in boats. The latter river
is already fordable, and as soon as
the track has been made through the
quicksand between one of the boats
will be dispensed with.

The Ferry and Bridge Company
held a meeting on Saturday evening
at the courthouse. Messrs. Coats,
Byder, and C. Goldman were ap-
pointed a committee on construction
of boats, etc. Messrs. F. Fowler,
P. Minor, and J. M. Gregory were
made a committee on location of
ferries. Messrs. Fowler and Minor
left yesterday for the Gila to select
location. Mr. N. Rosenthal was
made a committee of one to perfect
the organization of the company.
The construction committee gave
an order today for the boat, the
building of which will begin at once.
The boat will be for the Gila ferry
and will be 48 feet by 16 feet. It is
intended to put this boat on as soon
as possible.

EXHIBIT 122

THE HERALD.

COUNTY OFFICIAL PAPER.

Published Every Evening Except Sunday

Tuesday April 9, 1884.

LOCAL LINES.

1884

Mr. A. J. McDonald is building a large ferry boat for the Gila and Salt River Ferry Company to be put on the Salt river below town. It will be of the same dimensions as the one out to the Gila, viz: 18 by 48 feet. It will be worked on an inch and a quarter steel wire cable and be a permanent arrangement.

EXHIBIT 123

PHOENIX HERALD
March 24, 1884

Ferry on Salt River.

Jesse Bryant and H. H. Hufstetter
have a good and safe ferry running
on the Salt river between Phoenix
and Maricopa, and it will be promptly
attended to both day and night.

(S) BRYANT & HUFSTETTER.

EXHIBIT 124

Arizona



Gazette.

PHOENIX, ARIZONA, MONDAY EVENING, APRIL 14, 1884.

DAILY

Small Boat.

Yesterday morning a mill for Macleod's was lost in Salt River. The mill and passenger are taken over in the mill which carries about 100 feet above the big boat. Yesterday it seems that both boats left the bank about the same time and the mill being washed down with the current struck the rear corner of the big boat on its upper side, and was at once overturned. Three passengers were aboard, but managed to jump safely into the big boat while the Mexican ferry-boat, Glub, was passing after a dark night. These unfortunate father-poor-stand by several spots of over-mill aboard, together with Wells, Zepko & Co's steamer was. The latter dented like a shell, and was pumped around. The small boat however, sank beneath the waves, as it were. James Stewart promptly reported on his boat, and presented a number of tickets to attempt to recover the small boat. Two feet previous were thus recovered, and search is still being made. Mr. Stewart offering a reward of \$50 for the recovery of each seat. The incident is attributed to the lack of judgment and decision on the part of the Arizona navigating the mill.

EXHIBIT 125

EXHIBIT 126

May 9, 1884

THE HERALD.

COUNTY OFFICIAL PAPER.

Published Every Evening Except Sunday

Friday May 8, 1884

LOCAL LINES.

The new ferry boat has got at work on the Belt River at last and is making up for its long delay and many mishaps by giving entire satisfaction, as it works splendidly. It carries over the largest freight wagons, loaded and with team, with perfect ease, and gives no trouble in its management.

EXHIBIT 127

EXHIBIT 128

The SMOKE SIGNAL

Published by the Tucson Corral of the Westerners

1988

No. 51

JEROME, MAN'S CHANGES TO ONE MOUNTAIN.

By Nancy R. Smith

THE GREAT FERRY WAR OF 1905 AND OTHER ADVENTURES ON THE GILA RIVER, ARIZONA.

By Mona Lange McCroskey

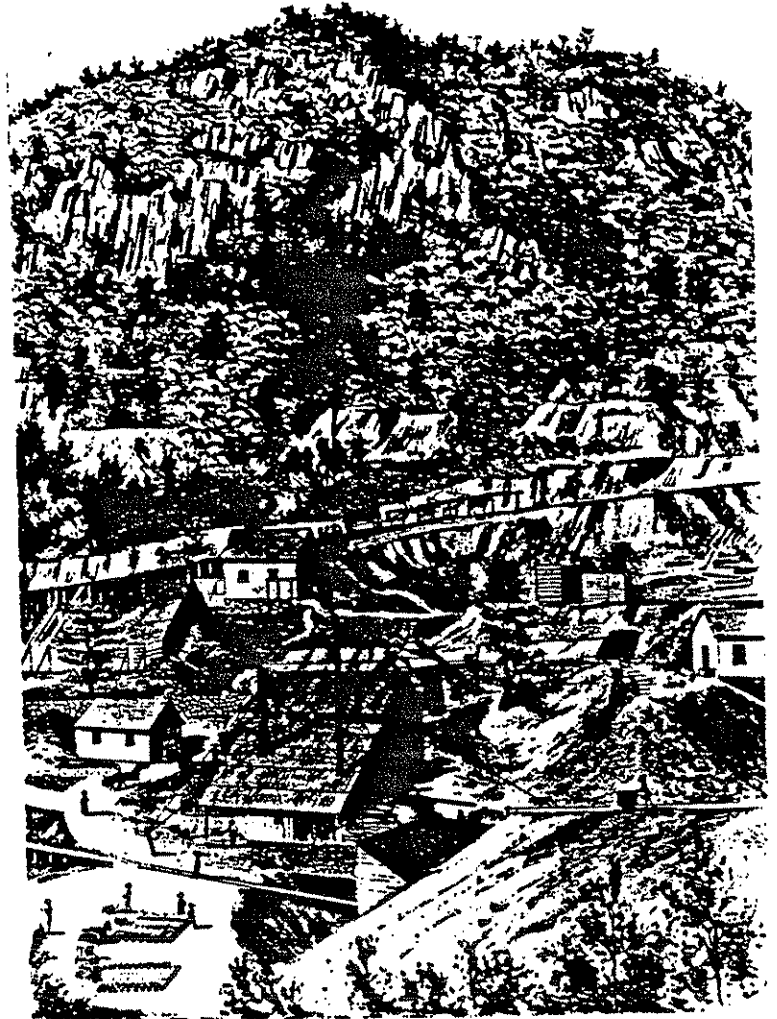
Under the Cover

Nancy R. Smith. . .

Nancy R. Smith, local historian, mother of two, and Vice-mayor of Jerome, describes the beginnings and life cycle of Jerome, Arizona. This factual account is enhanced with photographs showing the effects of man's digging in the earth for copper. Jerome, high atop Mingus Mountain, overlooks the Verde Valley and was at one time an extremely successful mining town of 15,000 inhabitants. Today it is typical of Arizona Ghost towns rescued by the advent of tourism.

Mona Lange McCroskey. . .

Mona Lange McCroskey has captured another adventure in the saga of early travel in Arizona. She describes a brief frenzy of activity that has been erased from memory in the progress of modern modes of transportation. The Gila River was in the line of travel from East to West which reached its peak in the Gold Rush. Unlike Jerome, there is no pictorial account, yet Mona's colorful description of events provides a stirring story of the river's place in Arizona history.



1880 United Copper Company

The Great Ferry War of 1905 and Other Nautical Adventures on the Gila River, Arizona

Mona McCroskey

Frontier exploration in the United States usually followed the river courses, which served as natural transportation routes. In the Southwest, however, American pioneers encountered a land without navigable rivers.¹ Senator Benjamin Wade of Ohio quipped, "Arizona is just like hell, all it lacks is water and good society,"² and John Gregory Bourke reported, "In Arizona . . . it has been remarked that one has to ascend the bed of a stream in order to get water."³ Some Southwest travelers were nevertheless determined to navigate the Gila River, and at times their efforts to simply cross it proved as newsworthy as their exploits in traversing its length. Few who chronicled these adventures took desert navigation very seriously, and accounts were often exaggerated and humorous.

The first to report on the navigability of the Gila River were members of official government expeditions. W. H. Emory of the U.S. Corps of Topographical Engineers went through Arizona in 1846 with the Army of the West. He opened, "The Gila, at certain stages, might be navigated [from its confluence with the Colorado] up to the Pimos village, and possibly with small boats at all stages of water."⁴ John R. Bartlett, leader of the U.S. and Mexican Boundary Commission survey in 1854, believed that the Gila River was navigable "as far as the Salinas [Salt] with small flat-bottom boats, during the season of high water."⁵ Four iron boats that could be disassembled were among Bartlett's supplies, but they proved unusable on the Gila.

Phillip St. George Cooke, who commanded the Mormon Battalion during the Mexican War, attempted to transport supplies down the Gila on a boat of two pontoon wagon-bodies lashed together. Henry W. Bigler, a member of Company B of Cooke's Battalion, was not enthused about the boating experiment, commenting in his diary, "This move of the Colonel's we did not like and we had forebodings it would not be a success."⁶ In fact, the boat did run aground repeatedly on sandbars in the Gila. The precious food cargo that could be salvaged was put ashore,⁷ and the pontoons floated to the Colorado River, where they were eventually put into use as a ferry.

Many 49ers traveling the Gila Trail to California during the Gold Rush were persevering in their attempts to navigate the Gila. Boats and rafts were among the many belongings abandoned along the way; however, some made successful voyages. In 1850 the *New York Daily Tribune* published an unsigned letter from a traveler at Camp Salvation, "in the middle of the desert between the Colorado River and San Diego."⁸ The writer reported that the "expedient of lightening down teams by building small boats on the Gila" had been tried and succeeded, and that in this way many Gila Trail travelers had reached the Colorado.⁹ H.M.T. Powell, a member of the Greenville, Illinois company, described many instances of building boats and converting wagon beds into watertight vessels. The Illinois company captain had trouble maneuvering his heavily-loaded vessel over the ubiquitous Gila sandbars. He found the river littered with deserted rafts, and felt navigation was practicable only for flat boats. In spite of these obstacles, he advised those planning to travel the Gila Trail to send their "heavy loading" by boats from the Pima Villages.¹⁰

In the winter of 1849 the Gila was navigated by a "maternity boat." A flatboat arrived in Yuma carrying a Mr. Howard and his wife, a doctor and a clergyman, and the Howards' newborn child. During the voyage Mrs. Howard had given birth to a son, appropriately named "Gila."¹¹ The Howard party was a

¹ Charles Harris, "Pathway to the Southwest: Transportation and Communication Along The Gila Trail" (M.A. thesis, Oklahoma State University, 1973), 2.

² Howard Roberts Lamar, *The Far Southwest, 1846-1912: A Territorial History* (New Haven: Yale University Press, 1966), 415.

³ John Gregory Bourke, *On The Border With Crook*. (New York: Charles Scribner's Sons, 1902; reprint, Glorietta, N.M.: Rio Grande Press, 1971), 30 (page reference is to reprint edition.)

⁴ Lt. Col. W.H. Emory, *Notes on a Military Reconnaissance From Ft. Leavenworth in Missouri to San Diego in California* (New York: H. Long and Brother, 1848), 94.

⁵ U.S. Geological Survey, *The Lower Gila Region, Arizona*, By Clyde P. Ross. *Water-Supply Paper No. 498*. Washington, D.C.: GPO, 1923, 27.

⁶ "Extracts from the Journal of Henry W. Bigler." *Utah Historical Quarterly* 5 (1932): 52.

⁷ *This loss of rations ultimately caused severe hardship and hunger as the Mormon Battalion marched into California.*

⁸ *New York Daily Tribune*, 8 February 1850, 4:2.

⁹ *Ibid*

¹⁰ H.M.T. Powell, *The Santa Fe Trail to California: 1849-1852* (San Francisco: Grubhorn Press, 1931), 16.

¹¹ Hubert Howe Bancroft, *History of Arizona and New Mexico* (San Francisco: The History Co., 1889), 489.

segment of a Missouri emigrant train nicknamed the "Crippled Ducks," who decided to separate from the group at the Indian villages, build rafts, and travel on the river. While curious Pima Indians looked on, the sailors dismantled their wagons, constructed two makeshift rafts, and embarked on the Gila, reportedly arriving in Yuma six days ahead of the wagon train. In Yuma, Lt. Cave Johnson Coutts, a Ft. Yuma soldier, bought the Howard boat and used it as a Colorado River ferryboat. From there it was taken to San Diego and used on the bay, thus undoubtedly becoming the longest-lived craft to have navigated the Gila River.¹²

Cruising down the Gila also challenged adventurers from time to time. One excursion from Phoenix to Yuma was reported in 1881, when a three-man crew departed on the "Yuma or Bust."¹³ The vessel, twenty feet long and five feet wide, was described as "staunch and tight." Nothing was heard about the "Yuma" for four days except rumors that the boaters traveled only twelve miles, "wading in water up to their knees, pulling the boat and apparently as happy as mud turtles."¹⁴ A week after the journey began, the sailors returned to Phoenix on the stage, claiming they had reached Yuma in six days. The editor of the *Phoenix Gazette*, however, said he had information that they got no further than Gila Bend, and reported, "The liquor having given out three days before, the crew sustained on bacon straight, enduring great hardships, being compelled to wade in the water the greater part of the time, while pushing the craft ahead of them."¹⁵

A remarkable trip was made by Glenton Sykes and his partner around the turn of the century in a light canvas canoe. The wayfarers were told in Phoenix that it was possible to get to Yuma by boat, and on the strength of this statement they constructed what Sykes described as "a fairly good little boat." Upon arriving at the launching site at the confluence of the Gila and Salt Rivers, Sykes allowed as how "they really should have looked at the river before they built the boat." Nonetheless, they embarked on the small trickle in the Gila River and towed the craft for about a half mile, until the water disappeared completely into the sand. The intrepid explorers then carried their skiff down the river bed, until finally "there was evidence of a little more humidity and they got the boat afloat once more."

Realizing they were in an irrigation ditch, but happy to be traveling in the right direction, the navigators stayed with the stream until they were beached in an alfalfa field.

Once again the boat was carried across the desert to the river, and the men floated down the Gila until they reached a weir dam. A "healthy stream" flowing through an opening at the crest of the dam was spotted, prompting them to attempt "a good exercise in rapid shooting." There was, unfortunately, the "inevitable pole or limb just under the water surface," causing the boat to capsize. Sykes was washed into a deep pool below the dam, but managed to climb out and reclaim most of their gear as it floated by. From that point on the adventurers had reasonably smooth sailing, and the trip took "three weeks or maybe six — time was a little more abundant in those days."¹⁶

Ferry operations on Arizona rivers were few, and most active during stages of flood. The best known, of course, was Hayden's Ferry across the Salt River at Tempe. From 1868 to 1874, a crossing was also maintained on the Salt on the Fort McDowell — Maricopa Road at Marysville. Little is known of the Marysville ferry. Later, Mormon settlers crossed at that location on their way to colonize Lehi. On the Gila River, William Henry Harrison Burke operated Burke's Station on the south bank, 12 miles west of Oatman Flat, in 1860-61,¹⁷ and a colorful character named Henry Morgan managed Morgan's Ferry, about three miles from Maricopa Wells on the Camp McDowell Road. Morgan built his station in 1867, and claimed to have "wore out four stoutly built ferry boats" in the next twenty-five years.¹⁸ During the great flood of 1891, stage and freight teams were put to use on the old Maricopa Road. They made use of barge-like ferries on the Salt and Gila Rivers, as did all wheeled vehicles. The Gila and Salt River Ferry Company, incorporated on March 24, 1884, was active until its charter expired in 1909.¹⁹

In the spring of 1905 heavy rains and the resulting Gila River floods disrupted the Phoenix and Eastern railroad connection between Maricopa and Phoenix, creating an unprecedented demand for ferry service at the Maricopa and Kelvin Crossings.

¹² Grant Foreman, *Marcy and the Gold Seekers* (Norman: University of Oklahoma Press, 1939), 306, FN 35.

¹³ The most notable crew member was William "Buckey" O'Neill, Spanish-American War hero and onetime mayor of the City of Prescott, Arizona.

¹⁴ *Phoenix Gazette*, 30 November 1881.

¹⁵ *Phoenix Gazette*, 3 December 1881.

¹⁶ Glenton G. Sykes, "Scraps From The Past." *Arizona Historical Society, Manuscript 776*, 109-110.

¹⁷ "William Henry Harrison Burke." Hayden Pioneer Biography File. *Arizona Collection, University Libraries, Arizona State University, Tempe, Arizona.*

¹⁸ Kenneth Arline, "Henry Morgan's Full Life." *Arizona Magazine*, 9 December 1984, 20.

¹⁹ *Records of Arizona Corporation Commission.*

The *Arizona Blade Tribune* in Florence kept its readers informed as brisk competition ensued between shuttle operators. The Florence Merchant Marine Company, The Kelvin Navigation Company, The Florence Commercial Company, and individuals offered varied ways of transporting freight and passengers across the Gila.

The first to offer ferry service was the *Gila Queen*, "a finely-constructed boat" owned by Florence Commercial. She once transferred over 8,000 pounds of freight, plus several passengers and their luggage, in one day. Freight for the Troy Manhattan and other mines in the Kelvin area was transported on the *Queen*, and on busy days she made as many as 15 trips. One single load of 1,500 pounds was ferried, "not bad for a rowboat," and the company had an order for two tons of cement for the Arizona Pacific Copper Company. The landing was said to have looked like "old times on the Mississippi."²⁰

The pilot of the *Gila Queen* boasted that he had served on the Mississippi and Missouri Rivers; the stroke oar said "he was born on a raft floating down the Arkansaw;" and the bow oar had been a chief bookkeeper in a steam laundry back in Kansas. Thus the newspaper assured its readers that they "need have no fear of crossing the Gila under the guidance and protection of this distinguished crew."²¹ Regardless, business did not always run smoothly for the deck hands of the *Gila Queen*. When a cable broke and the men and the cargo of whiskey and beer fell overboard, the inimitable crew hurried downstream for the lost merchandise, "which they were after to rescue at the peril of their lives."²² On another occasion, the barge broke away as the men were towing her upstream, and they watched incredulously as she floated away. The stroke oar "looked like a cork on a fish line as he bobbed about in the water," but he soon regained his composure and "rushed down the banks of the Gila in mad pursuit." The pilot plunged into the river with a bale of hay, calling for a paddle, and the third crewman was "stuck in the mud facing up stream," still pulling on the broken rope which was entangled on a snag in the river.²³ Two days later the *Queen* was found stuck in a mud bank near Cochran's Siding and returned on a railroad handcar to her moorings.

A boat lost by the Florence Merchant Marine Company was also safely recovered, and that com-

pany entered into an restraint-of-competition agreement with the transcontinental stage line in which it was "prohibited from operating its boats on any of the shallow seas between here [Florence] and Casa Grande that can be safely forded by the stages."²⁴ The Kelvin Navigation Company operated a flat boat attached to a 600-foot cable that stretched across the Gila, thereby preventing breakaways. It was disclosed that the Kelvin concern was "thinking of applying to congress for a subsidy for carrying the mail and for an appropriation for dredging the Kelvin harbor."²⁵

An ingenious method of crossing the flooded Gila River was devised by Jack Henness of Florence, who constructed a large cage which ran on a cable across the river. It had a capacity of one passenger besides the operator, and was reported to work "like a charm . . . Jack sets [sic] in his cage and smiles blandly at the crew of the *Gila Queen* as he passes over their heads."²⁶ Henness conducted a lively business, carrying freight for the Pinal Mercantile Company and the Arizona Pacific Company as well as travelers. He was dubbed "king of the Gila, for he has surely conquered that raging stream."²⁷ The cage handler was once approached by a prospector with three heavily-loaded burros, who asked, "Say, partner, can you take my mocking birds and grub across the river in that flying machine?" and in less than an hour the prospector and his outfit were safely on the other side.²⁸

By March 18 the *Mayflower* and the *Rey del Gila* had joined the fleet. They began issuing passenger tickets, and, as competition heated up, the fare for crossing the river dropped to 20 cents. Another prospective competitor failed to get his business started when his vessel, powered by hand-driven side propellers, was unable to negotiate the crossing. The *Blade* related that "The Gila current was mightier than human muscle," and "Nothing short of a ten horse power engine could drive a paddle wheel successfully in the Gila."²⁹ As proof, a 70-foot section of the Phoenix and Eastern Railroad floated down the river, with ties and rails intact.

Two weeks later John Michea and the Lorona brothers were carrying on a thriving business with their new boat, the *Gila King*. The *King* was 20 feet long, six feet wide, and guaranteed to safely carry a 3,000-pound load.³⁰ The *Gila King* line also initiated

²⁰ *Arizona Blade Tribune*, 4 March 1905.

²¹ *Ibid.*

²² *Ibid.*, 25 February 1905.

²³ *Ibid.*, 11 February 1905.

²⁴ *Ibid.*

²⁵ *Ibid.*, 25 February 1905.

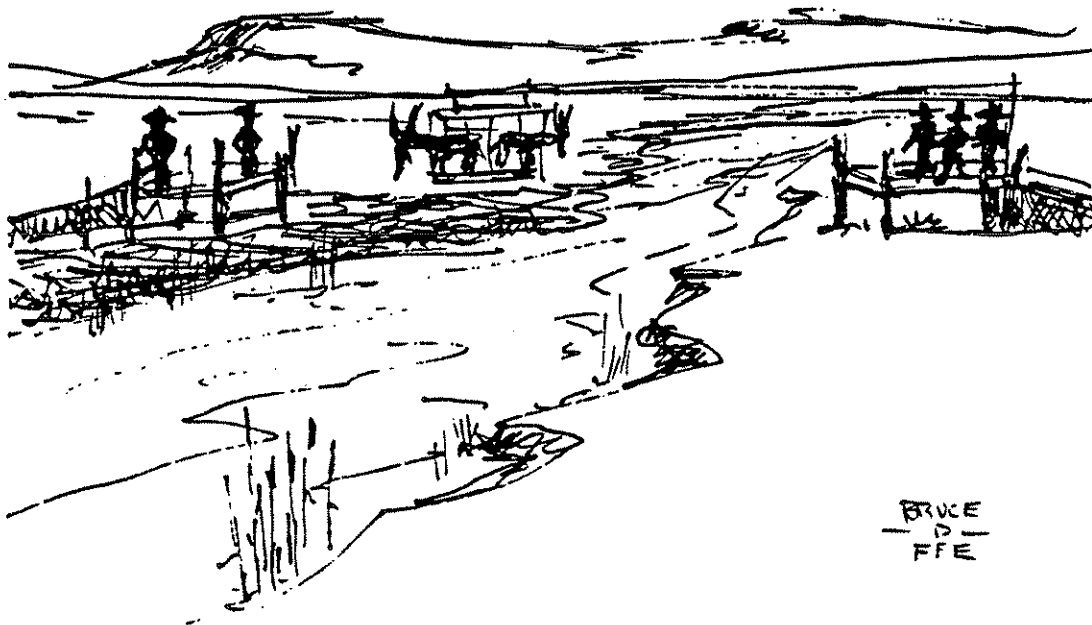
²⁶ *Ibid.*, 4 March 1905.

²⁷ *Ibid.*, March 11, 1905.

²⁸ *Ibid.*

²⁹ *Ibid.*, 18 March 1905.

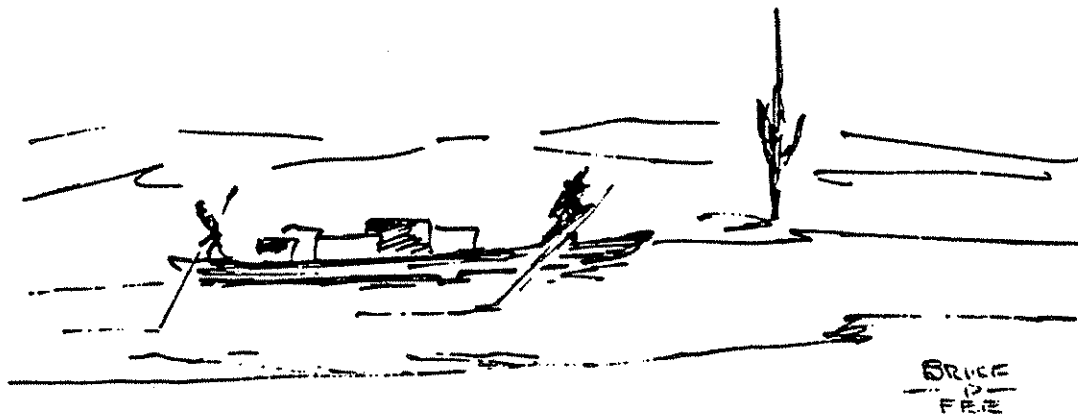
³⁰ *Ibid.*, 1 April 1905.



a hack service from Florence to the crossing, and 80,000 pounds of freight were ferried at Kelvin in one day, again "reminding one of stream boat days on the Mississippi."³¹ Pierson Bros. Ferry was incorporated to conduct a hack line and ferry between the P & E depot and the town of Florence, challenging Michea and Lorona. The "merry war" among the opposing ferry companies continued, "while a suffering public patiently awaits results."³²

On May 6, 1905, the ferry war came to an abrupt

end. Stock in the trans-Gila navigation companies plummeted, the ferry business on the river came to a halt, and the newspaper found itself without seafaring news. The reason for the sudden halt was that river had again become fordable, and "passenger and freight traffic between the P & E depot and Florence now goes on uninterrupted by the raging Gila."³³ But for three months in the spring of 1905, activity in the Florence area was enlivened by heavy ferry traffic across the Gila River.



³¹ *Ibid.*, 22 April 1905.

³² *Ibid.*

³³ *Ibid.*, 6 May 1905.

Meanwhile, in Phoenix, a "mysterious craft" was launched from the Phoenix shipyards in the spring of 1905, piloted by one Jack Shively, "admiral of the Gila River fleet." Shively's log of the voyage was printed verbatim by *The Arizona Republican*, the newspaper conceding that "it tells actually and by inference more things than could be related by the best newspaperman in the world."³⁴ Shively reported that while the crew was stopped for the second night of the trip, his partner awakened him with the news that the boat was "about to get away." The captain secured the boat, returned to bed, and was alarmed to hear the sound of the river banks caving off into the water. He hurriedly moved farther back from the water, and "In one hour our bed place was gone out of site [sic]."³⁵

The crew got an early start the next morning, and Shively related, "At about 7 o'clock we was capsized without any time to think til after we was under the bouling [sic] water." The captain managed to save the boat, but lost most of his cargo. When he arrived at "Heley [Gila] bend station," there was a letter from his son in Santiago. Shively wrote that he was leaving immediately to join his son, since "this is no place for me. I got nuff of the river to drink in the hieley [Gila] . . . One thing I will say no one has any business on that river with a boat less than 6 feet wide, 14 feet long, 3 feet hie an [sic] 2 good men . . . Jacob Shively."³⁶

Another ferry experiment was conducted on the Gila in December 1905, when the Maricopa and Phoenix railway bridge across the river once again washed out. The railroad issued a contract for the building of a boat to transfer passengers and mail until the bridge could be repaired. Specifications called for a craft 18 feet long, 5 feet wide, 3½ feet deep, and fixed for several pairs of oars. *The Phoenix Enterprise* reported that the boat would be the largest ever used at the Gila crossing, and "would carry three time the amount of the ordinary row boat." The launching, however, was a disaster. Several crossings were attempted, but each time the packet was swept downstream by the swift Gila current. The paper declared that the boat was built right, but "no matter how strenuous the efforts to navigate it, . . . the current was too swift."³⁷

There were other significant floods on the Gila River between 1905 and 1916, but none stimulated the resurrection of a successful ferry service. The changing times are reflected in a 1916 report that a Winton Six automobile skidded off "the latest edition in ferryboat building" into five feet of water in the Gila River,³⁸ and on September 30, 1916, a photo appeared in the *Arizona Blade Tribune* depicting members of the Third Battalion, 14th Infantry, fording the river in their Army vehicles.³⁹ Dams and bridges were being constructed across the Gila River, resulting in the demise of the ferry trade and putting an end to any further navigation attempts.

³⁴ *The Arizona Republican*, 3 April 1905.

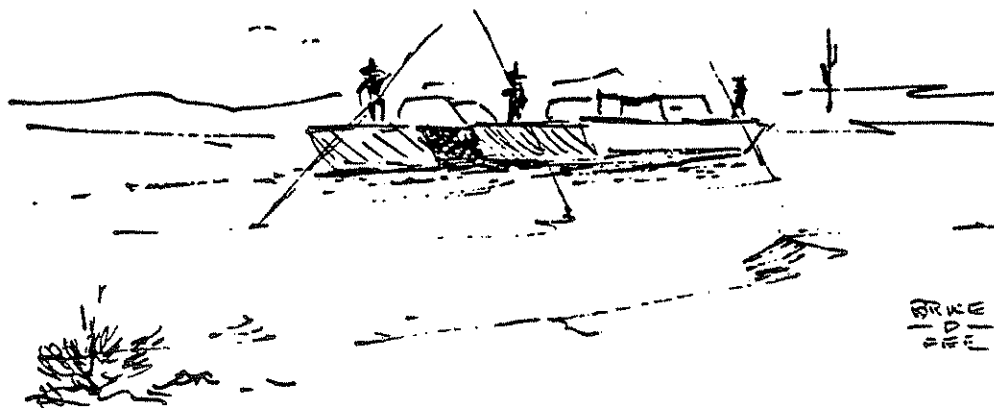
³⁵ *Ibid.*

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³⁷ *Phoenix Enterprise*, 9 December 1905.

³⁸ *Arizona Blade Tribune*, 9 February 1916.

³⁹ *Ibid.*, 30 September 1916.





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Mona McCroskey is a third-generation Arizona native, member of a pioneer Yavapai County ranching family. She received her Master of Arts degree in Southwest History from Arizona State University in December, 1987. Before pursuing her degree, she worked for more than 25 years as a legal and judicial secretary in Phoenix. Her most recent experience has been in archival work. She recently moved to Tucson, where she is doing free-lance writing. She has been accepted at the Graduate School of Library Science for the fall term of 1989.

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OR,

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AND

THE PACIFIC COAST.

BY

JAMES F. RUSLING,

Late Brevet Brigadier-General, U. S. V.



NEW YORK:

SHELDON & COMPANY.

1874

still a fine chime of bells, that came no doubt originally from Castile or Arragon. The age of this church is variously reported, but from a cursory examination it appeared to have been erected about the year 1797, although we were shown a mutilated register of marriages, births, deaths, etc., that began in 1752. This last, however, seemed to antedate the church, as if it had been in use by the Spanish settlement here in early times, before they were able to achieve such an edifice. This church was no doubt a link in the chain of Spanish Missions, that the Jesuits a century or more ago established, from the City of Mexico to Northern California, and was abandoned like the rest of them, with the subsequent collapse of their priestly power. No doubt, in its time, it was the centre of a considerable community there; but now, only a squalid village of Papago Indians crouches at its feet, who regard the aged structure with a superstitious reverence; and will not permit its fine chime of bells to be removed to Tucson, for fear of Our Lady's displeasure. The padre at Tucson comes down and says mass occasionally, and baptizes their young children; but he cannot cajole them out of their bells, and doubtless they would fight, rather than lose them. Altogether, this church is now the best and oldest civilized structure to be found in Arizona. Very slight repairs would fit it for occupancy and worship again; but, unfortunately, there are no inhabitants there now to occupy and worship in it, except the Papagos aforesaid—and as specimens of good clean Christians, they don't amount to much now-a-days, whatever they were once.

From Tucson, we retraced our steps to Maricopa Wells, reaching there again March 21st, *en route* to Prescott; and here had every prospect of being detained a month or more, by the spring freshets in the Gila and

Salado. While down at Tucson, there had been heavy rains, and a great melting of snows, on the mountains to the east; and the usually sluggish, half-dry rivers were now all alive, and booming. The Gila, especially, had overflowed its banks, and its whole valley below in many places was inundated. Ranch after ranch had been swept away, and in several instances the scant inhabitants had barely escaped with their lives, from its treacherous waters. The fine mesquite bottom at Gila Bend was reported four feet under water, and Mr. James' house, corral, etc. there—the finest we saw coming up the Gila—were all gone. The freshet was said to be the highest known there for years, and inflicted a loss on the Gila valley alone, it was alleged, of many thousands of dollars. The road was submerged or washed out in many places, and all travel to and from Yuma was interrupted for weeks, except such as could make its way around over the hills and mesas, by the old Indian trails. Col. Crittenden, with a column of three hundred men, *en route* to Tucson and Southern Arizona, succeeded in getting through to Maricopa Wells in fifteen days, though we had made it in five. He was accompanied by his wife, a brave lady and true-hearted Kentuckian, who deserved and received much praise, for the long and arduous trip she was thus making, rather than separate from her gallant husband.

These two rivers, the Gila and Salado, lay directly across our path to Fort Whipple and Prescott, for which we were now bound—Gov. McCormick and wife to return to their home there, and T. and I to look after U. S. post-office and military affairs there generally. They were both, swollen and turbid; nobody had forded them, for a month; and they were still at freshet height, and rising—without bridge or ferry.

As nothing better could be done, we decided to halt at Maricopa Wells for a few days, as we could neither get forward to Prescott nor backward to Yuma, though the delay was most vexatious at such an out-of-the-world place, where the mail was so intermittent, and their freshest newspaper more than a month old. We spent the time in writing up our note-books, and in studying the Yimas and Maricopas; but the days wore heavily on, with small prospect of the waters subsiding. Finally, after waiting nearly a week, chafing at the delay, we heard of a little row-boat owned by a German, down at the McDowell crossing of the Gila, which it was reported would suffice to ferry us over, if we took our ambulances well to pieces. We would then have to mount the boat on a wagon and transport it thirty miles or so, overland to the Salado, and there repeat the operation; but this was better, than halting indefinitely at the Wells. We had been told, there was no boat, available for such a purpose; but I determined to see what we could do, with this one. Of course, it would be slow work, and perhaps dangerous, ferrying over two swollen rivers, by piecemeal thus. But it seemed better, than being embargoed and flood-stayed here—practically five hundred miles away from everywhere—and with no news from "inside" or civilization, for over a month now. As to whether we would succeed, we could only say *nous verrons, or quien sabe*; but meant to try, anyhow.

Accordingly, early March 25th, we said "adios" to our good friends at the Wells, and, with many thanks for their hospitality and kind wishes, drove down to the Gila, some six miles away. We found it at freshest height, perhaps a hundred yards wide, by ten or twelve feet deep, and running like a mill-race—its tawny waters tossing and whirling, hither and yon, and overflowing its

thither bank for a long distance. Now and then, as if to enliven the scene further, a floating mesquite or an uprooted cottonwood would come rushing by, sweeping all before it. Altogether, I confess, the Gila was not a very inviting stream, just then, to navigate. But Louis Heller was there, with his little boat; Prescott was before, and the Wells behind us; and we resolved to venture over, if possible. His boat was a mere cockle-shell affair at best, a rude canoe, ten feet long by three wide, and clumsy at that; but Louis, nevertheless, with true German grit and skill, managed to make it ferry both us and our "outfit" safely across, in the course of the day. First, went our baggage and forage, with the Governor and his lady; then the vehicles, after being taken well to pieces; then, with much hallooing and shouting, we forced the mules into the stream, and made them swim for it. Only two or three got across at first, though the boat led with a mule swimming behind it, held by a lariat; but these served as decoys, and the next trip the rest ventured over. There was a great struggling and wheel-hawing in the water for awhile, and now and then a donkey would whirl over or go under, and some landed far down stream; nevertheless, we lost none, and soon after we ourselves got safely across. The little tub of a canoe tossed and tumbled very shakily, when she got out into the current, and for a few minutes shot wildly down stream; but the strong arm of our sturdy Teuton mastered the wild waters, and at last brought us safely ashore.

It was nightfall, before we got over, and our ambulances together again. The next morning early, we put Louis and his boat on a wagon, and started for the McDowell Crossing of the Salado, some thirty-five miles away. The Prescott Crossing, several miles below, was reported impracticable, even with the boat, because of

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the wide overflow of the banks there; but we hoped to get over at the McDowell Crossing, and then follow down the north bank of the Salado, until we struck the Prescott road again. It was late in the afternoon when we reached the McDowell Crossing, and the condition of the Salado there was anything but encouraging. We found it at least three times the size of the Gila, and with its waters even more swollen and turbulent. Nevertheless, it was perceptibly falling, and Louis predicted a much better state of things next morning. This proved to be true; so, early on the 27th, we began to ferry over again, as at the Gila. But it was a tedious and delicate operation. The river, as I have said, was three or four times as wide, and the swollen flood so swift, that the boat usually landed a quarter of a mile or more below where it went in. Then we had to drag and pole it back along the opposite bank, half a mile or so above, whence we could row it diagonally across to the place of starting again.

It took us two days, to cross the Salado thus, and I need scarcely say, they were long and anxious ones. We were now in a region infested by Apaches, and we had to be constantly on the alert to guard against surprise. Late in the afternoon of the second day, leaving our teamsters and little escort to get the ambulances together and repack them, we proceeded up the Salado to Fort McDowell—the commandant there having heard of our approach, and sent an ambulance to bring us. It was some fifteen miles, part of the way through a dreaded Apache cañon; but we passed safely on, though we did not reach the post until after nightfall. We found the post—the largest and finest in Arizona—short of rations, and wholly out of forage, as it had been for several weeks, because of the spring freshets, as it was

alleged, though there was plenty at Maricopa Wells, which it would seem might have been got there, if we could. This was suggested to the officer in charge, and no doubt was well heeded. We remained there until the next afternoon, inspecting the post and its bearings (it seemed admirably located for its work, well into the Apache country, protecting the valley of the Salado and the Gila), and then returned to our ambulances at the Crossing. The next morning, by sunrise, we were up and off, for the Prescott road—if we could find it. At Fort McDowell, they told us, we could never reach it. Some said it was thirty miles off—others claimed it was fifty or sixty, with an impassable country between. The only thing known definitely was, that there was no road at all down the north bank of the Salado, though we were sure to strike the regular Prescott road, if we kept along down that bank of the river far enough, and could get through. We might meet Apaches anywhere, they said, for it was one of their favorite tramping grounds, or we might go through unmolested, depending on circumstances. We had expected to get an escort of a dozen cavalry-men here, to accompany us to Prescott; but six cavalry-men, and six mounted infantry-men, were all the post could spare. The horses of these, though the best on hand, were so broken down for want of forage, that part were sent back before we got three miles out; and of the balance, only five went through to Prescott with us, by extra care and regular feeding with the grain, which we had taken the precaution to bring along from Maricopa Wells. An army wagon, with a six-mule team, also from Fort McDowell, furnished transportation for our escort, as the cavalry-horses successively gave out.

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Price...

The Racycle

The largest...
Location...
Price...

NEW MEXICO COUNCIL DEFEATS CURRY PLAN

Refuses to invite Congress to investigate Territorial Affairs.

LOGAN ON A REEF.

She Will Have to Stay There Until High Tide Comes.

Pacific Coast Shippers Will Advise a New Route.

NEW ROUTE CHOSEN.

Denver a Point on Lines to Los Angeles and Portland.

WEATHER TODAY.

Washington, March 15.—Fair Tuesday and Wednesday.

THE LOCKE LAW.

Sustained by the Louisiana Supreme Court.

CONSPIRACY SUITS.

The Government Examining Witnesses Against Harriman.

ETHEL BARRYMORE MARRIED.

Miss Ethel Barrymore married to Miss Harriman's manager.

A Quarter Section at \$75

100 acres of fine...
Location...
Price...

Dwight B. Heard

3. E. Cor. Center and Adams Sts.

The Racycle

The largest...
Location...
Price...

The Racycle

The largest...
Location...
Price...

EXHIBIT 131

BALCONY BARGAIN FRIDAY AND SATURDAY

Seventeen eventful values for these two days on the Balcony:

45-inch Drapery Silklines in all combinations of colorings, either solid or figured, regular 15c values. On the Balcony..... 9c

Full Bleached Crash Toweling, bordered, soft finish, the regular 8 1/2c kind. On the Balcony..... 5c

Our great lot of Embroideries in both Edges and Insertions, narrow and wide, up to nine inches wide, they're worth up to 30c. On the Balcony 5c

Shell Hair Pins, Barrettes, Side Combs, Ribbon Combs and Back Combs; a generous assortment at unheard of prices for Friday and Saturday. On the Balcony from, each..... 1c to 10c

36-inch Full Bleached Towel, Cotton Henck, good weight with fancy border, the regular 20c kind. On the Balcony..... 11c

About two thousand yards of Laces, both Vals, and Torchons, either edges or insertions, worth up to 12 1/2c. On the Balcony..... 5c

An extra special: Double width Egyptian Voile, soft, sheer and clinging, full 40 inches wide, always retailed at 75c; colors are light blue, pink, champagne, rose, and cream. On the Balcony 49c

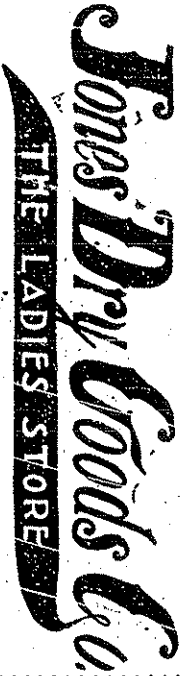
An unusual Glove opportunity: A regular 33c Lisle Glove, two clasp, in black only. On the Balcony 19c

And a regular \$1.25 value, in white, gray and tan; a good quality of Lisle, twelve button length; really a \$1.25 Glove. On the Balcony..... 79c

A solid counter of White Goods containing Dimitry, Persian Lawn, Nainsooks, Linon, and Madras, values up to 30c. On the Balcony..... 15c

A big assortment of Toilet Soaps. You will have to hurry on this; the supply is limited. On the Balcony..... 1c

Remember these prices are for Friday and Saturday only, and if you are wise you will be "On the Balcony" early Friday morning, for these prices will cause some articles to be quickly sold out. So come early and you will, as always before, find everything just as advertised.



VERY MUCH EXCLUSIVE

We are the leaders in original creations and novelties. The latest three, London Modes, French Alpacaes and Foxtails. The one best buy for your Easter Hat. No trouble to show you, whether you buy or not. The price will fit the pocket.

Standard Furniture Co.

A complete line of New and Second Hand Furniture, rugs, Crockery and Granite ware.

WE SELL FOR LESS

34-36 W. Washington.

WILL NOT BE UNDERSOLD

The Buckeye Lumber Co. is better prepared than any other yard in Phoenix to take care of its rapidly increasing trade. A large stock of good material, Saw and planer in connection, Furniture, Lath, Cement, Doors and Windows, Paints, Nails, Builders Hardware, Corrugated Iron and Fence Posts. You will make a mistake if you do not see us before you buy.

Buckeye Lumber Co.

Mont Anderson, Prop. E. W. Bahr, Mgr.

ARIZONA SCHOOL OF MUSIC

North Center St. Phoenix, Arizona

HAZELTON'S CAFE.

Eat with us. We serve the best. Open until 1 o'clock every night. HAZELTON'S CAFE. 44 North Center St.

PARTIAL LIST OF OFFICIALS

(Continued from Page One)

proposed to amend the bill after it had been reported.

Before the speaker had succeeded in making his position quite clear the bill had been reported. It could therefore have no further progress, without a suspension of the rules, which was impossible. Accordingly, the vote by which the report had been adopted was reconsidered and the bill was thrown open to amendment. The amendment consisted in a provision that only taxpayers should have anything to say regarding bridge matters.

Mr. Wolf, who was hostile to the bill, sought to amend it further by making it effective on January 1, 1911. There was no support of this amendment and the bill was passed. Its progress was watched by fifty-five members of the Phoenix Board of Trade, who had received word after noon that the bill was in danger.

It was immediately sent to the council, which concurred in the house amendments.

The Anti-Cigarette Campaign.

There was a discussion in the house in the morning session and a resolution of it in the council in the afternoon against the cigarette bill. It was made by a gallery full of children of the eighth grade of the Central school, chartered by their teachers, Mr. Jensen and Miss Campbell. It was made known to the house that the children desired to present a petition urging the passage of the Morrill bill to prohibit the manufacture and sale of cigarettes in the territory.

The bill was read in the house by Albert Phillips, through the courtesy of whose desk, through determined vote, carried the earnestness of the young campaigners. The bill was subjected to some amendment in the house. It was made to take effect on December 31 of this year, and the prohibition of the manufacture of cigarettes was stricken but at the suggestion of Mr. Duffy, in whose home a town of "Sogales" there is a cigarette factory.

An attempt was made further to amend the bill by prohibiting the sale of cigarettes to youths under the age of 18. That failed. The bill was then sent to the council, where the Central school delegation appeared later in the day, but no further action was taken on the measure.

Signed Bills.

The following bills were yesterday approved by the speaker:

House bill 76, for the abolition of lotteries and raffles.

House bill 89, providing for the employment of deputy recorders.

House bill 64, by Mr. Bailey, amending the insurance laws.

House bill 171, the amended Sutter bill, providing for the use of typewriters in offices of county recorders.

House bill 21, by Mr. Hogwood, amending the game laws.

House bill 86, by Mr. Hulley, amending the law relative to the admission of attorneys.

House bill 28, conferring additional powers on district courts in dealing with delinquent children.

Council bill 121, by Mr. Hampton, fixing a uniform course of study in normal schools.

Council bill 134, authorizing the territory to convey to Florence the streets and alleys of that municipality.

Council bill 143, amending the law regulating mining locations.

Council bill 62, by Mr. Burns, for the protection against destruction or interference of lines for the transmission of electric power.

Council bill 66, by Mr. O'Snell, providing for the taxation of telephonic, telegraphic and express companies.

Council bill 86, by Mr. Finley, fixing the license for the sale of liquor on trains at \$350.

Council bill 42, providing for the payment of wages of deceased employees without probate court proceedings.

Council bill 45, creating the office of county road superintendent and abolishing that of road overseer.

Council Business.

The council, on assembling in the morning, took up Mr. Moore's house bill, No. 118, the anti-starry bill, and passed it. This bill leaves the legal rate of interest at 8 per cent and places the limit at 12 per cent. No contract can be made for a higher rate. If such a contract is attempted the lender is liable that of null and void.

Council bill 42, providing for the payment of wages of deceased employees without probate court proceedings.

Council bill 45, creating the office of county road superintendent and abolishing that of road overseer.

Proof That Charcoal Will Absorb Impurities

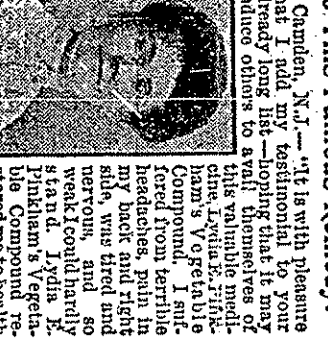
Many People Are Not "From Missouri." But they like to be shown A Simple Yet Effective Test.

Frequently people like to know if an article will do all that is claimed for it, and we agree with those people for it is in perfectly right that they should know. The P. A. Stuart Co. has gone to considerable expense to perfect some simple method by which it could be convincingly proven that their Charcoal Laxatives possessed all the medicinal qualities claimed of them, and herein print a simple yet effective proof.

Take anything which emits an objectionable odor and place it in some convenient place, say in a box or something that can be easily covered. Then pulverize sufficient of Stuart's Charcoal Laxatives to completely cover the contents of the container. Care must be taken that the pulverized charcoal completely envelopes whatever the odor is coming

MORE PINKHAM CURES

Added to the Long List due to This Famous Remedy.



Camden, N. J.—"It is with pleasure that I add my testimonial to your already long list—hoping that it may induce others to avail themselves of this valuable medicine. Lydia E. Pinkham's Vegetable Compound cured me in three months. Mrs. S. A. WIZLANSKY, R. F. D. No. 14, Box 50, Gardner, Me."

Because your case is a difficult one, doctors having done you no good, do not continue to suffer without trying Lydia E. Pinkham's Vegetable Compound a trial. It surely has cured many cases of female ill, such as inflammation, ulceration, displacements, fibroid tumors, irregularities, periodic pains, backache, that bear-down feeling, indigestion, dizziness, and nervous prostration. It costs but a trifle to try it, and the result is worth dollars to many suffering women.

shall not only forfeit all interest but he shall be made in a sum equal to twice the difference between the contracted rate and the maximum rate, which shall be deducted from the principal.

The council also passed the Morris house bill making it a felony for men to live off the shameful earnings of women; to procure women for immoral purposes or to seduce them for purposes of prostitution. The penalty for a violation of the law is a term in the penitentiary of not less than one year and not more than five years.

Mr. Bailey's bill to prevent saloons, gambling houses and other immoral places within 700 yards of a normal school was amended and passed. The amendment limits the prohibition to saloons, for the reason that there can be no gambling houses in the territory. The distance is reduced to 600 yards from the center of the normal school grounds. That would serve the purpose of the bill, which was to remove a couple of small Mexican saloons at Tempe.

A favorable report on the substitute council bill for Mr. Woodbury's bill to encourage the construction of railroads was adopted, the president vetoing the tie of the day before by voting in the affirmative. The passage of the bill was preceded by remarks against it by Mr. O'Snell, Mr. Finley, and Mr. Charles. Mr. Finley, speaking, said that he would admit the sincerity of Mr. O'Snell's bill, but he did not believe him with being interested in an electric rail road to be built into the Buckeye country and that he therefore wanted to head off competition. Mr. O'Snell replied that he was interested in any electric road. He said, however, that there was one to be built from Phoenix to Buckeye, and that it would be discriminated against by the bill which exempted only steam roads from taxation for a period of ten years.

Mr. Storch's house bill, authorizing supervisors in first class counties to employ assistant clerks of courts at a total compensation of not more than \$1,600 a year, was passed. The greater part of the session of the council was consumed by resolutions during which a special committee composed of the president, and Messrs. Hampton, O'Snell, Finley and Finley, considered the appropriation bills. Those bills were again taken up in executive session after the disposition of the executive appointments. The council at ten o'clock adjourned to 9 o'clock this morning.

The business of the house, passed the house yesterday, passed the senate bill amending the law for the collection of delinquent taxes by selling it of much of the expense, which in many cases proved ruinous to taxpayers.

The O'Snell council bill requiring banks to keep two-fifths of their deposits in the bank was passed. The house concurred in the council amendments to the following bills:

The Pearson measure, providing for the use of stenographers in grand jury rooms.

The house concurred in the council amendments to the following bills:

The Bailey bill, prohibiting saloons within 700 yards of a normal school, and the Morris bill making it a felony to live off the shameful earnings of women. The Woodbury council bills, one for the adoption of the provisions of the Carey act, and the other providing

NEW BASEBALL TEAM BEING ORGANIZED

E. Rudolph picking Up a Bunch of Crank Players.

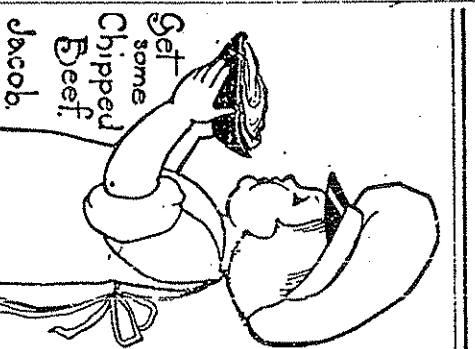
E. Rudolph is engaged in a grand organization of amateur and semi-professional baseball interests, and anticipates to the wide world that he proposes at once to present a team to defend the honor of Phoenix on the diamond, the ground of which has not found an abiding place here for many a day.

Rudolph will be manager and he can throw ball a little himself when it becomes necessary. He says he has enlisted in the cause a fine bunch of recruits and there are more coming. He has Tabben and Warner and Messerlin lined up, both with promising credentials. Others have indicated their willingness to affiliate with a good team. The new team will begin practice this evening at 5 o'clock on the Polo street grounds and every baseball player who has good timber in him is invited to show up and let the people know what he can do.

The practice will be kept up every evening between 5 and 6 o'clock and a feature of the new organization is to be on time and the prizes are to be on time and a date is to be considered a date and not a half made engagement. A game with the Maroons has been scheduled for a week from Sunday at 2 p.m. at Pasteille park and that does not mean 2:30 p.m. but 2 sharp. Manager Mitchell of the park has agreed to have the grounds in good shape for any and all games.

Manager Rudolph is informed that at both Wickenburg and Congress the gold diggers are organizing ball teams that are supposed to be competent to take on outside contracts and they hint that they would like to try out Phoenix if the capital city can get somebody to stand up before the fight. Mr. Rudolph thinks he has the right sort of a bunch to stand after they get a few days practice and in due time will hand the burgers and the Congressman a job.

Call at the Owl Pharmacy and get a free drink of Vita-Zone today between 9 and 11 o'clock a.m.



Get some Chipped Beef Jacob.

Our store is going to give two tickets, free to the Alaska Yukon Fair, commencing April 1st.

MCKEE'S Cash Store

AND IF YOU LIKE

STAYS OPEN ALL DAY
CASH AND CREDIT
BEAT ANYWHERE
Door Closes 5:27



THE

Until

discounts:

Heating Stoves

Cook Stoves

Trunks, Suitcases, etc.

Comforts

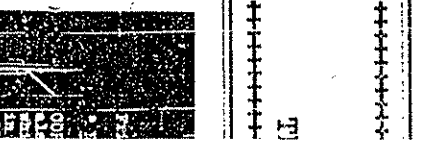
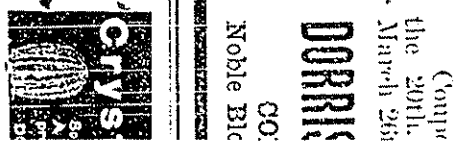
Table Center

All Axmin Rugs

Compare the 20th. March 25th

DORRIS CO.

Noble Bldg



W.A. Phillips

THE sets the prices higher than any other store in the city. Good and F. M. McKee

Ind Phone Main

ALWAYS C 5c

We buy only

EXHIBIT 132

SLOAN

The package had been practically described upon as described.

RETARY YOUNG

A challenge to Johnson for another fight.

Will Be Sent to the

Appointment the Secretary

Request by Wire the

Age-Rumor and Conjecture

of the Judicial Vacancies

shalskip.

6.—(Special).—The gov-

to-day by the selection of

be sent to the senate on

George U. Young as seve-

in the dispatches of

impairing by: Hoyal Smith

is, called on the president

interview with him on ter-

at the White House that

the governorship at great

sake of harmony and in

will accept.

receiving telegraphic con-

territory and he is very

in which his selection has

TARIFF FIGHT

gets warm

GETS WARM

First Day of Discussion of the

Bill for Amendment

Chairman Payne Discovers

FEW CHANGES EFFECTED

That the Women Who

Have Criticized Bill Have

Been Made Catpaws by

Importers of Hostery.

Washington, April 6.—Wrangling,

THIRTEEN SCHOOLBOYS ARE

DROWNED.

DEMOCRATIC

CANDIDATES

Nominated by the City Conven-

tion Last Night

ONE VACANCY, MAYBE, MORE

Nominees For Mayor and

Councilmen Pledged to

Leave Undone What Re-

publican Administration

Has Done and Vice Versa.

THE ASSOCIATED PRESS STORY.

Washington, April 6.—(Special) Fact

IRA M. BOND

and soon and other resigna-

TEHOOD.

6.—(Special).—Delegate

for Councilman From the

First Ward--All Other Can-

didates Chosen to Succeed

Themselves in Office.

REPUBLICAN

NOMINEES

The City Convention Ticket

Named Last Night

L. B. CHRISTY FOR MAYOR

Charles A. Stauffer Selected

For Councilman From the

First Ward--All Other Can-

didates Chosen to Succeed

Themselves in Office.

SOMETHING

FOR YOU

A TRAITOR KILLED.

A Man Implicated in the Portuguese

Assassination.

Labor, April 6.—Serrano Lina, who

YOU WILL ALWAYS

find something

REPUBLICAN

WANT ADS

They always

bring results.

\$50,000 IS

SUBSCRIBED

This Amount Raised Toward

Center Street Bridge.

A ROUSING MASS MEETING

ATTACKED IN THE NIGHT

Longest Concrete Bridge

Two Owners and a Herder

Murdered While They

Slept by Fifteen Masked

Men--Story Brought Away

by Escaping Herders.

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YOU WILL ALWAYS

find something

REPUBLICAN

WANT ADS

They always

bring results.

Do you want a FIVE-ACRE TRACT?

I have a five-acre tract about one

SHEPHERMEN

SLAUGHTERED

Another Bloody Incident of the

Wyoming Range War

ATTACKED IN THE NIGHT

Two Owners and a Herder

Murdered While They

Slept by Fifteen Masked

Men--Story Brought Away

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REPUBLICAN

WANT ADS

They always

bring results.

revolutionary uprising of January

1908 when King Carlos and the crown

prince of Portugal were assassinated

and slain in this city to-day.

The net was one of revenge.

Lima was hated by his fellow-sol-

diers and the population. The mur-

derer was arrested but refused to give

any explanation of his act.

NEW YORK PRIZE-FIGHTING.

Albany, April 6.—Following the prize

fight at the National Athletic club in

New York city, March 26, between

Stanley Ketchel and Jack O'Brien,

complaints were received by Governor

McDonough that the prize-fighting

was being violated. The com-

missioner Hingham, District At-

torney Jerome and the assistant at-

torney in New York city, ask-

ing to investigate whether the law

was being violated, and if so, to

endeavor to bring about the enforce-

ment of the law.

The governor has not taken up the

question with an idea of interfering

with an idea of interfering about

legislation against prize-fighting, in-

asmuch as such laws already are on

the statute books.

THIRTEEN SCHOOLBOYS ARE

DROWNED.

Kametz, Bohemia, April 6.—Thirteen

schoolboys were drowned near here to-

day as a result of a flood which over-

ran a bridge over the river. The struc-

ture collapsed.

DEMOCRATIC

CANDIDATES

Nominated by the City Conven-

tion Last Night

ONE VACANCY, MAYBE, MORE

Nominees For Mayor and

Councilmen Pledged to

Leave Undone What Re-

publican Administration

Has Done and Vice Versa.

Washington, April 6.—The democratic

city convention was held last night and

the following ticket was chosen:

Mayor—S. H. Baerlester.

Councilman, First Ward—Stinson

Graham.

Councilman, Third Ward—Eugene

Hudson.

Councilman, Fourth Ward—

W. H. Davis.

Assessor and Collector—B. E.

Pascoe.

Treasurer—Vernon L. Clark.

confrontation, cautious objections, person-

alities, and language bordering on

vituperation, marked the first day's

discussion of the Payne tariff bill for

amendment in the house today. With

virtually a full attendance, members

were wrought up to a high tension

and were prepared to fight to the

last ditch for the things their con-

stituents demand.

Nearly the entire day was consumed

in discussing the lumber and hides

schedule. The advocates of free im-

port went down to defeat by the ma-

jor margin of six votes following the

striking out of the conference clause

on lumber. The tariff schedule came

on tomorrow. The tariff schedule came

on tomorrow. The tariff schedule came

on tomorrow. The tariff schedule came

on tomorrow. The tariff schedule came

on tomorrow. The tariff schedule came

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on tomorrow. The tariff schedule came

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Washington, April 6.—In honor of

Takuro, Sakai, commissioner general

and Hikido, Wada, commissioner of

the Tokyo exposition, who are in this

country in the interest of the Japanese

world's fair, a dinner was given at the

White House tonight.

Among the other guests who sat

down in the state dining room were

the Japanese ambassador, and Haruo-

ness Takahira, Secretary and Mrs.

Moyer and Secretary Ballinger.

WASHINGTON HONORED.

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Moyer and Secretary Ballinger.

WASHINGTON HONORED

EXHIBIT 133

(A, 5:3)

Mesa

Department

Summer Dress Shirts

The most elegant line ever received in the city, including fancy and practical patterns in Soisette, Pongee Silk, Pongette, Jap Silk, Madras and Chambray, in all the new and old shades.

We handle the celebrated Lakewood line of shirts which within itself is a guarantee. Here is the secret of our low prices on good shirts: We are jobbers and buy in large quantities. We can buy cheaper and as a result can sell cheaper than our competitors.

The Lesueur-Gibbons Co., Mesa, Arizona

Mesa Butter

A strictly fancy creamery product for table use, always pure and fresh.
The Mesa Dairy & Ice Co.
Manufacturers.

For Sale by All Leading Grocers in Arizona and Mexico.

LADIES' E. D. C. O. MAN-TAILORED DRESS SKIRTS

Our stock comprises an excellent showing of modest styles in Vellies, Serges, Mohairs, etc. If you want something good see the line.
Yours truly
A. HUNSAKER.

Everybody's Drug Store

It is the best. Watch for the opening day. Mesa, Ariz.

THE ROOSEVELT STAGE CO.

will take you through to Roosevelt from Mesa in ten hours. One of the most scenic stage routes in America. Five relay. Phone us for information. Fare, \$6.00.

MESA-ROOSEVELT STAGE CO.

MOWERS, RAKES, FARM IMPLEMENTS.
Car load just received. The season is on. Buy now from our large stock.
THE O. S. STAPLEY & CO.
Mesa, Ariz.

Piano Sale

Opened in
Mesa April 2d

We have secured space with the Arthur A. Jones Furniture Store, in Chandler Block, and have shipped balance of stock left from our Phoenix sale, which closed April 1, to Mesa. Stock on sale consists of Pianos which we purchased from Hamilton Bros.

MESA THE BATTLEGROUND IN BRIDGE CONTROVERSY

Facts and Figures Poured Out at a Mass Meeting.

The pros and cons of the location of the wagon bridge across the Salt river at the Center street location, assembled in Mesa yesterday afternoon and for an hour or more poured facts and figures in on Mesa citizens in staggering array. Tempe as well as Phoenix was well represented, but Phoenix had the floor throughout the meeting.

Dr. Chandler was chosen chairman of the mass meeting which convened in the Mesa Opera house at three o'clock and after a few perfunctory remarks introduced the first speaker of the day, L. H. Chalmers. Mr. Chalmers showed the map in his remarks and showed that he had made a considerable study on bridge building and the proper locations for structures on the Salt river.

Dwight B. Heard, who has come to be featured in the controversy was the second speaker on the program, and the subject assigned him was a bit of history in regard to the Center street structure, as far as it has progressed. Mr. Heard, of course has his finger on the pulse of the situation better than any man interested and he was loaded for bear. In this respect it might be stated that he had everything at his fingers' end. One point he brought out which appeared to have a new meaning was that he understood that it was the idea of the Tempe citizens that they were opposing the Center street location on account of expecting the trade from the lands to be colonized by the Bartlett-Heard company. He stated that \$50,000 would be paid in the county treasury within thirty days if the location was made at Center street.

Iroy Goodrich was the next speaker. He talked from the standpoint of the tax payer and the burden that would be imposed. On \$10,000 of taxable property the tax on account of the bridge would be \$32, and there would be two years in which to pay it. Then he described the advantages of the bridge.

Mr. Mayberry of the National Bridge company was the next speaker. He had just arrived from a trip to Roosevelt and he spoke principally of the grand scenery along that road. H. L. Smith of the Union Iron Works of Los Angeles followed with an array of figures on the cost of the bridge. He went into details regarding the Center street structure, but he declined an invitation to make a comparison between the two sites. Dr. B. B. Mouton of Tempe spoke in favor of the bridge at that site. He was asked by Mr. Heard if Tempe wanted a trolley line on the bridge. He replied in the negative.

Eugene Brady O'Neil followed with a very sarcastic address on taxation. He roasted Tempe on an old score, for not coming into the Water Users' association.

H. A. Fowler, the last speaker, was very brief, and of course advocated the Center street bridge.

THE LARGEST PICNIC IN POINT OF NUMBERS

A Gathering of Pupils of Letter Day Saints Sunday School.

The Sunday school picnic of the Letter Day Saints church which was held at Granite Reef all day yesterday is the largest of the season in point of numbers and a general good time. The plans had been made to meet in front of the opera house at 7:30 yesterday morning, but this proved a little too early for a great number of those intending to go and many did not get started until nearly 10 o'clock and some even later. The principal route was east along the Roosevelt road to a point on the other side of the Highland canal. The

SOUTH SIDE VISITED BY ORANGE EXPERTS

PLEASED WITH CONDITIONS

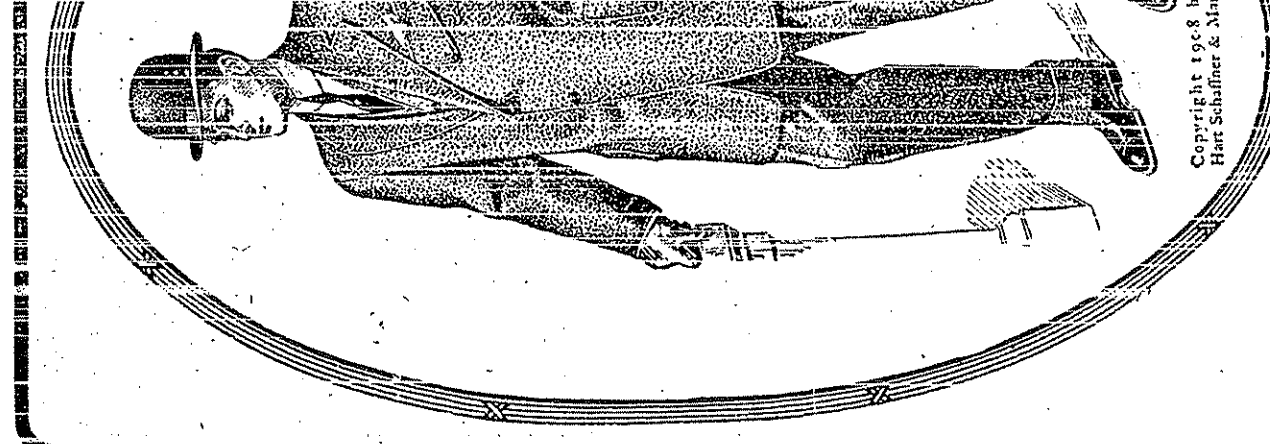
The Things Necessary to be Done to Make the Citrus Industry a Success

In view of the fact that the orange industry in the Mesa section in a few years promises to overshadow every other and that this will be recognized as a community of citrus fruits the visit to the south side the past week of a distinguished party is of interest. Dr. Wood, assistant of the chief of the bureau of the plant industry of the agriculture department at Washington; G. Howard Powell, also of the agricultural department, an expert on fruit transportation and marketing, and also Edwin Allan Chase and son, Harry Chase, of Riverside, California, were of the party. H. S. Reed of the reclamation service accompanied the gentlemen to this place where they were met by Messrs Spangler and Stapley in their autos and with Dr. Chandler as guide, the party was complete.

However, the importance of the visit to this section is not so much from the fact that men of such high standing in governmental affairs declined upon a trip to this particular section of the Salt River valley and will do more to advise this section than a good many men of lesser knowledge of the citrus industry, but in the importance of the visit lies rather in the many points and sidelights given: of the culture of the orange tree by men who have devoted their lives in getting these ideas.

In the first place a might be party to say that the route of the party was to a point northeast of the city near the Highland canal thence south along the irrigated section by way of the Spangler Sheep company's holdings thence south to the Chandler ranch for luncheon. Immediately after the noon meal, a run was made in a northerly direction toward Mesa, but levitating toward the west before the city limits were reached and the course was direct toward Tempe. Tempe was passed to the right and on the date farm was the next point on the itinerary. The journey was continued on down the river to the Bartlett-Heurt place and then the trip back to this place was made, the party coming through Tempe. The route is given to show that the territory covered included practically every kind of soil to be seen in this section, and possibly no greater variety of soils could be found anywhere else on the south side. In another seventy mile drive which was the length of the one described above, it might be well to add here for the benefit of those who are skeptical on the uses of the auto for practical purposes that the trip was made without a hitch of any kind. At the outset it is needless to say that the gentlemen who are visitors to the valley were led in their travels and had no hesitancy in pronouncing this the finest section in the United States. They even went farther and drew a fine distinction between the north and south sides of the river and gave it out as their unqualified opinion that the South side has advantages and characteristics over the North side which place us in a class ahead and by ourselves. However, it is not the purpose of this article to recount the many complimentary remarks but rather to deal with the cautions for the uninitiated orange grower who expects in a few years to begin on an industry which in this will be the mainstay of the valley.

The key note was that the only thing for the orange grower was to get together and form a strong organization. They advocated cooperation at all times. This, they argued would be useful in getting concessions from the railroads, in rigging the pests that may come and in many ways which are bound to come upon a new industry unsheltered and from the far without warning. Mr. Chase who is one of the largest orange growers in the world, having an ac-



Copyright 1908 by Hart Schaffner & Marx

for your wanting the them. This store is Marx clothes.

THE

For Men

many spectators may pass upon it, that it is liable to pass and be the mark of starting a tree disease and it will take twenty years and millions of dollars to eradicate. Irrigation was another point that the gentleman took up. If the people in California had as much irrigation water as we people have here, they would, indeed, think that this was flood-out. There is undoubtedly too much water. You are doing your best to get an industry and you are learning not to get it out of your hand or rather you are getting in the habit of not getting it out of your hand. In view of the fact that there is an immense acreage of orange trees set out here this spring, and that the government has upwards of a hundred men who are experts in this line and whose business it is to correct and also disseminate this information, the question is not what Mr. Powell in an effort to learn what it would take to get an expert stationed at Phoenix, it would be better to have a steady stream of

EXHIBIT 134



TEMPE DEPARTMENTS

Published 4-17-1909

W. J. Kingsbury, Pres. H. G. Gorson, Cashier.

Farmers' and Merchants' Bank

Tempe, Arizona.

If you want to lend or borrow money on real estate, see us.

EASTER NOVELTIES

See our front window for the latest ideas. Everything to please the children.

LAIRD & DINES, DRUGGISTS, Tempe.

LILY MILK

Is prepared to meet the demands for a milk that is perfectly sanitary and whose purity is a known scientific certainty. For sale by all first class grocers.

PACIFIC CREAMERY COMPANY, Tempe, Arizona.

See These Bargains

40 acres with a good brick house, full pro rata of Tempe water and otherwise well improved; a half mile from the Normal school. A twenty acre tract 2 1/2 miles from town. Good house; one eighth of Tempe water; standing crop of grain and alfalfa. Both of these pieces of land are exceptionally good buys and will be sold reasonable if taken at once.

ANDREW NIELSON--TEMPE

Palmer's Garland of Lilies

The exquisite new Lily Easter Perfume for sale at Harmer's Drug Store, Tempe at \$1.00 pr. oz., who carries a full line of Palmer's Soaps, Perfumes, Toilet Waters, etc. The Finest Made.

SATURDAY LAST DAY OF OUR SALE

SEE OUR LINE Of Easter Novelties Easterwoods

If you want to BUY a RANCH or CITY PROPERTY, or if you have MONEY TO LOAN, see

A. B. TOMLINSON, at the GREEN FRONT REAL ESTATE OFFICE, Tempe, Arizona.

"Home Sweet Home," will help you to find one, and the money to build and insure it.

R. A. Windes, Tempe.

ARIZONA MERCANTILE CO.

FINCH & CARR, UNDERTAKERS AND EMBALMERS, Tempe, Ariz. Phones: 131, Finch; 179, Carr.

SEE US

For Plastering, Brick-laying, Cement Walks, Concrete Work, Walls tinted, Kalsomizing a specialty.

Gregg & Britton, Tempe, Arizona.

TRY THE OLIVE

For meals that are best in every respect.

20 CTS. PER DOZEN PAID FOR EGGS GOODWIN-PARRY STORE.

ONE-THIRD OFF

on all Brackets in stock to reduce the stock.

FRANK J.A. MONT, Tempe.

GOODWIN'S NOVELTY STORE.

A fine assortment of HAND-PAINTED CHINA just received. See our 10c Window for Bargains.

Tempe, Arizona.

THE ROADS CONDITION

As Ascertained by the Committee

THE COST OF GRAVELING

That Alone Exceeds the Cost of the Tempe Bridge, and More Expense is Necessary.

For the purpose of determining the facts in regard to the road from the south end of the proposed Center street bridge to Mill avenue the committee of Tempe men spent Saturday morning going over every inch of the ground from Mill avenue in Tempe west to the proposed site of the Center street bridge.

The committee consisted of the following named: Mayor J. A. Dines, Fred Marsh, W. E. Gersch, W. H. White, J. H. Cook, William Strong, C. W. Harris, John Hyler, A. W. Casner, W. T. Cummings, E. H. Scudder and F. W. Griffin.

It is presumed by the committee that if the Center street site should be selected by the taxpayers of the county and the bridge constructed there, the traveling public would have a right to expect that there would be constructed at the expense of the county, a road that would answer the purpose of the main traveled road of the valley. They would naturally expect that this road be placed in a condition that the equal of the present Phoenix-Mesa road, via the multi street road.

Admitting that the road is a good road, as average county roads go, and at present in its good shape, the committee failed to see where it could possibly be placed in the same class with the Phoenix-Mesa road, or even regarded as one of the best in the county.

The committee feels that on the presumption that the taxpayers and the public will demand a road at least the equal of the one already provided as the main road between the three main valley towns, this road in question will have to be treated to a coat of gravel and otherwise improved, for it is a well known fact that in this country no road will stand in the use a main traveled road is given and remain in good condition in the summer time without it is first gravelled as is the Phoenix-Mesa road at the present time.

Accepting that as a basis upon which to work, it will cost nearly twice as much to put this road in good shape as the amount of the bonus subscribed by the Center street faction.

In the party that looked over the situation yesterday, there were one or two who have had some experience in graveling roads. Taking their word for the cost of hauling this gravel from the gravel beds north of the river, the following cost is figured out: To cover the road a width of sixteen feet with gravel to a depth of six inches will cost the sum of \$400 per mile. This is based on an average cost of gravel delivered the full length of the road of \$5 per yard. This estimated cost is a conservative one.

Cheaper material could no doubt be secured closer and at a less expense, but this estimate is being made upon the proposition that a road as good as the Phoenix-Mesa road be constructed. At the lowest calculation, there would be between seventeen and eighteen million dollars expended in graveling a road to be thus treated, excluding an expenditure of \$75,751 for gravel bridges, and considerable more than that.

Attention to the present condition of the road, good as it is, is found to be, good one or two miles in the entire stretch from the proposed site of the bridge to Mill avenue, that could be gravelled without first being gravelled. In the fact, that the committee's opinion only of the condition of the road from Mill avenue to Center street, of the condition of the road from Mill avenue east to a point directly south of Mesa, upon his own responsibility familiar and what is true of the section examined yesterday, is practically true of the balance of it. The road traveled over yesterday was in many cases perfectly flat, in other places rocky, in others lower than the ditch on each side and in one place less than twenty-six feet wide for a distance of a quarter of a mile. It is estimated that the average cost of grading a road is \$200 per mile; in this case there are places where it would cost less and other places where it would cost more, so a conservative estimate of \$300 per mile may be made, which adds to the total expense of putting the road in the condition of the Phoenix-Mesa road a figure of \$2,831.

On the other hand, what will be the condition of the valley if the Tempe main road of the valley is gravelled, as is selected by a majority vote of the taxpayers. The road will directly cut from the center of Phoenix east to the asylum, where within the last two

months thousands of dollars have been spent, making this section of the road almost a perfect boulevard, though as yet it has not been lined with palms, as what is known as the half way house. There the road angles outward over a section of road which is even better than any other section of this road, to the old ruin. From there to the bridge the road is practically solid asphalt, and the year out and can be kept in splendid condition with very little work. It is admitted that this road will require some work to put it in the best possible shape, but the amount is so small in comparison to the other figures noted that it is hardly worthy of note.

From the south end of the bridge to the city limits on the east line of Tempe, the road is the best in the valley. It goes through the main street of Tempe and east on the street there has always taken pride in the city roads and this road is one that the town in the valley might well be proud of. From the city limits to a point a mile east is a section of road upon which the county last year spent a thousand dollars in graveling. From that point on through Mesa, City, which likewise richly boasts of good city roads, to the Roosevelt road, the road is far above the other roads in question and will require very little work and money to place it on an equal basis with the better portions of roads making up this thoroughfare.

In addition to the advantages this road already mentioned, it is about three miles shorter by way of it from Phoenix to Mesa, City.

AT OPERA HOUSE TOMORROW NIGHT

A Benefit Performance by Local Talent for Orphans' Home Fund.

The entertainment to be given by the Rebekahs tomorrow evening for the benefit of the Orphans' Home fund gives promise of being a highly pleasing affair. There has already been a good sale of reserved seats at the Parry-Goonwin store.

The program will be as follows:

Selection.....Mandolin Club
Reading.....Eton Armstrong
Song--"Merrily I Go Along," Miss Lousie
Reading--"The Dog's Day Dinner"
Parce--"Jobson's Choice"--Clara of
characters:
Richard Pearson Hobson, John Dykes
Hobbs, son of Oliver P. Hobbs.....
Mr. H. Holbs,.....James Hanna
Dr. M. H. Holbs,.....Maude Stewart
Mr. B. Menston, a very new woman.....
Mrs. C. G. Gersch, proprietor of costage.....
Patience, an Irish maid.....Mary Turner
Miss Von Chatterton.....Irene Woolf
Miss Montgomery.....Lula Vandervalk
Miss Wiggleworth.....Olive Conroy
Miss Fitz Wilson.....Nelle Harris
Kubis, police.....Charence Cosner
Company, seashore cabman.....
Tablans.....Homer Corbell
1. The Two Flower Girls.
2. Woman's Rights.
3. Rock of Ages.
Violin solo with piano accompaniment,
.....Cecil and Lois Mullen

J. J. HC

Post Office Corner

The hats are non-resistant and un-known; that said hats, if any, have never had the improvements or cultivated the land since death of entrepreneur; that hats, since the death of entrepreneur, have been made the land her home or cultivated the same. Entry-land Office in Phoenix woman died about the latter part of the said contest April, 1908.

Said parties are by touching said article, on May 11, 1909, the said contest

LUCKY BUYERS.

The proposition made to buyers at the freight store during the sale that every tenth purchaser in the morning and in the forenoon would receive a full rebate of his or her purchase at twelve o'clock of attention. Saturday morning Pearl Dorsey was the lucky one but her purchase amounted to but 45 cents. In the afternoon Mrs. P. W. Westover was the fortunate one and her purchase amounted to \$4.26. This method be followed throughout the sale.

ALL ROADS LEAD TO SALOME!

I'm just returning from the big Salome strike, where they're on, trains, wagons, burro and bikes, to see the Bonanza that's been struck at Salome. It's far richer than Goldfield, Australia, or Nome. Some said it was phony, and others said, "Ho!" But I'll tell you my blankets and followed the signs which you see going and coming on the trail to the mine: "ALL ROADS LEAD TO SALOME!"

I've seen the Bonanza and the big W.U. It's streaks of pure metal; God bless my old soul! It makes your eyes dizzy, your jaw drop, and your knees knock. When the prospect, a banner and of rock seemed to streak with gold pure and yellow. That steams there and glitters, and makes a poor fellow find a big mine somewhere on the trail where you all see the sign: "ALL ROADS LEAD TO SALOME!"

"HURRY BACK! CONTEST NOTICE, United States Land Office, Phoenix, Ariz., March 6, 1908. A sufficient amount of affidavit having been filed in this office by Mack M. Acuff, contestant, against Homestead Entry No. 452 (See, 92476), made October 13, 1906, for the NE 1/4 SW 1/4, the E 1/2 SW 1/4, and NW 1/4 SW 1/4, Section 29, Township 1N, Range 1E, G. & S. R. Range Meridian, by Catherine Thompson, deceased, Contestee, in which it is alleged that said Catherine Thompson abandoned said homestead for more than six months prior to her death. That

CLOSING

...SAI

Exceptional Opportunity Lines of

This sale is genuine in the prices have been

Can You A Miss

A splendid chance to supply goods for Easter at price ordinarily low.

W. L. L. U

Cash Store

EXHIBIT 135

EXHIBIT 136

CLEARANCE SALE SPECIALS

Matting, 30c quality, per yd. 20c
 Linoleum, regular price 85c. Per sq. yd. 65c
 Mohogany Library Tables, new, or sold for less than \$20. Extra special \$12.50
 Mission Dining Tables, 8 ft. extension. Excellent value at \$20.00
 Hall Trees, genuine oak, heavy beveled plate mirrors. Regular price \$32.50. Special \$25.00
 Office Desks, double row, interlocking drawers. Sold regularly at \$42.50. Special \$35.00

C. H. Davidson & Co.

Arizona's Representative Furniture House.
 22-24 West - Washington St.
 Phoenix, Arizona.



EYE GLASSES

MORE LIGHT
 on the Eyeglass subject: We may be able to tell you a great deal about eyes and eyes-ream in these ads of ours. But we can tell you much more if you will come and consult us personally. Glasses not recommended if not needed.

DR. E. MUNSON
 OPTICIAN.
 115 W. Washington St.

WORMS IN CHILDREN

cause stomach upsets, bowel disorders and other sickness and very often seriously retard their growth.

NYAL'S WORM CANDY
 will expel every worm from any child's system without doing the child the slightest harm. They never fail.

LARSON DRUG CO.
 S.W. Cor. Center & Wash. Sts.
 Phone or mail us your orders.

HOME BAKING COMPANY

M. J. PETTID, Mgr.
 Phone Main 231.

AIRDOME

New Vaudeville Pictures and Songs this Week
 HAMILTON BROS., Piano Tuners.
 -With-
 Wiley B. Allen Co., Inc.

FILIGREE JEWELRY
 We make all kinds of watches and jewelry. Prices reasonable.

Daily Weather Report THE WEATHER.

Local Daily Weather Report for THE ARIZONA REPUBLICAN.
 Forecast for today—Fair.
 Data for 24 hours ending 5:30 p. m. yesterday:
 Barometer, inches, 5:30 a.m. 30.34
 Temperature, degrees 5:30 a.m. 70
 Dew point, degrees 52 76
 Humidity, per cent. 52 28
 Wind—direction W S W
 Wind—velocity, miles 4 9
 Rainfall, inches, 0 0
 Weather.....Clear
 Mean daily humidity.....34
 Mean daily humidity.....68
 Highest temperature.....77
 Lowest temperature.....49
 Total daily rainfall.....0
 Accumulated excess in temperature since January 1, 51 degrees.
 Accumulated deficiency in temperature since January 1, 66 inches.
 L. N. JESUNOFFSKY,
 Section Director.

Of Local Interest

NEW NOTARIES—S. W. Purcell, of Tucson, and Howard Brown of Oatavie, were yesterday appointed notaries public.

FLOWER MISSION—The flower mission exercises of the W. T. U. will be held today at the home of Mrs. O. C. Thompson, 850 North Second avenue. All are cordially invited.

FUNERAL OF MRS. WILSON—The funeral of Mrs. Robert Wilson will be held this morning at 10 o'clock in the First Methodist church, corner of Second avenue and Monroe street. Rev. J. A. Geisinger will officiate.

BRIDGE ELECTION JUNE 10—The board of supervisors yesterday ordered a bridge election to be held on June 10. The order embraces the three sites at Tempe; at the foot of Center street and across the Agua Fria near Moore's ranch. Voters may vote for either or all of the bridges. The board began the preparation of the list of officers of the election. The application for the Center street site differs from the others in that it lays before the voters the kind of a bridge that is wanted, namely, one of concrete and steel. This specification is not in exact conformity to the law which leaves that matter with the board of supervisors. It is not thought, however, that this will constitute a defect.

NOTICE TO AUTOMOBILE DRIVERS—A gentleman who had occasion to come in from Glendale yesterday afternoon on his bicycle made a discovery. He felt a vibration in the front wheel. He found scattered along the road at various places between Glendale and the Appropriators' camp crossing, several Mason fruit jars robbing tires that chance to pass that they had no means an inviting place to change a tire. Do not take an eye open for them. They are not only but in several places. They may have been jotted out of some farmer's wagon accidentally, but in any event it is there and may spell trouble for somebodies.

MESSAGE OF BEREAVEMENT—Mrs. W. C. Stenlake, of 35 N. 4th street, yesterday received the sad news of the death of Phyllis, the daughter of her son, Phyllis, who was born in England, nearly 50 years ago. She was until a few hours before her death in good health. The old home is at North Hill in Devonshire, and she was surrounded by his family and seven children. Mr. and Mrs. Stenlake have been planning to visit England this summer, and the death of their father comes with particular sadness, inasmuch as their plans were, and are, to sail from New York in less than a month from now. Mr. and Mrs. Stenlake are old residents of Phoenix and their many friends will be grieved to hear of the sad news.

CONVOCATION AT TRINITY—The annual meeting of the convocation of Arizona will be held in Trinity church today and tomorrow. The twelfth anniversary of the consecration of Bishop Kendrick will be also celebrated today. The bishop will preach a historical lesson at 10 a. m. At 1 o'clock a service will be given for him, which will be attended by the members of the convocation. Archbishop Atwood will preside and informal addresses will be made by the bishop, Governor Kilgus,



BASE BALLS, BATS, MASKS, GLOVES, MITTS
 Largest Variety

THE MCNEIL CO.

PRINTERS, STATIONERS BINDERS

and Judge Keast, and it is expected, by Judge Hawkins of Prescott, by David Evans of Mesa, and Rev. O. G. Seely of Yuma. In the evening from 8 to 10 o'clock a reception will be given to the bishop at the house of the Rev. J. W. Alwood, 510 North Third street. A general invitation is extended not only to all those connected with the Episcopal church, but to friends outside of the church, to attend this reception.

A VACATION AND NOTHING ELSE—Jarratt Andrews, assistant advertising manager of the Butterick Publishing company, of New York, left yesterday morning for the east after a visit of five weeks with his sister, Mrs. S. D. Dunlop. It was the first vacation of Mr. Andrews for a long time and he made the most of it. So intent was he upon making it a vacation that he could not be prevailed upon to visit a print shop until the evening of his departure. Mr. Andrews is still quite a young man but he has had extensive experience in many branches of journalism. He is a son of James DeWitt Andrews, the famous law writer. He was professor of law in the Northwestern university and chairman of the committee on classification of laws of the American Bar association. Among his works are: "Proceedings, Wilson's Works; Illinois Supreme Court Manual; Conley's Blackstone, and Andrews' American Law.

A NEAT FITTING SHOE

will atone for many grievous errors in the rest of a woman's make-up. Spring styles are 'charming.' That's the way most of our lady patrons express it. Many of our customers have said time and again that to get the Shoe you want you must come to a Shoe store. There is a reason for it. We would like to show you our 'Glover's Soft Shoes' for tender feet.

H. A. DIEHL SHOE COMPANY
 8 West Washington St.

VISITING PHOENIX AGAIN—J. J. Brown of Spokane, Wash., who has twice before visited Phoenix during the present winter, arrived here Monday. Mr. Brown is one of the newly made friends of this valley and has made so much impression with it that he marks it on his map as a stopping place every time he passes through the valley. Mr. Brown may now be considered a respected honorary citizen in Arizona.

DEATH OF A BABE—Dr. J. E. Payne, Palmer, was sorely bereaved yesterday in the death of their infant son Errol Payne Palmer, Jr., who passed away at 10:10 a. m. after an illness of only thirty-six hours, of spinal meningitis. He was born February 26, 1908. A funeral service will be held here in a day or two, the date not yet having been set, and a few weeks later, probably about the first of July, the body will be taken back to Dayton, O., for interment, that being the former home of Mrs. Palmer. The young couple have the sincere sympathy of the entire community.

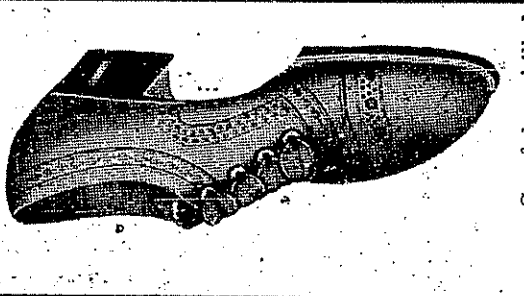
CITY RAILWAY MAIL SERVICE—The new day train on the M. & P. is working out very satisfactorily so far, especially in respect of the mail service, though that has not been fully perfected yet. It will take a little time for the new-mail clerks to get thoroughly familiar with the city distribution, but when they do that mail delivery practically sorted for each delivery district of the city and in a very few minutes after the mail reaches the post office it will be ready for the carrier. The morning train this week, about 7 a. m. returns in mid-afternoon, giving a double daily service.

LETTER OF APPRECIATION—Geo. F. Merryman has received from A. B. Willard, of Tucson, Wash., a letter of appreciation for his services in forwarding the body of Edward Fountain to his family and friends, for interment. Mr. Willard having been his legal guardian. The young man came here sometime ago in very bad health and without extensive resources. Mr. Willard gave him a chance to earn at least partial support at his bookbind stand, and many favors were extended by the charitable boy. Mr. Willard, concerning appropriate notice to the carrier, which at the great time, thanked you from time to time, and thanked you very much for the help you gave him in this young man while in his kindness. The members of his family join with me in this, and if convenient, we wish you to thank those who provided him a place to stay while there, on behalf of the family as well as myself.

BASKET-BLIND SOCIAL—A basket-blind social will be held at the Grapheon schoolhouse on Friday night, in which the whole world is invited. There will be something of a novelty in the dispensing of the baskets which will appeal to all gentlemen whose speculative instincts are well developed. Instead of buying the baskets and taking them on wheels in them, or buying the girl with a basket thrown in, we will have to bid on the shadows of the respective ones. Ladies, however, are not to bid on the shadows of the

THE HUB

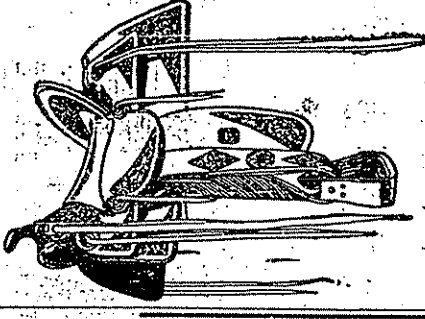
BENCH MADE SUMMER OXFORDS



Careful, skilled workmanship in the finest leathers, moulded to the human foot on scientific lasts, makes the Stetson Oxford the handsomest and most comfortable shoe for summer wear. Black and tan and other shades. \$5.00 to \$8.00. Crawfords and Crossetts, \$3.50 to \$5.00.

The Hub

The Smart, Clothes Shop.
 18-20 W. Washington



SADDLES & HARNESS

Hand Made Our Specialty.
 Look us over before buying.

N. PORTER
 SADDLE AND HARNESS CO.
 SPURS AND BITS.
 44 West Washington St.
 Telephone Main 69

We have something very nice in

Post Card Albums

Kodak Books, Scrap-Books, in all sizes and prices. Come in and see them.

CRAIN'S
 STATIONERY AND NEWS CO.
 11-13 N. Center Street,
 Phone Black 8071

A BEAUTIFUL PLATE GIVEN AWAY.

We have just received a big shipment of 1908 teas and can furnish superior to anything you ever tried and in order to show you we can do what we say, we will, for one week, give you a beautiful plate worth fifty cents, with every dollar purchase of tea.

Money refunded if not satisfactory.
 Phone Red 5001 137 N. Center.
VALLEY TEA & COFFEE HOUSE

POWERFUL

Drugs of positive freshness and first quality are used in all our compounding. Bring your Prescriptions here and get true medicine satisfaction. That is why we are so busy all the time.

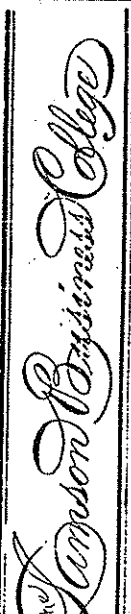
Beautiful Complexion—Cream of Flowers, 50c.

Sold only by

ELVEY & HULETT

NEVER SUBSTITUTE.

Same Phone Main 1. 27 E. Washington St.



IRON SPRINGS EXCURSION—For the benefit of those who spend the summer at Iron Springs but cannot afford to make the long drive to the return trip to this city the Santa Fe has announced that the usual round-trip excursion tickets to that resort will be reduced on sale May 1st. Those tickets come in handy combinations and reduced the fare for the five trips to the springs being \$20. A number of which order he will cost \$26.

Is the joy of the household, for without it no happiness can be complete. Angels smile at and commend the thoughts and aspirations of the mother bending over the cradle. The ordeal through which the expectant mother must pass is such that she looks forward with dread to the hour when she shall feel the thrill of motherhood. Every woman should know that the danger and pain of child-birth can be avoided by the use of **MOTHER'S MILK**, which renders pliable all the parts, assisting nature in its work. By its aid thousands of women have passed the

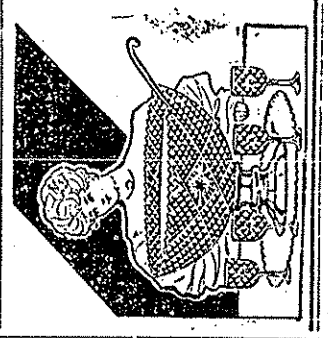
'T'S THE
 That brings pastime and pleasure to the entire line and

MILLER-STERLING
 Successors to E. L. 9-11 East Wash

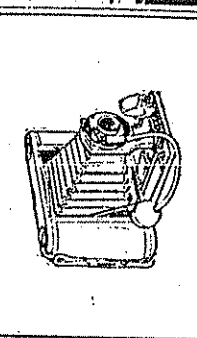


Quick Meal
 SAFE, CLEAN AND
 They have proven themselves far superior to any other Quick Meal if you tried, very low.

Buy a QUICK MEAL
 Ask the house wife
TALBOT & Hardwar



Tungsten
 E. THOMA MANUF
 Salesroom 22 S. Third AV



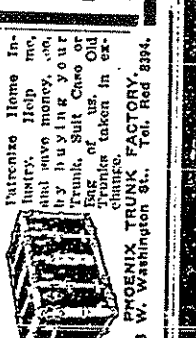
A KODAK HISTORY
 of your summer vacation is the thing.
 Kodaks and Cameras
 \$1.00 to \$40.00

Berryhill's Big Book Store
 "The Thirsty Man's Retreat."

Peanut Butter

Nothing is so delicious, so appetizing, so good for the cold lunch as Peanut Butter.
 Prices 19c, 20c, 35c.

A. WETZLER
 Open Till 6:30 P. M.
 35 W. Wash. St. Phone M. 259



PHOENIX TRUNK FACTORY.
 433 W. Washington St. Tel. Red 3394.
AUTOMOBILE AND GASOLIN
 Save money and get your tires at lowest prices.
ARIZONA V. R. NERRIS.
 Tel. Black 8534.

The Choicest Foods, skillful

EXHIBIT 137

st Paper in Phoenix—Twenty-Ninth Year.

PHOENIX, ARIZONA, MONDAY EVENING, MARCH 1, 1909.

FOURTEEN PAGES VOL. XXIX. NO.

AUGURAL ANS ARE OMPLETE

the streets, which have become a veritable riot of color, are thronged with visitors. Scores of military companies Most Brilliant of Any So Far Held.

TAL CROWDED

Two events will be celebrated with proper ceremonies at the Presbyter-ian Railroad mission Sunday afternoon at 3 o'clock.

WILL DEDICATE RAILROAD MISSION

Dr. Francis H. Redewill will be the principal speaker of the day. C. H. Davidson will talk upon "The Growth of City Missions and Evangelism and the Demolition of the Saloon."

COOK'S ROAST OF ROOSEVELT ALLOWED TO STAND

WASHINGTON, March 1.—That the language of Representative Cook of Colorado, in a speech recently made attacking President Roosevelt, was not in violation of parliamentary privileges of debate, was the report of the special committee appointed to look into the matter.

st Week's Bargain Is Sold
We have just secured another fine 1/4 section of land just a little out on the Yuma Road.

RENTING Your Money Back if Anything We Sell You is not as Good as We Represent it
DICK ERMANS REAL ESTATE & INVESTMENT CO. 26 N. 1st St. PHOENIX, ARIZ.

THE BEST IN THE SALT RIVER VALLEY.
We have just listed the best ranch in the valley. No Johnson grass, no fox tail, etc.

See Irrigation Project
LAND FREE. NO OUTLAY FOR WATER RIGHT.
Why pay \$100 an acre for land with another \$20 (or more) yet to pay for water right?

G. E. ENGSTROM
Seeley, Bitterley, 40 Portland Place, Phoenix, Ariz. Phone Black 2844.
WE PAY HIGHEST CASH PRICES FOR OLD GOLD AND SILVER AND PRECIOUS STONES.

BALDWIN IN HIS LAST RACE

The Noted Turfman Passes Away at 7 O'clock This Morning.
FAME WORLD WIDE Made Fortune of 27 Millions in Racing and Mining.

SENATE COMMITTEE ON JUDICIARY DISAGREE

WASHINGTON, March 1.—The senate committee on judiciary today voted to report a bill providing for an investigation into the absorption of the Tennessee Coal & Iron company by the United States Steel corporation.

FOUR BANDITS KILLED AND TWO CAPTURED

PITTSBURG, March 1.—After delirating sixty hours, the jury in the case of Councilmen John Wasson and Bran, brought in a verdict of guilty, but recommended the defendants to the mercy of the court.

GARMACK SHOT THROUGH THE HEART

NASHVILLE, Tenn., March 1.—In the Cooper trial this morning the defense asked the jury to be excused while Dr. Glasgow was called to the stand.

Very Special

40 acres at \$25 per acre, adjoining land, rich, deep, deep, deep. One-third of an acre, \$125 per acre. Office.

PROHIBITION AGAIN TO FRONT

Dr. H. A. Hughes' bill, providing that the voters of Arizona decide at the next general election whether there shall be a prohibition throughout the territory, was introduced in the house today by Woolf.

PATRICK WANTS DEATH OR FREEDOM

NEW YORK, March 1.—Albert F. Patrick, left Sing Sing today to appear before the appellate division of the supreme court on a habeas corpus proceeding. Patrick contends that he either deserves death or freedom. He claims that his commutation to a life sentence is illegal, and will argue his own case.

AT GENERAL ELECTION Majority Vote Would Make Arizona as Dry as Possible

Dr. H. A. Hughes' bill, providing that the voters of Arizona decide at the next general election whether there shall be a prohibition throughout the territory, was introduced in the house today by Woolf.

SEVEN WEEKS SPENT IN CALHOUN TRIAL

SAN FRANCISCO, March 1.—Seven weeks have passed since the beginning of the Calhoun trial when it resumed in court this morning. Ten citizens were temporarily in the jury box.

PLUMBERS FOR PARTICULAR PEOPLE

Our policy is to give the best service possible, as that is the kind that makes pleased customers, and if our customers are pleased with us, the rest will take care of itself.

FRANK J. O'BRIEN STOCKS AND BONDS

Tucson, Phoenix, Globe, Nogales. Direct Wires to all Exchanges. F. D. HIGHTOWER, Local Manager. Phone Main 232. Hotel Adams Bldg.

Open Casa Loma Dining Room

Meals \$35-\$700 Per Week—\$25.00 Per Week. Wm. M'CLINTOCK, Proprietor. TEMPE.

We Are Careful Plumbers

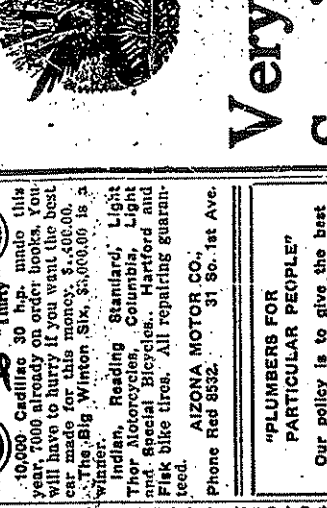
YOUR work, if done by Gosart, will mean perfection to the extreme. We respectfully solicit your business.

Night School

The Lamson Business College. A special Three Months' Term of Night School begins tonight, March 1, at

The New Electric Theatricals

VAUDEVILLE AND PICTURES. PHONE MAIN 284.



Very Special. 40 acres at \$25 per acre, adjoining land, rich, deep, deep, deep. One-third of an acre, \$125 per acre. Office.

Phoenix 16 WEST ADA.

Open Casa Loma Dining Room. Meals \$35-\$700 Per Week—\$25.00 Per Week. Wm. M'CLINTOCK, Proprietor. TEMPE.

We Are Careful Plumbers. YOUR work, if done by Gosart, will mean perfection to the extreme. We respectfully solicit your business.

The New Electric Theatricals. VAUDEVILLE AND PICTURES. PHONE MAIN 284.

EXHIBIT 138

COMMISSION BILL IS A LAW

How it is that the job of tariff revision shall be completed in the shortest possible time. Congress is fast and furious as are the president and the people to have the task finished but the people have been doubtful of its own ability to achieve early legislation. The most optimistic of the congressional leaders, while talking June, have been fighting on July or August, while those of a pessimistic turn of mind have set the time when the tariff bill would pass, all the way from September to November.

Mr. Taft's stand for June I will help a lot toward having the work unshaken by that time. It will fix the minds of the country on that date, and the committee and houses of congress will do their work with it in mind. More than anything else, however, it will give the leaders in congress courage to fight the measure through, to fight down opposition and to overcome obstructive Speaker Cannon, and Senator Aldrich.

MORNING SESSION.

Council Devoted Time to Consideration of Good Roads Bill. Aside from the passage of the Hampton educational qualification bill over the governor's veto this morning, little was transpired in the council. The council was in committee of the whole, with

Get Stung

ing to look around before buying your Piano. Take a look at the Piano House that has been in the same place for 25 years. No one concern ever existed here over two seasons against the only Piano house in Arizona that buys exclusively and we pay no jobber's commission.

have stood the test. In business 25 years longer. We protect you. We are played by local artists. We pay all our running expenses. We are money than any other Arizona dealers. IANOS KNABE ANGELUS IVERS & POND EMEREN ANGELUS KROEGER JOS VOSE WEBER BEHR BROS. BEST OF OTHER MAKES AND GRADES.

E W I L L L L ' S

The same place—near the theaters.

House on the subject for the consideration of the substitute bill created by the road committee, of which Frank B. Rowland is chairman. For the Ausworth measure for creating a territorial highway.

The new measure does not entirely differ from the original, except that it is devoted exclusively to territorial roads, the county road building having been taken care of by the Goodrich bill abolishing road overseers and creating the office of county road superintendent, who shall be a civil engineer. The territorial engineer shall receive a salary of \$3000 per annum, payable monthly, and shall be appointed by the governor, by and with the consent of the council. He is also to be a practical civil engineer. He is also to be allowed necessary expenses in the discharge of the duties of his office. It shall be the duty of the board of control to see that the roads are kept in proper repair, and the board shall require the engineer to make maps and plans and furnish estimates of territorial highways, which they shall designate as such.

A tax not to exceed 25 cents on \$100 valuation shall be levied in the several counties and turned into the territorial road fund. Work shall be done by contract, under the supervision of the engineer. The board shall, with the assistance of the attorney general, prosecute condemnation proceedings for land or highways, but no land or right of way shall be increased without the approval of the board. No right of way or franchise on territorial highways shall be granted any steam or electric road except for the purpose of crossing. This amendment was inserted at the suggestion of O'Neill, in order to acquire the territorial right to be consistent to, and to investigate the objects or claims to the fact that in order that the territory may take advantage of the Carey act, a water commission and engineer should be appointed, and he thought the roads engineer ought to also fill this office.

St. Charles Opposed. St. Charles said the bill would never become a law with his vote, as he was against it on the grounds that it provided for more taxation. Good roads under this plan were going to cost an enormous amount of money. He said anybody who had ever kicked a burro over the trails and who had not ridden in an automobile understood the purpose of this bill. Further consideration was postponed this morning until afternoon, when it was understood it would be taken up in executive session.

House Business. Hunt's bill prohibiting bookshops in Arizona was passed in the house by a vote of 18 to 6. Other bills passed this morning were as follows: By Peterson, an act respecting the seizure of children in the live stock law.

By Morris, providing one deputy in territorial offices in counties of ten million dollars valuations, and the employment of other deputies, at a total salary expenditure of \$2800. By Finney, for a full militia regiment in Arizona. By O'Neill, making the stealing of agricultural feedstuffs from live birds a misdemeanor.

By Goodrich, an act to create the office of

Exhibit of THE NEW SPRING STYLES IN WOMEN'S APPAREL

Our showing is beyond question the most elaborate ever seen in Phoenix. The leading makers have given us the handsomest designs possible to produce. We have all the latest and the most advanced in high class novelties and absolute authority on style. This season is to witness our greatest triumph. Never were we so well prepared. Never were our styles so much admired and lauded as are the present modes. It matters not, if you are only looking, we are ready to show you the exclusive things, for you will surely return to the Boston Store when ready to buy. Our styles are original and exclusive and no matter how inexpensive the garment may be, style creeps into every line and fold. This will be a very early season and we therefore advise early selections.

THE DISPLAY THIS WEEK WILL MORE THAN EVER EMPHASIZE THE UNQUESTIONABLE SUPREMACY OF THIS STORE.

BOSTON STORE

land may be sold at 50 cents per acre and the sum devoted to promoting irrigation in Arizona.

Late Afternoon Business. The following bills were passed late yesterday afternoon: In the house, Woolf's bill allowing Maricopa county to issue bonds for \$30,000 for a bridge across the Agua Fria.

In the council, the following bills were passed: Tobey's theatrical license law; Dougan's bill making 14 the marriage age for females; St. Charles' bill exempting personal property from the tax of the taxayers, but the council conference report and the bill for the purpose of the bill, i. e., a bridge at Loma, adopted in recorder's office, but with the approval of the supervisors. Under this law 1,000,000 acres of desert land may be taken up again in the

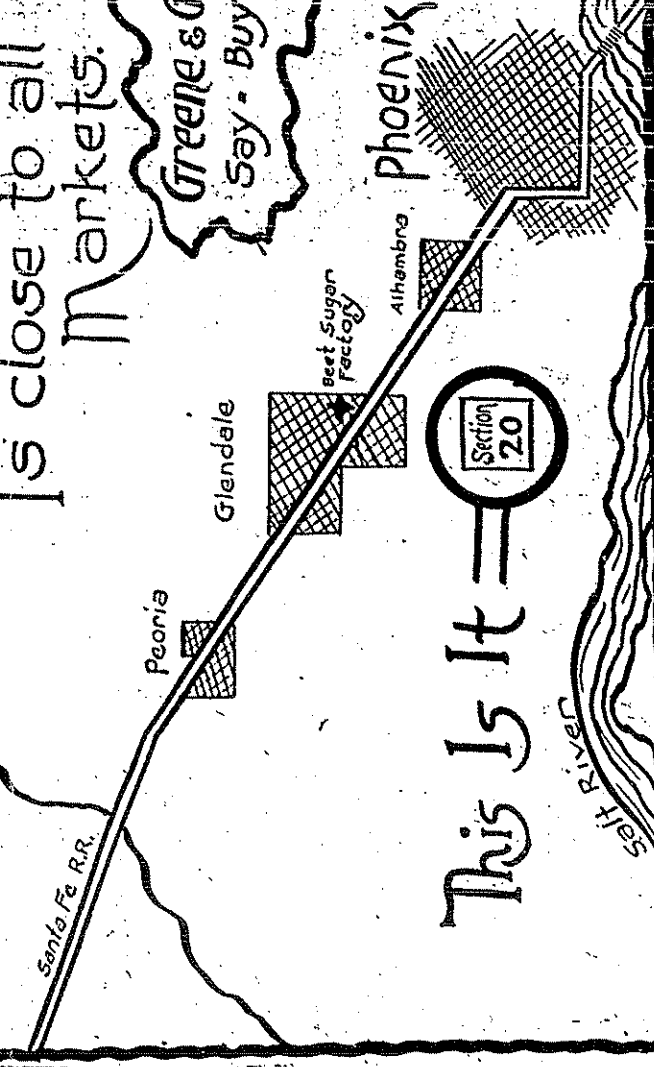
council, as some advocates believe that the people should decide where it should be located. Speaker Webb succeeded in attaching an amendment authorizing the county to issue bonds for \$30,000 for a bridge across the Agua Fria.

In the council, the following bills were passed: Tobey's theatrical license law; Dougan's bill making 14 the marriage age for females; St. Charles' bill exempting personal property from the tax of the taxayers, but the council conference report and the bill for the purpose of the bill, i. e., a bridge at Loma, adopted in recorder's office, but with the approval of the supervisors. Under this law 1,000,000 acres of desert

nd Value Ever Offered in Salt River Valley. Only 320 acres are to be sold at this low price. See us early tomorrow morning and get yours.

BEST FOR BEETS = BEATS THE BEST

Section 20 Is close to all the Markets. Greene & Griffin Say - Buy Quick.



Easy to Buy Now is Section 20. We make the following low prices and easy terms for a few days only, and owing to the exceptional value offered, we urge quick action:

Forty Acre Tracts or More. With the splendid beet crop now growing, for \$180 AN ACRE, on these Easy Terms:

\$36.00 AN ACRE Cash AND \$18.00 AN ACRE FOR EACH YEAR UNTIL PAID FOR. THE EASIEST TERMS EVER OFFERED ON SUCH LAND.

Think What it Means. The land will simply pay for itself in a very short time and increase in value every day.

Or if You Prefer. We will sell you this land for \$160 AN ACRE without the dandy good Sugar Beet crop. One-fifth down and balance in Four Years.

Section Twenty Will Go Fast. As no land has ever been offered in Salt River Valley at this price that has so much merit, or presents such an argument either for investment or agricultural purposes. Don't Delay—See Us Tomorrow About the Wonderful Section 20.

GREENE & GRIFFIN Real Estate and Investment Co.

GREENE & GRIFFIN SELLING AGENTS. 127 N. Center St.

EXHIBIT 139

980 NEW NAMES
That are Paid in Advance
to Date.
"That's Really the Reason."

Oldest Paper in Phoenix—Twenty-Ninth Year.

OPPOSED TO ISSUE OF BONDS

Citizens Want to Build the Bridge by Direct Taxation.

ARGUMENTS OFFERED

Also Favoring Leaving the Location to a Vote of the People.

That the people of the south side are in favor of the bill passed by the legislature yesterday authorizing the issue of \$50,000 worth of bonds to construct a bridge across Salt river at the point designated at said special election, is shown by the fact that the majority of the council upon the merits of the bridge proposition. The hearing was attended by a number of south-siders and a committee from the Phoenix board of trade. The south-siders at the bridge at Tempe, but they are in favor of raising the money for its construction by direct taxation instead of a bond issue, which will involve extensive delays.

Yesterday afternoon the Board of Trade held a special meeting and went to the bridge proposition thoroughly. The consensus of opinion among the business men present that the location of the proposed bridge should be left to a vote of the people of the valley. Dwight B. Heard, president of the Phoenix and South Side Bridge company, which has raised a bonus for a bridge at Center street, acted as chairman in the absence of Dr. Foss. Addresses were made, a bill drawn up by the Phoenix board of trade, and a committee of five representative business and professional men appointed to write up with the judiciary committee of the council, where the bill now rests. The members of this committee are: H. A. Fowler, chairman; Dr. J. W. Foss, Dr. H. H. P. and H. B. Mayhew, an engineer brought here from Los Angeles by the company especially to look over the Center street site and report upon it. After a full discussion, in which it was shown that the bridge company was composed of a number of representative men of the valley, including several prominent Tempe ranchers, the committee asked for an expression from those present as to the best method of raising the money necessary to build a bridge. Every one, both south and north siders, voted for direct taxation instead of the issuance of bonds.

ANNOUNCEMENTS

NASHVILLE, Tenn., March 11.—There was a decrease today in the attendance upon the Cooper-Sharpe trial. Mrs. Carmack was too ill to appear. General Washington resumed his argument for the defense and devoted an hour of frenzied oratory to the denunciation of the Carmack editorial.

KING EDWARD TO SEE WILBUR WRIGHT FLY
PAU, Franco, March 11.—King Edward is expected here tomorrow from Biarritz to witness an aeroplane flight by Wilbur Wright.

FOURTH DAY OF RACE.
NEW YORK, March 11.—This is the fourth day of the six-day gas-automobiles pedestrian contest, and ten teams are still in the running. Gilbert and Orphee of France are still leading.

Ideal Irrigation Project

LAND FREE. NO OUTLAY FOR WATER RIGHT.

Why pay \$100 an acre for land with another \$30 (or more) yet to pay for water right, under a ten-year first-class insurance on your land, when you can join our project and get your land from the Government under either homestead or desert act entry, and get your water right by buying stock, and becoming a part-owner in the project, at \$10 per share, backed by a written contract guaranteeing 200 per cent returns in four years on the stock? Electric power development alone would make project a big financial success, without considering the still greater, unquestionable land irrigation feature. Soil equal to famous Glendale Loess, in a valley larger than Salt River valley, and

foot bridge across the Salt river from Phoenix, Arizona, or at a point on the north bank of said river, opposite the city of Tempe, Arizona, to the south bank thereof, as the electors of said county may determine and designate at a special election called and held for that purpose.

"Be it Enacted by the Legislative Assembly of the Territory of Arizona, Sec. 1. The county of Maricopa is hereby authorized to build and construct a wagon and foot bridge across the Salt river, either from a point at the foot of Center street, Phoenix, to the south bank of said Salt river, or from a point on the north side of said Salt river, opposite the city of Tempe, to the south bank of said river, as the electors of said county of Maricopa shall designate and determine at a special election called and held for that purpose, by the supervisors of said Maricopa county, to be held not more than sixty days after the passage of this act."

"Sec. 2. The board of supervisors of said Maricopa county shall call a special election of the legal electors of said county to be held in the various precincts of said county, within sixty days from and after the passage of this act, to determine whether the bridge referred to in section 1 of this act shall be built from a point at the foot of Center street, city of Phoenix, or whether said bridge shall be built from a point on the north bank of said Salt river, opposite the city of Tempe, to the south bank of said Salt river."

"Sec. 3. Said special election shall be called and held in the manner provided by law for the calling of special elections, and at said election only such electors whose names shall be on the great register of Maricopa county, and entitled to have voted at the last general election held in said Maricopa county, shall be entitled to vote thereat."

"Sec. 4. Upon the determination at said special election, at which point the said bridge shall be built across the said Salt river, it shall be the duty of the said board of supervisors of Maricopa county to proceed forthwith hereafter to construct such wagon and foot bridge across said Salt river, at the point so designated at said special election, at a cost to the county of Maricopa of not exceeding fifty thousand (\$50,000) dollars."

"Sec. 5. This act shall take effect on and after its passage."

"Sec. 6. All acts and parts of acts in conflict with the provisions of this act are hereby repealed."

Addresses in favor of the adoption of this bill were made by B. A. Fowler, C. F. Ainsworth, H. B. Kersting, Aaron Goldberg, C. H. Davidson and others. Mr. Heard presented the plans of the Phoenix and South Side Bridge company for a bridge across the Salt at Center street, which have been approved by Constructing Engineer J. C. McClure of the Randolph lines. Engineers H. B. King, Simon Oberlander, Vernon Clark, F. M. Avis, L. S. Sharpe, H. B. King, Joseph Thayer, H. H. Pratt, C. W. Morris, Charles Korrick, Ezra W. Thayer, C. Davidson, H. I. Latham, Roy Goodson, G. W. Vickers, W. D. Bell, C. Akera, L. M. Hogie, John Orme, H. H. Haffner, Dr. H. A. Hughes, E. S. Keelin, J. L. Irvin, Joseph Thayer, Ben Butler, H. P. DeMund, R. Davis, L. H. Chalmers, W. F. Nichols, John R. Norton, George A. Mintz, Walter Telford, Daniel McDermott, H. Kersting, W. S. Pickrell and E. A. Ainsworth.

The hearing this morning before the committee was quite interesting. Nearly every member of the committee in attendance was present and urged as a substitute for the bill authorizing the issuance of \$50,000 worth of bonds for a bridge at Tempe, the adoption of the bill yesterday afternoon, which would question the location of the bridge to the people and also provide that the money be raised by direct taxation instead of by a bond issue. The substitute measure reads as follows:

An act authorizing the county of Maricopa to construct a wagon and

TO PURCHASE SITE OF FAIR

Bill Introduced Provides for Sale of Grounds to the Territory.

APPROVAL AND VETO

Governor Kibbey Makes the Pioneer Home Bill a Law.

Governor Kibbey today signed Mr. Bailey's primary election law, which was house bill No. 1.

This afternoon Governor Kibbey signed the following bills: Morris Joseph home bill, bill for the relief of Joseph Godfrey of Yuma, Woolf's bounty bill, and Norton's bill correcting the statutes referring to the fees of probate judges in counties of the second class.

Norton's bill giving railroads the power to consolidate, as well as generally powers, was vetoed. It was generally understood that this was a bill for the benefit of the Randolph system.

By unanimous consent of the house a bill was introduced this morning providing for the purchase of the fair grounds by the territory at a cost of \$39,000 to the private corporation which now owns it. The fact that the advocates of this step were able to get the unanimous consent of the members necessary for the introduction of all bills except appropriation measures under the rule from Tuesday till the close of the session, might indicate that the house is in a favorable frame of mind toward the purchase, which undoubtedly would be a good investment for Arizona. A committee consisting of Pace, Sutter and Morris was appointed to confer with the directors of the association.

The Club License.
The Moors bill providing for the license of social clubs and other similar organizations at \$300 per annum was indefinitely postponed in the council. Mr. Goodrich called attention to the fact that this bill, which purported to make more stringent regulations on clubs, in effect would repeal the Pace bill and prevent the object of all prohibition legislation. Not very much attention had been given to this enactment and it passed the house easily, but it went into the discard in the council this morning.

MORNING SESSION.

Bridge Question Occupied Attention of Judiciary Committee.
Very little routine business was transacted by either body this morning. The council stood at recess for over an hour to give the judiciary committee the chance to hear the argument of the Tempe representatives and those from Phoenix on the bridge question which is now occupying the center of the legislative arena. The proposition to leave the site to a vote of the people was like tossing a red flag before a bull and the gladiators again this morning. They were few in number but mighty in spirit, among them being Curt Miller Ed Goodwin and C. W. Harris, who presented the reasons why the Tempe site should be incorporated in the bill. The advocates of the Center street site were numerically stronger. Many of the arguments which have from time to time been given publicly in the press were presented by R. A. Fowler, Judge Ainsworth, L. H. Chalmers, Dr. Stone and others who addressed the judiciary.

Mr. Harris is among the Tempe people who have taken exception to the report of their case. None of the press reporters were in the committee.

ice room yesterday, but Mr. Harris said today that the reasons why the Tempe people were opposed to the proposition for a vote on the question, was that Tempe would have a little chance against the west side and Phoenix, because he felt that the date here would take the side of the Heard proposal, and mold public sentiment. Mr. Harris wished it further stated that among the other reasons for the location of the bridge at Tempe was that they considered the site superior from an engineering standpoint, bedrock to be found at little depth and also a narrower span. Mr. Harris said further that the Tempe people had more reasons for coming to Phoenix than the people of this city for going to Tempe, and naturally wanted the bridge located on the shortest route. The route via a bridge at the foot of Center street, he said, would be three miles longer both ways and six miles further to Mesa, round trip. The Tempe representatives also claim that there are only twenty voters in the Heard district which would be at all inconvenienced by having to go around by Tempe, when the river is not fordable at the heard crossing.

Considerable feeling has been aroused over this problem. No decision was reached this morning and it was decided to hold another session with the judiciary this afternoon, at which each side will be allowed equal representation, to discuss the merits of the question.

Other County Troubles.
Maricopa is not the only county that is having its troubles. The Greenlee county matter was disposed of this morning in the council by the introduction of a bill by Mr. Hampton correcting the errors in the measure which the governor signed yesterday. In the Greenlee county bill no provision had been made for the transfer of the court cases originating on the Greenlee side. This and a number of other minor matters were taken care of in the amendment which was passed under the suspension of the rules in the council.

County Seat Talk.
A number of prominent citizens of Pinal have been in the city for a couple of days looking after matters of particular interest to Cochise county. One of them was the Sutter bill establishing police courts, with exclusive jurisdiction which was passed over the governor's veto yesterday. Another measure which concerns Cochise at this time is a Sutter bill No. 74, relating to the changing of county seats. Under this proposed law the name of a mining corporation may be signed to the petition for a special election of county seat removal, which must be signed by at least one-fourth of all the qualified electors of the county, by persons natural or artificial whose names appear on the last assessment roll and representing at least one-third of the taxable property including property in mines. Under the present law, bills can not sign as such, but if this bill passed corporations can control in most cases the place of the county seat. In this instance Bisbee would probably be able to separate Tombstone from the honor. This bill is said to be encouraged by the Copper Queen Liability Law.

A measure which is keeping the corporation lobbyists busy is the Morgan bill recommended by the committee of the whole in the council, providing that corporations shall be liable for damages due to the negligence or incompetency of a fellow employe or incompetent of a fellow servant act. W. B. Cleary is here with a number of petitions from laboring organizations in favor of the bill which they believe will stop some extent at least the employment of cheap alien labor.

Under the present law, ostensibly the fellow servant law is done away with and a provision attached which makes the law nugatory, and provides that no recovery can be had unless first brought home to the notice of the employer of the incompetency or negligence of the fellow servant, which it is impossible to do. Therefore, the law as it now stands there is yet to be brought one case in court in Arizona where the employe recovered. The Morgan law merely cuts out this provision, which the labor unions will support, and an employe injured could recover though that injury was the result of the act of a fellow servant, without proving incompetency, etc. The Morgan bill also embodies that portion of the federal law passed in 1906 in regard to compulsory negligence, making it a question for the jury to decide, and contributory negligence is no bar to the action. The mining companies are opposed to this bill.

A joke on correspondent.
On a question of privilege, O'Neill arose this morning to move that John Dunbar, or whoever was that correspondent for the Tucson Star, be brought before the bar of the council for an "explanation" of that article which appeared in that paper yesterday morning, as follows:
"The following memorial introduced by Keen St. Charles, has been adopted by the legislative council:
"To the President of the United States, and Congress: The Twenty-fifth Arizona legislature, in session, recommends the appointment and confirmation of J. C. Adams as governor

PHOENIX, ARIZONA, THURSDAY EVENING, MARCH 11, 1909. FOURTEEN

WILL POISON PRAIRIE DOGS

Forest Service Will Use Thousands of Pounds of Wheat.

A SERIOUS MENACE

Little Animals Injuring the Lands of New Mexico and Arizona.

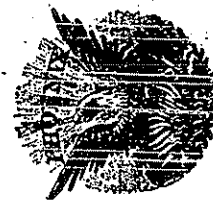
WASHINGTON, March 11.—The forest service today completed arrangements to use thousands of pounds of poisoned wheat to kill off the prairie dogs, which have become a serious menace to the forest ranges in many portions of Arizona and New Mexico. They are a great enemy to stockmen and farmers, as they destroy wheat, potatoes, sugar beets and many other crops. In many cases they injure grazing lands so greatly that their value as feeding grounds for stock is from 50 to 65 per cent less than formerly. The forest service is employing every effort to prevent range deterioration.

JOHNSON WANT HOT SAILORS

SEATTLE, Wash., March 11.—Curiousness in turning out the gas caused the death of E. S. Hicks and W. W. Jayrett, two young sailors from the cruiser Milwaukee, now in the Puget Sound navy yard. They were found dead in bed this morning, in a room in a lodging house, where they went after attending a theater last night. The gas had only been partially turned off and they died from asphyxiation.

COBALT WILL YIELD \$19,000,000.
COBALT, Ont., March 11.—The silver output of Cobalt for the present year, according to conservative estimates made by the foremost mining men of the camp, will be at least double that of 1908, which was \$5,472 tons, valued at \$5,500,000. It is figured that the concentration of the low grade ores by the local mills will bring the silver average to the ton sent out to a higher mark than that of last year, so that the output should show a gross value of something like \$19,000,000.

MEXICO TAKES STEPS TO PREVENT THE BREAD FAMINE.
EL PASO, March 11.—The Mexican government has decided on the export of all duties on wheat. According to the Mexican government, Mexico has for years suspended the duty on spring wheat now Mexican money across



Casa

The best in American architecture.

10 acres close to the city on car line, with good brick house—5 rooms and bath, one screen room and large attic. Will sell as a whole for \$5500; or house and 2 1/2 acres for \$2500. Any part of the acreage at \$400 per acre. This is an ideal place for a chicken ranch. These prices are for a few days only.

Phoenix Trust Co.

Ready Made

Here's a fine 10 acre, highly improved tract for sale on reasonable terms at a fair price. 9 acres

EXHIBIT 140

government revenue does not furnish income enough to pay the authorized expenditures. By July 1 next the excess of expense over receipts for the current fiscal year will equal a hundred million dollars.

The president says the republican party pledge to void the tariff is expected to be carried out by the business community. He urges as much speed as possible and the passage of the law in order to start business now.

The president said his inaugural address summarized the principles upon which tariff revision should proceed. He urged congress to devote all its time possible to the tariff to the exclusion of other subjects of legislation.

Message Received.
 WASHINGTON, March 16.—President Taft's message was received today by the house and senate. Many senators laughed when that part of the message saying that legislation expected to affect the tariff should be considered at the extra session was read. The house republicans received the message with prolonged applause.

INSURANCE HEAD CHARGED WITH PERJURY

ALBANY, N. Y., March 16.—The court of appeals today decided that R. Hegeman, president of the Metropolitan Life Insurance company, stand trial on a charge of perjury in connection with alleged misstatements made in his annual report to the Metropolitan company filed with the state superintendent of insurance in 1906.

LOST BROTHER IS FOUND INSANE

CHICAGO, March 16.—Charles H. Arton, former president of the Pennsylvania baseball league team, who disappeared from Cleveland five years ago, was found today in a hospital in Chicago, suffering from acute nervous prostration resulting from the tangled affairs of the league, was found today by his brother on the streets of Chicago. Arton is acutely demented.

FLM BEACH MOTOR BOAT RACES
 PALM BEACH, Fla., March 16.—A great deal of time and care was taken in preparation for the races begun today under the auspices of the Palm Beach Power Boat association. Everything was started smoothly on schedule time.

DOOR MEET OF NEW YORK ATHLETIC CLUB.
 NEW YORK, March 16.—The big door meet of the New York Athletic club begins tonight at Madison Square garden. Practically all the prominent school and Y. M. C. A. teams in a vicinity of New York will be represented in the special relay race provided.

ACRE RANCH

100 acres of it in old alfalfa, bal.

Water

PASS BILL TO PURCHASE FAIR

House Acts Favorably But the Council May Oppose.

ST. CHARLES VS. O'NEIL

Veto of the Governor is Sustained by the Council Today.

That the twenty-fifth legislative assembly believes in maintaining the fair as a territorial institution is evidenced by the fact that the house this morning passed under the suspension of the rules a bill introduced this morning for the purchase by the territory of the fair grounds at a cost of \$30,000. A few days ago a bill was introduced setting the appropriation at \$39,000, but the matter was referred to a special committee who conferred with the directors of the fair association and the substitute bill this morning was the result. The former measure was indefinitely postponed.

The purchase of the fair grounds and plant at this price is regarded as a very fine investment, as the land would probably sell for \$20,000 without the buildings, and will steadily enhance in value. Had the legislature put the matter off for two years it is likely that the purchase price would have been increased several thousand dollars. This is the most important step toward making the fair a territorial institution, and in a few years it will be equipped with buildings and a plant that will excel any fair in the southwest and be the pride of the citizens of every section of the territory.

Reform School.
 The bill providing for the purchase of the site of the reform school was considerably sparring over the proposition to remove the reform school from Benson to the San Pedro valley as provided in the improvement bill recommended by the appropriations committee. Merrill introduced an amendment providing that the board of control should remove and establish the school wherever the board believed was the best location, but this amendment failed. The Cochise members are averse to moving it from Cochise county.

The Bridge Imbrolio.
 The Tempe bridge bill, which was passed by the council with amendments yesterday afternoon, came back to the house this morning, and after a short debate was set for special consideration at two o'clock this afternoon. The general bridge bill, which provides for the calling of an election on petition by 100 taxpayers, was advanced to second reading and referred to the committee on counties and county boundaries, which may result in the demise of the measure unless that body speedily acts. It was expected that this bill would pass without opposition.

Other House Business.
 The house at the morning session also passed the following bills: By McCormick, for a deputy clerk of the board of supervisors in counties of the first class; by Tobey, an act relating to the licensing of theaters, which is presumed to meet the objections of the governor on the measure vetoed yesterday.

Two bills by Weedlin, allowing the territory to take advantage of the Carey act recently passed by congress,

Providing for the sale of one million acres of desert land for the benefit of irrigation works, were passed by the council. One of the bills provides for the legal machinery for the operation and construction of the canal systems under this act. Mr. Weedlin made a very excellent address in behalf of the measure, explaining the benefits to be derived. These bills do not conflict with any previous acts. The district irrigation act covers patented lands which these latter measures extend to unpatented lands only. The million acres will be sold to settlers at 50 cents per acre, raising \$500,000, which shall be turned into a fund to pay the salary of the territorial engineer and any cost of the territory incident to the reclaiming of the lands. As Mr. Weedlin explained, the territory will not be placed to a dollar's expense in construction or maintenance of these irrigation systems. The canal systems under this act will not be constructed by the government, but by private corporations under a contract or by cooperative system, the canal systems to become the property of the land irrigated when the interest and principal of the investment is paid by the land owners, under provisions similar to which the ranchers of this valley are to become the owners of the Roosevelt dam system. Mr. Weedlin said that under this act thousands of acres will be reclaimed and populated which would never be given aid by the government for years to come.

Salary Bill Killed.
 O'Neill's bill authorizing payment of salaries to mayors and townclerks of incorporated cities and towns according to a certain classification, was killed by a vote of 4 to 3 against.

Bills Passed.
 O'Neill's bill prohibiting discrimination by telephone companies, an act appropriating \$150 per year for a scholarship in each county in the university of Arizona were passed by the council. The Merrill bill in an amended form, relating to salaries of constables and justices, was passed, and provides that the constables shall receive fees to the amount of \$300 per quarter and one-third of the excess, and justices \$400 and one-third of all fees over that amount per quarter. The bill also provides that constables shall not act in the capacity of deputy sheriffs.

Passage at Arms.
 There was an entertaining passage at arms between O'Neill and St. Charles this morning in the council when the veto of the governor on territorial and county funds deposited in the treasury for two per cent interest on territorial and county funds deposited in the treasury (Continued on Page Five.)

CLARK SAYS CANNON HAS PARESIS

Democratic Leader and Uncle Joe Exchange Pleasantries.

LA FOLLETTE A FAKE

Declares the Plain Speaking Czar of the House of Representatives.

WASHINGTON, March 16.—"Uncle Joe has paresis," was the remark of Champ Clark today after Speaker Cannon had made some stinging remarks concerning the motives and personality of the leader of the house minority and Senator LaFollette of Wisconsin. "The amendments to the rules have greatly improved them," declared the speaker. "This talk about the speaker being a czar is all stuff and tommyrot. What the 'insurgents' wanted to do was to have the committee of fifteen on rules dominated entirely by Clark and LaFollette. LaFollette is a fake," Clark contends, "that the amendments to the rules amount to very little. Beyond saying that Cannon had paresis, Clark made no personal remarks concerning the speaker."

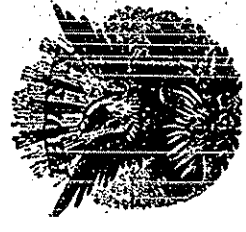
BOWLING RECORD FOR WOMEN IS BROKEN.
 PITTSBURGH, Pa., March 16.—The world's record for a double bowling event by women was broken today at the American bowling congress, when Mrs. M. Kern and Miss Birdie Kern of St. Louis bowled 1023. The previous record was 964.

LARGER AUDIENCES WANTED BY JUDGE

NASHVILLE, Tenn., March 16.—Because his audience was too small, Judge Hart this morning delayed giving his charge to the jury in the Cooper-Sharpe murder trial until 2 o'clock.

It was expected that there would be a large crowd present to hear Judge Hart deliver his charge, but in this the judge was disappointed.

"This crowd is too small for me to



10 acres close to the city on car line with good brick house—5 rooms and bath, one screen room and large attic. Will sell as a whole for \$5500; or house and 2 1/2 acres for \$2500. Any part of the acreage at \$400 per acre. This is an ideal place for

deliver my charge at the present time," said Judge Hart. "I want at least as large an audience as the other fellows. I excuse you until 2 o'clock."

NOTHING NEW IN LOS ANGELES MIX-UP.
 LOS ANGELES, March 16.—There were no developments today in the local graft situation. Municipal interest centers around the meeting of the grand jury on Thursday.

JAY-MCCOOK MARRIAGE
 NEW YORK, March 16.—Peter Augustus Jay, son of Mr. and Mrs. Augustus Jay, who is first secretary of the American embassy in Japan, married Miss Susan Alexander McCook, daughter of Colonel and Mrs. John J. McCook, today. The marriage was hastened because it is necessary for Mr. Jay to return to Japan almost immediately. Mr. Jay is a graduate of Harvard, class of '60, and a member of the Knickerbocker and other New York clubs.

TARIFF BILL WILL BE INTRODUCED TOMORROW

WASHINGTON, March 16.—The new tariff bill will be introduced in the house tomorrow, the delay in its presentation being to secure the approval of the new republican member of the ways and means committee whom the speaker will appoint to succeed Bonyngs of Colorado, whose term has expired.

WIFE-BEATER IS KILLED BY A CHANLER

CHARLOTTEVILLE, Va., March 16.—John Armstrong Chanler, a brother of Lewis Stuyvesant Chanler of New York and a member of the Astor family, shot and killed an Englishman named Gilliland last evening. It is understood that Gilliland, who was an employe of Chanler, was beating his wife, who ran for protection to the Chanler home. Gilliland followed her there and was killed.

CUBAN SOLDIERS MUTING YEAR HAVANA

HAVANA, March 16.—On sergeant and seven privates, a rural guard stationed in Santa Clara province, have mutilated and taken to the woods with their horses and guns. It is feared that they may start an uprising among the natives. Several strong detachments of troops have been sent in pursuit.

Casa Loma
 TEMPE, ARIZONA

The best medium-priced far American and European plan

W. J. KINGSBURY

Grand Concert

The 1909 edition of our large and complete copy right sectional

Map of the Salt River Valley

is now ready for distribution. It is the only map issued showing the complete reclamation project, Roosevelt Dam and Granite Reef Dam etc.

Homeseekers and Investors

may secure copies free by writing or calling at this office.

DWIGHT B. HEARD
 S. E. Cor. Center & Adams Streets

SHIPS ED AFTER LIFE

more severe. Doctors were consulted, but failed to help him. One doctor diagnosed his trouble as cancer of the stomach, and held out no hope. He also tried a number of remedies that were recommended, but might as well have saved his money for all the good they did. About two months ago he was persuaded to give the Cooper Remedies a trial, and procured a treatment of Cooper's New Discovery.

"Now he is well. I have not seen him look so strong and hearty in years. He feels splendid, and eats any kind of food he likes. All the pain has disappeared, and he is entirely free from gas. We deeply appreciate what Cooper's New Discovery has done for him, and having proved it to be a sovereign stomach medicine, we do not hesitate to freely recommend it to all who suffer from stomach disorders."

Cooper's New Discovery is now on sale at leading druggists everywhere. If you are unable to get it from your local druggist, notify The Cooper Medicine Company, Dayton, Ohio.

they are worth. The meet at the park on April 3 will be under the auspices of the High School Athletic Association, and the Coyotes will have men entered in all events. They do not expect to win everything, but do expect to make as good a showing as any other school.

Both the Indian and Tempe Normal schools will be represented, and two men will be over from the Evans school at Mesa. But the list of entries is by no means restricted to students. Everyone is invited to enter, provided he is an amateur. Those desiring further information concerning the rules and regulations for entrants should address "Director Coyote Meet, Box 972, Phoenix."

The following events will be pulled off: 100-yard dash, 220 dash, 440 dash, half-mile dash, mile run and mile relay. It is probable that some other events will be sandwiched in between these. Suitable prizes, donated by the business men of the city, will be offered. It is likely that there will be a few events and prizes for contestants from the seventh and eighth grades of the grammar schools.

The Coyotes have undertaken to construct a quarter-mile track at the park before the date of the meet.

Foley's Kidney Remedy will cure any case of kidney or bladder remedy that is not beyond the reach of medicine. Cures backache and irregularities that if neglected might result in Bright's disease or diabetes. Elvey & Hulett.

ehmer's
UG STORE
RECEIVED
N PAPER, 30c LB.
5c Pack; 2 for 25c.
er and Washington Streets

HEAT AND VER

PASS BILL TO PURCHASE THE FAIR GROUNDS

(Continued from Page One.) This bill was up for consideration. This bill passed both houses by large majorities in the council by 11 to one against. St. Charles took this occasion to jab O'Neill for having voted for the bill and now backing up the veto. Kean said the reason was apparent for O'Neill was a banker. He did not think they ought to be allowed in the legislature anyhow, but it was hard to get rid of them. Kean did not believe O'Neill would steal because he could make more money as a banker by being honest. Brady however, made a brilliant reply, referring to the fable of the man who slayed with the jaw-bone of a certain animal, to which he likened St. Charles. All this was fun for the spectators, but when the count was had, the veto was sustained by a vote of six to six. Hunt, St. Charles, Weedlin, Burns, Finley and Morgan voting in behalf of the bill. Mr. Weedlin claimed that the county funds would amount to a million dollars on the average which at two per cent would net the tax payers \$20,000. The governor's veto proved that the reason the counties were not receiving the benefit of this amount of interest was due to the negligence of the officials. It is well known that under the present administration the territory has been receiving over a per cent interest on territorial funds deposited in banks, and there is no valid excuse why the counties should not have been receiving the same benefit if the money had been properly placed.

Another bill passed by the council is a Sutter measure which provides that where offenses may be punishable under both city and territorial laws, the city ordinances shall take precedence and the crimes shall be punished in the city courts.

Bills Signed.
The governor this afternoon signed O'Neill's sidewalk improvement bill, which gives city councils the power to order sidewalks constructed and the cost assessed to owners of adjoining property. This bill is of especial interest to Phoenix. Finley's municipal improvement bill also received the approval of the executive.

Afternoon in House.
The house this afternoon concurred in the council amendments to Woolf's Tempe bridge bill, and sustained the governor's veto of the Duffy bill relating to easements on mining claims. The house then went into a committee of the whole to consider the improvement appropriations bill. One section agreed to is that the reform school may be removed to the San Pedro valley.

Council's Afternoon.
The council devoted the early part of the afternoon to considering the house bill for the purchase of the territorial fair grounds. Some opposition to the bill seemed to have developed in the upper house.

Doan's Ointment cured me of eczema that had annoyed me a long time. The cure was permanent.—Hon. S. W. Matthews, Commissioner Labor Statistics, Augusta, Me.

**MILLIONAIRE CARRIAGE MAN-
UFACTURER DIES SUDDENLY**
LOS ANGELES, March 16.—Henry Timken, a millionaire carriage manufacturer and capitalist of Canton, Ohio, died suddenly this morning, aged 78 years. He has made his home at San Diego for two years.

Alliterative Absurdities.
If you caught a capacious curate killing kippers for the cook,
In the cloisters with a club yeleft a clerk,
Would you say he was as wily
As a cunning crocodilly
Catching cockles with a corkscrew in a creek?

If you beheld a battleboat bombarding Biscay bay
While the big guns belowered bold from brazen throat,
Would you say it was as funny
As a bouncing blue-backed bunny
Blowing bubbles with a bobby in a

New Spring Style Ready-to-wear Apparel for Boys

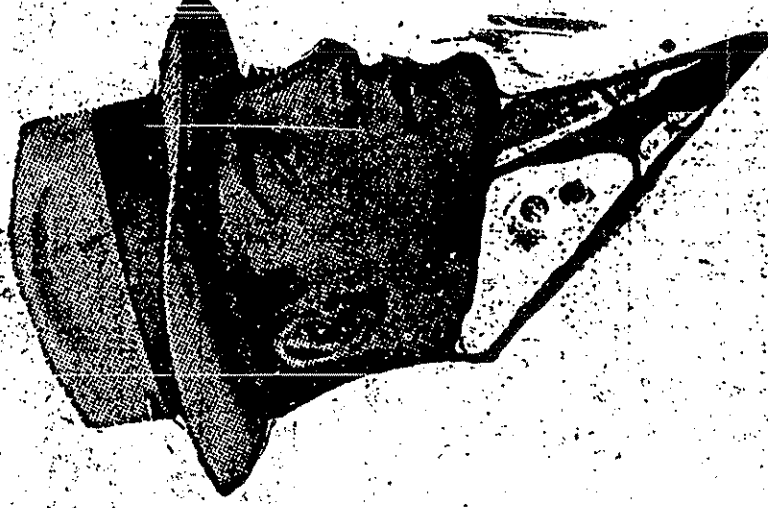
Next to giving our customers the best values in Boys' Cloth it a point to offer the best assortment and selection of styles. This we have gone over all the styles we could find, selected and bought for each age that we knew to be practical and desirable.

SINGLE AND DOUBLE BREASTED NOFFJLKS—Knit Pants, some with plain sleeves and collar, others with fancy coll made from best goods and in all the popular shades and patterns remarkable values from \$4.00 to \$5.00.

THE NEW TUB SUITS HAVE COME—Blouse styles and B and effects of such reliable materials as Pique, Poplin, Linen and white, tan, natural, grey and blue; sizes 2½ to 10 years—priced selling from \$4.00 to \$5.00.

"MOTHER'S FRIEND" BLOUSES—The new spring line is in vogue is much greater than ever. Made of good quality madras a dainty line of colors. Sizes 3 to 15 years. Only \$4.00 to \$5.00.

Hawes \$3.00 WHY



In our new Spring stock "I have the snappiest styles ever. New, distinctive at the same old \$3 price. Evidence of better all-around hat satisfaction nearly twice the price.

The new greens are here in and various other popular spring styles.

WHERE QUALITY COUNTS
The N
We Have
the Exclusive
Agency for
Phoenix

Tempe Ba

Tempe is a prosperous town of about 2000 people, and is 9 miles from Phoenix. Tempe Normal School is located there. Tempe owns its water plant.

EXHIBIT 141

If you are not a
GAZETTE ADVERTISER
 You are losing money.

ARIZONA GAZETTE

Oldest Paper in Phoenix—Twenty-Ninth Year.

PHOENIX, ARIZONA, FRIDAY EVENING, MARCH 19, 1909.

TWENTY-FIFTH LEGISLATURE

ADJOURNS AT SIX THIRTY

Breaks All Records for Long Drawn Out Session in Which Disorder, Confusion and Hilarity Were the Most Prominent Features--The End Comes as the Sun Was Going to Work Today

At 6.30 o'clock this morning, Phoenix and the galleries were crowded. The corridors were noisy with the throng that came to witness the unique proceedings of the third house, presided over by E. J. Whitesides, with Paul Kruger as clerk. The program was humorous and many bon mots were sprung at the expense of those present, including Mr. Cunningham of the irrigation committee. The crowd began to withdraw by eleven o'clock and the late hours the legislators were left wearying alone. The majority of the night shift spent most of this morning in bed.

The cold, gray dawn of the morning after broke upon the Capitol before the appropriation bill for the improvement of the territorial institutions during the next two years was agreed upon by the conference of both houses and was approved by the governor. The appropriation bills were the casus belli between the two bodies from early yesterday evening, reports were unsatisfactory and new committees were appointed, but the threatened break which would leave the big supply bill hanging in the air did not occur. The general fund appropriation was passed with little wrangling, though some concessions were made. The bill diverted one-half the fees from the secretary's office to the territorial school fund, but the salary of \$1500 for the assistant secretary was left intact, though the democratic caucus had threatened to slice that off. No official salaries were otherwise tampered with, though minor changes were made in the contingent fund for the treasurer and the amount appropriated for clerks in the auditor's office.

The maintenance appropriations were tossed back and forth between the house and council, the latter body being determined to hammer down the amount for the institutions, some fifty thousand dollars in round numbers. Some of the house members were bitterly opposed to this, claiming that it would greatly cripple the efficiency of the work of the schools and institutions, the sums offered for acceptance by the house appropriation committee being recommended by the board of control. The house had, however, to agree to the trimming and a number of institutions were cut off with amounts \$10,000 less than had been asked for. The net reduction was \$45,000 on the adopted bill, but most of the schools will receive the same as last year. The maintenance appropriations were as follows: Asylum, \$120,000; Tempe Normal, \$80,000; Flagstaff Normal, \$35,000; prison, \$115,000; reform school, \$44,000; University of Arizona, \$71,000.

The improvements bill.

The original amounts on the improvements bill were slaughtered at

cents which will raise the first year about \$40,000. It is reported that one of the roads to be improved will be the highways from Roosevelt to Globe.

THE APPOINTMENTS.

Personnel of the Railway Commission and Others.

The greatest interest yesterday centered in the appointments on the railway commission, which were sent to the council by the governor in the afternoon for consideration, but withdrawn when opposition arose to H. T. Andrews of Prescott. It was stated about the corridors that Burns and the party wheel horses in Yavapai were out after Judge Andrews' scalp, claiming that he fought the ticket in the last election. They were able to line up six councilmen against this appointee, and the vote was taken in the executive session and was 6 to 3, the four republicans, Hunt, O'Neill, Finley and Morgan, standing up for the Prescott man.

The governor withdrew his appointments, but when the commission which was confirmed was announced the names of Sims Ely of Phoenix and M. O. Bicknell of Tucson were on the list, and George Stoneman, an attorney of Globe, had been substituted for Judge Andrews. These appointees were confirmed by a viva voce vote.

The Fair Commission.

The new members of the fair commission, George M. Halm of Phoenix and Frank L. Wright, are both well known men in Arizona and will labor conscientiously for the best interests of the fair, which is by the legislative enactment and approval of the governor, a territorial institution. Mr. Halm is interested in Salt River valley property, is a leader in the orange industry and during the last campaign was the republican candidate for countyman from Maricopa county. Mr. Wright is a prominent citizen of Yavapai county, is connected with the electrical light plant and has been an active republican.

The appointment of W. C. Foster as territorial auditor is a deserving recognition of his capabilities and his excellent service to the territory as public examiner, which office the democratic caucus abolished by an act generally condemned by both parties. The following appointments by Governor Kibbey were last night confirmed by the council:

William C. Foster of Phoenix, Maricopa county, to be territorial auditor.

A. J. Doran of Prescott, Yavapai county, to be superintendent of the home for the aged and infirm Arizona Pioneers.

E. W. Lewis of Phoenix, Maricopa county, to be supreme court reporter.

George M. Brockway, M. D., of Florence, Pinal county, to be physician at the territorial prison. (To take effect upon the transfer of the territorial prison from Yuma to Florence.)

Thomas Armstrong, Jr., of Phoenix, H. B. Wilkinson of Phoenix and A. C. Baker of Phoenix, to be curators of the territorial library.

M. P. Freeman of Tucson, Pima county, George J. Rockruff of Tucson, Charles H. Bayless of Tucson, and A. V. Grossetta of Tucson, to be members of the board of regents of the University of Arizona.

Edward Kent of Phoenix, E. E. Ellinwood of Bisbee, Cochise county, and John M. Ross of Prescott, to be commissioners for the promotion of uniformity of legislation.

O. H. Christy of Phoenix, George Pusch of Tucson, and J. W. Stewart of Prescott, to be members of the live stock sanitary board.

S. L. Kingan of Tucson, Walter Bennett of Phoenix and George J. Stoneman of Globe, Gila county, to be members of the board of examiners for admission to the practice of law.

Foster H. Rockwell of Phoenix (for a term of four years), Andrew Kimball of Thatcher, Graham county (for a term of three years), and R. H. Forbes of Tucson (for a term of two years), to be members of the horticultural commission.

S. L. Eastering of Phoenix, H. M. Maus of Prescott, and C. C. Parker of Tucson, to be members of the territorial board of embalming.

George M. Halm of Phoenix and Frank L. Wright of Prescott, to be territorial fair commissioners.

James Scott of Pinedale, Navajo county, H. J. Grey of Jerome Junction, Yavapai county, and John Hennessey of Flagstaff, Coconino county, to be members of the sheep sanitary commission.

Will L. Clark of Jerome, Yavapai county, W. F. Staunton of Tombstone, Cochise county, Peter J. Hipple of Globe, Gila county, Charles J. Kim-

UNDER ADVERSITIES Believes Merchants Win Case Against Railroads.

"I don't see how you have made any progress at all, commercially," stated Edward P. Costigan of Iowa today after looking over the lamentable complaint of the Maricopa Commercial club against the railroad hauling freight in and out of the Salt River valley. Mr. Costigan is an attorney of wide experience in prosecuting just such complaints to the state commerce commission and was employed by the club to conduct the case at the commission hearing to begin here Monday. He arrived in Phoenix this morning.

"So far, I can't see what defense the railroads can put up," went on Costigan. "The case is remarkable similar to the Spokane case, as a course, you will know here."

"I understand that conditions have been about as they are now. Your business men must have become accustomed to them and accepted the handicap as you do your mountain and other obstructions you never think of removing. Your business men must be sticklers or they would never have lived through it."

"What is your opinion of the commercial club's case, Mr. Costigan?" "It is very interesting in all phases. As I said before, it is remarkably similar to that of Spokane, favorably decided a few days ago by the commission. You are right at the signing of a tremendous freight 'lower' freight rates. In Denver, have been asked for 'ice' rates which have made some progress."

"There we are fighting the Missouri river rates. Points along the Missouri can distribute goods all around Denver. We contend that Denver should be the distributing point for that region and have won some victories, though we have not yet gotten all what."

"While I have very little time to look into your case, I think that with the assistance of Mr. Jones we will be ready to present the side of Phoenix in a proper manner."

Mr. Costigan has been fighting lower freight rates for Denver for a year. He first took up the fight with an attorney for a mattress manufacturing named Kondal, who was fighting the single-handed battle against the roads. When he had won this case he was employed by the Denver chamber of commerce and has since conducted a number of cases before the commission. This is the first case he has ever taken for any city other than Denver.

ASTOUNDING FREIGHT RATES

Edward P. Costigan, Maricopa

at Progress of Phoenix

ASTOUNDING FREIGHT RATES

ASTOUNDING FREIGHT RATES

ASTOUNDING FREIGHT RATES

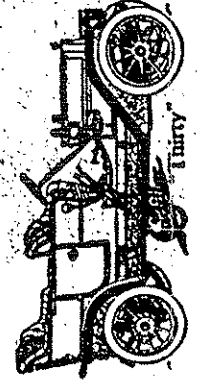
ASTOUNDING FREIGHT RATES

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ASTOUNDING FREIGHT RATES

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ASTOUNDING FREIGHT RATES



10,000 Cadillac 30 h.p. made this year, 7000 already on order books. You will have to hurry if you want the best car made for this money, \$1,400.00.

The Big Winton Six, \$3,000.00 is a winner.

Indian, Reading Standard, Light Thor Motorcycles, Columbia, Light and Special Bicycles, Hartford and Fisk bike tires. All repairing guaranteed.

AIZONA MOTOR CO.,
 31 So. 1st Ave.
 Phone Red 8532.

240 Acre STOCK RANCH

Beautifully located west of Alhambra, 100 acres of it in old alfalfa, bal-ance in grain, all fenced.

Biggest Bargain in the Valley

A man who has lived near Scottsdale for nearly ten years and who knows every foot of land in this entire section, stated to me this

English Tourist Found As Dying

FERNIE, B. C., March 19.—Two English tourists were found in a shack

EXHIBIT 142

REAL
ROSE LEAVES
METALLIZED

Stick Pins

process, real flower—can be metallized the natural flower; no they are the swellest er placed upon the othing is more suit- r taste.

Hair Pins

ERBRAN
MPANI
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Muslin Un-
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exceptionally
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purchase.

Ackel

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ing. Only authorized tun-
Co. Graduates of the
of Music, Boston. Ref-
sified customers.
in Phoenix.

FLORIDA MAN WANTED TO KNOW THE TRUTH

Put Cooper's Claim to a Test and Proved Its Genuineness

The theory of L. T. Cooper that most of the ills of mankind emanate from the stomach, and that it is only necessary to restore to normal condition in order to enjoy good health, is rapidly being accepted as correct by people in all parts of the country. His further claim that his New Discovery medicine will effect this change quickly and permanently is supported by a vast army of followers.

One of those to put the Cooper theory and medicine to a test is F. W. Ross, living at 205 Irvine street, Orlando, Fla., and an honored resident of that community. Mr. Ross has made a statement for publication with reference to the result of his experiment, in which he says:

"For the past ten years I have been unable to do any work, and an numerous occasions when I tried to work, I became ill from exhaustion. I had little or no appetite, and the small amount of food I did eat distressed me. My digestion was bad, my bowels in a miserable condition. I was nervous, weak, tired and worn out all the time. I could not sleep well, and would arise in the morning feeling all worn out. I tried numerous remedies, but instead of getting better, I continued to decline, and felt that it would not be long until I would end my mis-

ery in the grave.

"Several months ago I read about the Cooper remedies and was so impressed that I went to my druggist and bought a bottle of the New Discovery medicine. I immediately noticed a beneficial effect, and continued the treatment. It thoroughly cleansed my bowels, made my stomach feel easier, and I began to get some strength.

"In a little while I developed a splendid appetite, and found that I could eat anything I cared for without suffering any ill effects afterward—my digestion was perfect. My sleep became sound, restful and refreshing. As I gained in strength I began to work again, and found I could do considerable without becoming exhausted.

"In two months' time I was a well man. I can do as hard work as ever, and have virtually taken a new lease of life. I make this statement in grateful appreciation of the benefits I have derived from the Cooper medicine, for I honestly believe I owe my life to its marvelous curative properties."

Cooper's New Discovery is sold by all druggists everywhere. A sample bottle sent free upon request by addressing The Cooper Medicine Company, Rayton, Ohio.

ALL PLANS FOR HARMONY FAIL

Looks Like Bridge Scrap

Was on in Dead Earnest.

COMMITTEES NAMED

Petition Will Be Filed for \$100,000 Structure on Center Street.

All plans and efforts for harmony on the bridge question were exhausted this morning, when the Phoenix and Tempe bridge committees met in the office of B. A. Fowler to discuss again the propositions which had been submitted. The Phoenix interests will now file another petition for an election, naming the Center street site, and will probably proceed on an independent basis.

Mr. Fowler, who has been very active in trying to harmonize the contending forces, stated this morning: "We regret exceedingly that all efforts for harmony have failed. We wanted to meet the wishes of the south side and other interests, if possible, by a fair compromise, but it now seems that no common ground can be reached."

The petition will call for a bridge costing \$100,000, one-half of which is to be borne by the county, and the re-

A BEAUTIFUL HEAD of hair is a woman's richest treasure. Do not neglect it. Let it become GRAY or FADED. USE

Hays Hair

if they can and make assurance doubly sure that the republican candidates for the other city offices are elected.

"All we want is to give those democrats the worst defeat in the history of the party in Phoenix," said an independent today. "They do not believe we have any strength, but we will show them. Next year we will show them again, and some of these days we will show both parties what we amount to."

The democrats themselves seem to be worrying more about a candidate for mayor than over the Davis-McGarr scrap. Easterling once refused absolutely to consider the nomination but it has been about decide to nominate him anyway.

The chances are that W. M. Fickas will be nominated for councilman from the third ward, though this is by no means settled. Fickas is unwilling to assume the duties of the office but the democrats hope that he will do so for the benefit of the party.

E. A. Scheets has lost out in his fight for councilman from the first ward and Sydney Goldman will be nominated. This much was settled at the meeting of leaders this morning. Two or three days ago it looked like Scheets was as good as nominated.

There is a move on foot among certain republicans to nominate Dan McDermott for treasurer instead of Harry Diehl, the present incumbent of the office. Opposition to McDermott has come from an unexpected source and he has been able to muster little strength. He may be nominated in the convention but Diehl is sure to be named on the ticket.

Following is the ticket to be nominated by the republicans:

Mayor—Lloyd B. Christy.
Councilman, First ward—Charles Stauffer.
Councilman, Third ward—John Marshall.

Assessor—C. W. Barnett.

Recorder—Frank Thomas.

Treasurer—H. A. Diehl.

Marshal—John Moore.

BURGOMASTER OLD FAVORITE

Company Pleased Large Audience in Elks' Theater Last Night.

The Burgomaster has come and gone but it will be gratefully remembered by the many people who crowded the opera house last night, and were delighted by its tuneful melodies and delicious nonsense. The Burgomaster gained another lease on life last night for the company gave the full performance, and were very liberal in responding to encores of song hits and curtain calls. A year ago the company made the mistake of cutting the show though they were playing to a packed house. This action hurt the business of plays that followed, and probably did not contribute to the enthusiasms of the good peoples this year, so the attendance last night was not a record breaker.

Harry Hermsen was very clever as Peter Stuyvesant, the Burgomaster of Amsterdam, and the audience took

160 at \$40

Located in Fowler district, eight miles west from Capitol building. This is the greatest snap in unimproved land in Salt River Valley. Part has been in cultivation. All signed up with full reservoir rights.

The Cash Now Gets it.

VALLEY



The
from
Cre
Made in
Grapes

very kindly character, w fine humor. part taken by ceptable you best cast of Bailey as E. I in hard luck looked the pa the feminine convincingly Euphemie Lc

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EXHIBIT 143

Oldest Paper in Phoenix—Twenty-Ninth Year.

PHOENIX, ARIZONA, WEDNESDAY, APRIL 7, 1909.

FOURTEEN PAGES VOL. X

GOVERNMENT OFFICIALS HERE

Dr. Woods and Mr. Powell of Agricultural Department on Inspection Trip. VIEW GRAPT'S REEF. E. B. and Harry J. Chase, Wealthy Nurserymen, Accompanying Party.

Inspection which will be valuable to him in the departmental affairs. The visit of the names is more for the purpose of learning land values and the possibilities of the fruit industry here.

Another Big Sale of Tunis Mutton. Another sale of Tunis mutton is announced by R. Hackett of the Hockett Meat market.

NEW PETITION FOR BRIDGE ELECTION

Campaign Begun in Phoenix With Meeting Yesterday Afternoon.

TO RAISE BONUS \$50,000

Interest Discussion of Center Street Site and Plans.

A big movement which means much for the rapid development of the Salt River valley was inaugurated yesterday at the meeting of the committee on the board of trade to consider plans for the concrete and steel bridge at the foot of Center street.

of cultivated lands lying south of Phoenix contributed \$1,000, and per acre, or \$300, and that the lands which will be directly benefited by the bridge, amounting to eight or ten thousand acres, contribute \$10,000, and the property holders and merchants of the city of Phoenix contribute \$50,000.

Plans for an educational campaign that will include every corner of the Salt River valley were formulated at a meeting of the bridge committee in the office of the Water Users' association.

HURRICANES RAGING IN EAST

Destructive Storms Traveling Over the Mississippi Valley.

PROPERTY LOSS LARGE

Many Killed and Buildings Are Carried From Their Foundations.

TOLEDO, Ohio, April 7.—Storms which in places reach the force of a tornado are raging over various sections of the Ohio river region and south.

El Paso-Phoenix run would be a great or an advance run than the one from Los Angeles. At any rate, he believes that it would stimulate great interest in the fair at Phoenix and in automobile sports in Arizona.

Part of the Phoenix would be through some of the more thickly settled sections and cities of Arizona, and the race would be watched all along the line with great interest.

Valley Realty & Trust Co. We have some real estate specials advertised it the classified columns today. If you are a home-seeker or an investor these items will interest you.

Mr. Fowler, chairman of the transportation committee of the board of trade, says as chairman of the committee that the various efforts made by the bridge committee in the past have failed to secure business, but that the coming of the bridge will be a great advance to the city of Phoenix.

GOYOTES VS. UNIVERSITY Ticket Selling Contest for Pupils of the High School. Saturday afternoon at Eastlake park the baseball game to be seen here this season will be played.

ST. PETERSBURG, April 7.—There is no truth in the report, published in the United States, that 1500 Russian fishermen were drowned near Riga by the overturning of an iceberg.

WASHINGTON, April 7.—The special presidential election has not yet reached a decision regarding the marshaling of Arizona.

VULTURE HAS PRODUCED \$16,000,000. Litigation is ended and this famous oil property is producing again. The stock is very active on the market.

Mr. Fowler fully explained the new plans which have been prepared for the concrete and steel structure. These plans would give a larger opening for water way than any yet contemplated.

MEETINGS WILL BE HELD IN ALL parts of the valley, probably in every schoolhouse. The meetings will be addressed by the men who have been prominent in the movement for a bridge at Center street.

MEMPHIS, Tenn., April 7.—Eight persons are known to have been killed and many injured in a storm which struck Memphis and the surrounding country.

Casa Loma TEMPE, ARIZONA. The best medium-priced family American and European plans. W. J. KINGSBURY, ARIZONA MOTOR CO. 31 So. 1st Ave. Phone 8532.

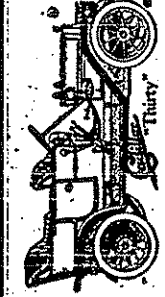
Everything Electric. E. THOMA MFG. CO. Salesroom, 22 S. Third Ave. Phone Main 361.

DWIGHT B. HEARD S. E. COR. CENTER & ADAMS STS. WE PAY HIGHEST CASH PRICES FOR OLD GOLD AND SILVER AND PRECIOUS STONES.

CALABRIAN TAXPAYERS SEEM TO BE DESPERATE. MONTE LEON, Calabria, April 7.—Four men were killed and one wounded today in a conflict between tax collectors and citizens.

STORM IN BLACK SEA. CONSTANTINOPLE, April 7.—A fierce storm is raging in the Black sea and has been blowing steadily for several days.

The New Electric VAUDEVILLE AND PIC. PLUMBING Gosart Plum Company. PHONE MAIN 285.



10,000 Cadillac 30 h.p. made this year, 7000 already on order books. You will have to hurry if you want the best.

FACTORIES WRECKED. PEHU Ind., April 7.—The storm centered this city last night about 8 o'clock. The tornado destroyed several school buildings.

MEMPHIS STORM. MEMPHIS, Tenn., April 7.—Eight persons are known to have been killed and many injured in a storm which struck Memphis and the surrounding country.

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GOSAI STANDS FOR ALL THAT IT AND RIGHT UP TO DATE. PLUMBING Gosart Plum Company. PHONE MAIN 285.

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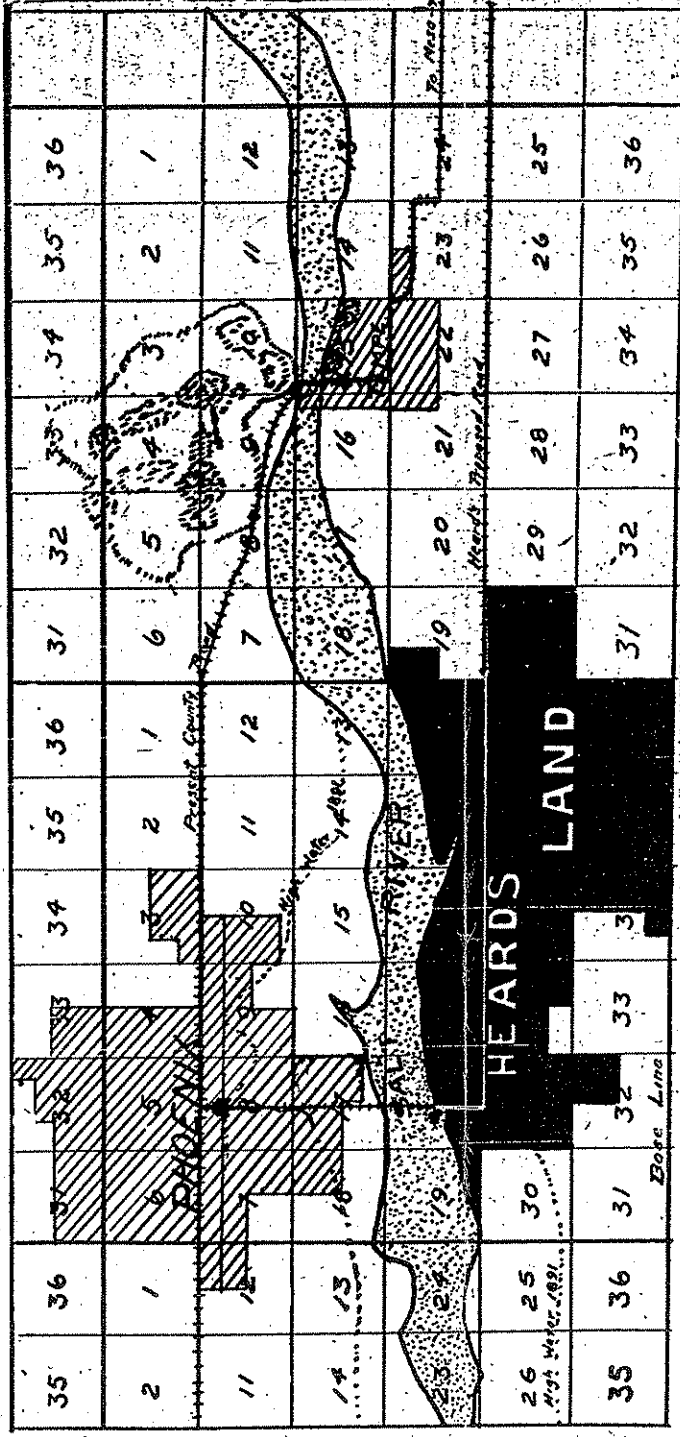
Valley Realty & Trust Co. 6 Lots, four 160 feet deep, two 195 1/2 feet deep, corner Port...

EXHIBIT 144

The Truth About the Bridge

THE REASONS FOR A BRIDGE AT TEMPE

Rock on both sides of the river and rock foundations. 1400 foot opening. River can never be wider. Bridge will be built on old county road, one of the best in the county, and one that can be maintained at little cost. Shortest route from Mesa and Tempe to Phoenix. A direct tax on the people at the present time means a bridge should be built to benefit people who pay taxes NOW. A bridge at Tempe is a bridge between the centers of population, a bridge to accommodate the tax payers of Maricopa County.



The Principal Reason. For a Bridge South of Center Street--Figure it for Yourself.

The citizens recognize the fact that if the location of the bridge across Salt river was left to a vote of the taxpayers on the merits of the case, that no taxpayer would vote for a bridge at Mr. Heard's ranch. We are certain that nothing would please us better than to have every taxpayer in the county take a trip to the end of Center street, cross the river and drive to Tempe. If they should do this there is no doubt that every person who is not a land owner near the site of the proposed Center street bridge would vote for the Tempe location.

The site at Tempe is the best for a bridge that can be found in the Salt River valley. The river at this point has good banks, there is rock on both sides of the river, the bridge can stand on a rock foundation and it can never be wider than 1400 feet. The present road is three miles shorter from Tempe to Phoenix and two miles shorter from Mesa. It is a good road upon which the county has spent thousands of dollars, has been gravelled from one end to the other and can be put in first class shape for a small cost. It is the shortest route between the centers of population in this county and when the reclamation service builds its low canal to connect with the Appropriators, it will run for three miles along the bank of the canal, a perfect highway that can be shaded from one end to the other.

On the other hand, the road through Mr. Heard's ranch will have to be graded and gravelled. This will cost the county more than it will to build the Tempe bridge and much more than is offered as a bonus by the land owners who would be benefited by a bridge at Mr. Heard's ranch. The their land south of the river and do not intend to do so. In fact, the last bridge at the lower site must be built in a place where there is no bank to election showed that there was about the river and, because the engineers one voice east to every 1000 acres of land. Quite an idea. That the county recognize the fact that it will be dan-

should build a bridge to accommodate twenty people, when a bridge at Tempe would serve five thousand people who have to go to the county seat to pay taxes, and when these same people spend thousands of dollars with the merchants of Phoenix each year. If you have any doubt of the number of south side people who trade through our town, you would do well to go to the county seat and see the citizens of Tempe who are being asked to build a bridge and tax the citizens of our town. The maintenance of the bridge, when this bridge will be in a zone, when it will practically kill our town. This is a life and death matter with the residents of Tempe, and we do not believe that the taxpayers of this county are going to compel us to do anything of this kind, particularly in the interests of a real estate speculator and his associates.

Under instructions from the board of supervisors, Mr. George Streitz, county engineer, is preparing plans and estimates for a bridge at Tempe and one at Mr. Heard's ranch. We are waiting with impatience for this report from a disinterested engineer who is making plans and estimates for the taxpayers of Maricopa county and has no bridge to sell.

(Phoenix Herald, Feb. 19, 1891.)

The water on Center street, a quarter of a mile north of the fair grounds, reached the draught house and was rapidly raising.

Phoenix lies 27 feet above ORDINARY water mark in Salt river. Do the citizens of Phoenix want to build a diversion dam only 16 feet above the gravel beds south of Center street? We think not.

(Phoenix Herald, Feb. 20, 1891.)

But one sound could not escape unheard, and that was the dull, lazy, unrelenting crash of adobe houses as they tumbled in quick succession, after an undermining current could eat them long into the night. These uncanny noises could be distinguished above the reverberation some with the first approach of water.

lucky citizen exclaimed: "God help the new recruit to the ranks of homeless flood victims." Eleven falling roofs were counted in a single hour at sunset.

(Phoenix Herald, Feb. 24, 1891.)

Another anxious day. Salt-river falls higher than before, but began falling this morning. Household migrations, embarkments and various remedies of Father Noah.

Under Sheriff Barry, Marshal Blankenship, P. Miner and others kept galloping through the exposed districts, warning everybody of the possible danger. Slowly the yellow tide crept up into Livville addition, AS-BEFORE, and people began to move.

At another place the moving wagon had just come and men began carrying out their most valuable possessions, while women and girls gazed, shivering and dejected upon their forlorn prospects.

At 7:30 a report that one of the levees shown up yesterday east of the city had broken, reached town. The water at all events had reached Jackson street on the south side, and by 8:30 a. m. had nearly entered District Attorney Cox's garden, corner, Monte-zuma and Madison streets.

Still the water was reported coming from the east--having by 9 o'clock covered the front grounds of the income taxman and taken a course toward Gilman's and Tom King's.

About 11 a. m. the water-dragging down Washington street, across the dividing culvert between Murphy's and Collins additions.

Territorial Treasurer Smith, Lincoln Fowler and others dug mounds about their houses.

The 300 yards of 2 foot embankment thrown up yesterday by the old Arizona and Salt River ditches by the citizens' forces, could not well stand, and the silicious material had to go out with the first approach of water.

EXHIBIT 145

EXHIBIT 146

To assume, without reading them, that today's ads do not interest you, is "snap judgment."

ARIZONA GAZETTE

Oldest Paper in Phoenix—Twenty-Ninth Year.

PHOENIX, ARIZONA, MONDAY EVENING, APRIL 19, 1909.

FOURTEEN PAGES VOL.

WHOLESALE LYNCHING IN AN OKLAHOMA TOWN

MOB STORMS JAIL, OVERPOWERS SHERIFF AND HANGS FOUR MEN CHARGED WITH MURDER

Spared Life of a Seventeen-Year-Old Boy Who had Confessed Implicating His Uncle and Three of His Companions.

ADA, Okla., April 19.—At 3 o'clock this morning a mob composed of 200 men stormed the county jail, overpowered the sheriff and lynched four white men. The men lynched were J. B. Miller of Fort Worth, Texas, charged with the murder of A. A. Bobbitt, a wealthy cattleman of that section, and D. B. Burwell, Jesse West and Joseph Allen, his alleged accomplices.

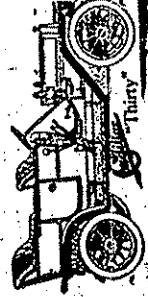
The mob worked rapidly but quietly. The men were taken to a barn a short distance from the jail and there entrance was effected by tearing down a portion of a high enclosure surrounding the jail, and when the sheriff refused to open the doors to the jail, he was felled by a blow on the head from a revolver in the hands of one of the mob. No other resistance was made, and the work went on.

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MEETING OF CITIZENS ON SEWER QUESTION TONIGHT

Tonight the citizens of Phoenix will gather in the council chambers at the city hall to discuss the sewer question. This meeting was called, through the Gazette, by Mayor Coggins last Thursday, in accordance with a resolution passed at a meeting of the city council the preceding Monday evening. Seldom, if ever, has more general and deeper interest existed in any public question than this.

Whether the general sentiment of the meeting will be in favor of the purchase of the present sewer system, which is owned by the Phoenix Sewer & Drainage company, a private corporation, is a question hard to answer.



10,000 Cadillac 30 h.p. made this year, 7000 already on order. You will have to hurry if you want the best car made for this money. \$4000.00 is a winner. The Big Winton Six, \$4,000.00 is a winner.

SEE US ABOUT YOUR FANS. Everything Electrical. E. THOMA MFG. CO. 22 South Third Avenue. Phone Main 361.

WE PAY HIGHEST CASH PRICES FOR OLD GOLD AND SILVER AND PRECIOUS STONES. FRANK J. O'BRIEN STOCKS AND BONDS. Tucson, Phoenix, Globe, Nogales. Direct Wires to all Exchanges. R. D. HIGHTOWER, Local Manager. Phone Main 331. Hotel Adams Bldg.

Since the report of the sewer committee of the board of trade was submitted to the council a great many expressions for and against the purchase have been heard. There is a widespread belief that \$82,000, the amount of the outstanding indebtedness of the company, which it is proposed the city shall assume, is more than the system is worth.

All the council wants to know is how the citizens stand on the question," said Mayor Coggins this morning. "I want every one who has any views to present tonight. He will be given a chance to speak. The council will be largely governed by the sentiments expressed tonight."

BRIDGE QUESTION BEFORE BOARD SUPERVISORS

Date for Election Will Be Set After Opinion of Bullard.

The bridge controversy held the attention of the board of supervisors at the session this afternoon, but the date of the election was not definitely at the board was in the dark as to how soon a vote could be taken under the law. District Attorney Bullard was busy with district court work and grand jury business, and could not be present, but he will be asked to submit an opinion. Under the late election law thirty days are required for registration. It would take perhaps fifteen to twenty days to make up the register before the election could be held. Chairman Fogie suggested May 28th as the date, but it will probably be held in the position was read this afternoon with the range and Phoenix sections. Buckley wants a \$30,000 levy on a bridge. The petition was signed by about 95 per cent of the taxpayers in that section, and another petition offered by Sam Webb was signed by a number of Phoenix people who are owners of land in the Buckeye valley.

BANK ROBBED WHILE THEY WAITED

Citizens Shoot Outside While Robbers Inside Take the Coin.

DYNAMITE SAFE Escape on Handcar, With a Mob Following in the Distance.

BARTLESVILLE, Okla., April 19.—With scores of citizens standing outside discharging revolvers, firing rifles and yelling at the top of their voices in an effort to intimidate them, two robbers today dynamited the safe of the bank of Havana, Kansas, near the Oklahoma state line, and escaped with \$2,300 in currency and coin. The robbers were seen to enter the bank, and while one stood off the crowd with a gun, the other blew the safe open. The stack was quickly lifted and the robbers made a sudden exit through a side door. The crowd set out in pursuit and scores of shots were fired at the fugitives.

The safe crackers reached the railroad yards and secured a locomotive which they rapidly ran out of the city toward Bartlesville, they evidently intend to take the locomotive to the station, and were captured by the police after a flight of the train of the jail one of the robbers drew a revolver, which had been overlooked, compelled Peleman Martin to release them both and fled. They have not been located.

COL. WOODWORTH ENTERTAINED AT BANQUET

In Honor of Baron Oppenheim and Other Notable Visitors.

In honor of Baron Robert Oppenheim, Hon. Charles S. Boyd and David Leshel, of Pennsylvania, Col. H. F. Woodworth, of New York city, who has been in the city several days will give a sumptuous banquet at the Country Club tonight, at eight o'clock. A strong group of home and foreign capitalists who are contemplating the making of large investments in the territory. They left yesterday for Roosevelt, and are expected to return to Phoenix this evening by rail from Mesa.

The following is the list of invited guests to the banquet: Governor Joseph H. Kibbey, Chief Justice Edward Kent, Secretary Page, Hon. A. C. Barker, B. J. Bennett, C. H. Akers, Emil Gans, Leo B. C. Chisley, E. D. Gage, Dr. W. J. DeWitt, H. A. Foster, H. F. Norman, W. W. Vleck, Frank DeSousa, Dr. Foss, G. W. Vleck, J. C. Adams, Frank Cox, R. M. Dawson, J. T. Sheppard, H. J. McClung, T. W. Chamberland, F. R. Moyer, Juan Mayer and Carlos Mayer.

FLUSHING, N. Y., April 19.—Insanity, both at the time of the killing of William F. Anshutz and since, is expected to be the chief point of the defense in the trial. C. Hains, Jr., charged with the murder on April 16 last. It is uncertain whether the wife of Hains will be a witness. Fifty witnesses have been examined and by the detainer rules, were held by night and working a drunkard's head. He had a blank stare of indifference.

THE DISTRICT COURT TERM OPENED TODAY. The grand jury convened this morning in the district court room, and this afternoon was instructed by Judge Kent. The calendar was called this morning and a number of old cases of small importance were dismissed. The grand jury, though only a few sessions in session, will be called to meet in court if an indictment is returned in that of the Territory vs. Tom Lewis, a colored woman, charged with the murder of John C. Boykin, a colored man. There are a number of felony cases, including those against Whitting, the ex-undertaker.

TUGSON'S CONTESTANT VISITING PHOENIX. Miss Ivah Moore, of Tucson, who is one of the leading contestants in the Tucson-Alaska-Pacific young ladies' popularity contest, is a Phoenix visitor today, to receive one of the period prizes awarded March 20th. This prize is a \$50 tailor made suit given by the Tucson store. Miss Moore for three years has been the popular and illustrious stenographer at the Santa Rita, one of the Old Pueblo's most up to date hotels. Miss Moore will indicate the campaign in Tucson has been a most successful one and attests the number of votes she has secured in that city. This is Miss Moore's first trip to the capital city of Arizona, but although finding it a beautiful place Tucson's representative in the contest is loyal to her home city and thinks there is no place in Arizona that can begin to compare with prosperous Pima county capital.

WHAT LONDON KNOWS. LONDON, April 19.—The Macedonian troops intend to enter Constantinople today and demand the abdication of the Sultan. Abdul Hamid's new military is tottering. Abdul Hamid has been unable to guarantee public order in the Constantinople received from the banking firm.

40 Acres Near Glendale. 15 Acres Alfalfa—Balance in Grain. Best Glendale Loam, fenced and cross-fenced. Good house and cross-fenced barn. \$150 Per Acre. Valley Realty & Trust Co. Phone Main 388. 34 West Adams Street.

ALWAYS HAS SOMETHING NEW. Three high-class Van-Deville Acts. 2000 feet of Moving Pictures. Entire Change of Moving Pictures and Songs Tomorrow Night. New Faces. New People. Big Seating Capacity. Big Show. General Admission, 10 cents. Reserved Seats, 5 cents and 10 cents.

The Coliseum. Always has something new. Three high-class Van-Deville Acts. 2000 feet of Moving Pictures. Entire Change of Moving Pictures and Songs Tomorrow Night. New Faces. New People. Big Seating Capacity. Big Show. General Admission, 10 cents. Reserved Seats, 5 cents and 10 cents.

SULTAN MAY HAVE LEFT THRONE. Rumored Abdication and Flight of Abdul Hamid. MINISTRY TOTTERING. Young Turks Expected to Win in Battle for Supremacy.

CONSTANTINOPLE, April 19.—It is rumored that Sultan Abdul Hamid has given up the unequal fight for his throne and has fled from the Yildiz Kiosk. Sheik Fula Islam, head of the Mohammedan church, has issued a declaration to the country at large to all Mohammedans of the world, announcing the fall of the Turkish ruler. It is expected in Constantinople today that the main body of the sultan's troops will be loyal to the Young Turks. They are concentrated outside the city and will soon yield a Kiosk, the center of power, to the Young Turks. Last night they continued their march and tonight it is expected that they will occupy the town. The sultan's troops, ten miles from the capital, are expected to be routed.

Two advance squads, of one and three hundred men each, proceeded to the main body. Half of these advance guards are officers. The troops taking part in the march number fully 30,000. Many of the troops fight in Constantinople favor the Young Turks. No resistance to the oncoming army is expected.

ANOTHER EXPLOSION IN OHIO COAL MINES. WHEELING, W. Va., April 19.—A serious gas explosion occurred in the coal mine at Warner, Ohio, at seven o'clock this morning. GERMANY SENDS SHIPS. BERLIN, April 19.—A German squadron of five cruisers has been ordered to Constantinople.

"Its the S Airdome. Minerva's Maneuver Stock Con Feature F "Kenilworth" "Sta New Illustrated S Airdome O

Casa Lom. The best medium-priced American and European pianos. W. J. KINGSBURY. TEMPE, ARIZONA.

Gosart Piano Company. cannot be helped but be recognized. Let us figure with you on the have. Gosart Piano Company. PHONE MAIN 285.

EXHIBIT 147

MASS MEETING TONIGHT ON THE BRIDGE QUESTION

A mass meeting of the people of Tempe has been called for this evening at the Opera house for the purpose of discussing the bridge situation as it stands at the present time. A meeting was held last Saturday evening, but was not largely attended by reason of its not having been given a meeting of publicity. At the meeting this evening different phases of the matter will be discussed, and all interested are urged to attend.

Mesa Department

W. Aird Macdonald, Representative Holiday Store, Phone Main 106

SAD DEATH OF W. W. WALKER

The End Came Last Night, After a Short Illness.

William W. Walker, aged 43, a native of Mississippi, married, and leaving a wife and five children, died last night at 5.30 at his home southeast of Mesa, from a combination of diseases. The principal cause of his death was a cold which he contracted about two weeks ago, and which developed into pneumonia. He has been very ill since a week ago Thursday and has been carefully watched and cared for as far as possible. Everything was done for his relief, and he seemed to rally, but took a backset and then came the end.

Mr. Walker was well known here, having resided in Mesa and the vicinity for the past three years, having come here from Mississippi in 1906. There he became a convert to the belief and teachings of the Latter Day Saints and has been an ardent worker and believer in church affairs and at the time of his death was one of the presidency of the elders' quorum of the stake.

He leaves a loving wife and five children to mourn his loss. The case is an extremely sad one, as the family is in destitute circumstances and it has only been through the hard toil of Mr. Walker that the family has subsisted. The eldest son, Louis, however, is quite a young man and will no doubt prove the mainstay for the family. The arrangements for the funeral have not yet been made. The wife and children have the most profound sympathy of the entire community in this hour of sad bereavement and sorrow.

Write. Lives of great men all remind us. As their pages o'er we turn That we're apt to leave behind us Letters that we ought to burn. —C. K. S.

For Bargains In the Realty Line See

John A. Martin Real Estate Agent, At Phelps Hardware Store, Mesa

GO BY STAGE To Roosevelt

A delightful ride, five relays, 10 hours of mountain scenery. See the big dam nearing completion. Stage leaves Mesa at 6 a. m. Fare \$6.00.

Mesa-Roosevelt Stage Co.

Canteens

Handmade, guaranteed not to leak—all sizes from 2 to 14 qt. Call and see them.

Phelps Hardware Co. Mesa Arizona

RESTAURANT AND LUNCH COUNTER

DAN HI-LO-LO Prop. The finest meals in town. Short order. North side of Main St., Mesa.

We "Divide Profits"

A. F. Liggett, Representative Omce, Casa Loma Hotel Building.

No. 8, extend to our bereaved sister and little son our love and sympathy in this their time of trouble and grief. Be it also resolved, That a copy of these resolutions be sent to our sister, Sophie Gustafson; one to the Gazette for publication; and that they be spread upon the minutes of our lodge. Committee: Laina Yandorwalker, Honor. Member. By order of N. C., Maude Stow-ave.

EXCITING EXPERIENCE AT THE HEARD CROSSING

Claude Brower and George Chittwood had an exciting experience in Salt river Saturday afternoon that came near having a serious ending; as it happened, the buggy in which they were riding was almost totally demolished, and they themselves escaped from the raging torrent by the merest chance. They started to cross the Heard ford and followed what they supposed to be the regular crossing. The water was much deeper than they anticipated, however, and when near the middle of the stream, their trouble began. They were driving a single rig and leading a saddle horse. The current became too strong for the light rig and it was overturned, throwing the two men into the river and crushing the wheels of the buggy. By a great effort they managed to cut the horse loose from the rig and one mounted and the other the saddle horse they managed to escape. The buggy, at most a total wreck, lodged on a bit of brush, while the seat and parasol floated on down stream.

See Dr. Swigert, for correct glasses, 17 E. Adams St. Phone Red 2461.

Successful Trip. Al Miller returned last evening from Roosevelt with a party consisting of Mr. and Mrs. A. J. Peters and son, Miss Dobbs and Miss McNell. The trip was one of the most successful he has ever had and was totally devoid of accident of any kind. While no effort was made at making a new record, some quick time was made at different stretches of the road. Fish Creek hill was climbed in just eight minutes and the run from Goldfield to Tempe was made in an hour and five minutes.

Finch & Carr, undertakers and embalmers, Tempe. Phones: 131, Finch, and 179, Carr.

Will Leave For Home. A number of Mrs. Jessie P. Brunsford's friends gave her a very pleasant surprise Friday afternoon. The time was spent delightfully with conversation and music and each guest brought a dainty token of regard. Mrs. Brunsford expects to leave Tempe next Wednesday evening for Texarkana, Ark., where she will visit relatives for a month and then return to her old home in Fulton, Kentucky.

The lunch is fine, the beer is good, and you get your fill at the Anheuser saloon. Go to George's place for a nice free hot lunch and fine drink. The Anheuser saloon, Tempe, Ariz.

The Lucky Buyers. The names of the lucky buyers at the Hodnett sale, who were fortunate in getting a rebate of the full amount of their purchases were the following: Friday, Mrs. Princes and Miss Crouch; Saturday, Miss Dorsey and Mrs. West; Sunday, Mrs. H. H. Griesel and Miss Ethel Richards; Tuesday, Mrs. A. J. Matthews and Mrs. Sam Brown; Wednesday, Theo. Dickinson and Miss Mary Corbell; Thursday, Miss Flossy Dines and Miss Flora Studley.

Medal Contest. The W. C. T. U. silver medal contest will be held at the Goodwin opera house Friday evening, April 23rd. Medals will be given in song, recitation and piano, and all contestants are requested to call at Mrs. Scudder's tomorrow afternoon at a quarter past four.

Time Changes. The following changes will be made in the various trains in and out of Tempe. The train in from Maricopa arrives in the morning at 7:08, a few moments earlier than heretofore. The morning train up from Phoenix arrives at 9:01, half an hour earlier. The first train to Phoenix on the Mean line arrives here at 7:37, also earlier about half an hour. The two new trains on the Maricopa line go as follows: Going to Maricopa, arrives here 9:49; returning to Phoenix, arrives here 2:50 p. m. These figures are given in local time.

Still Sick. The Gazette's correspondent at this place has been on the sick list for several days past, at his tent house near the mill. Last evening he was brought up and placed in a room in the Richardson block, where he will have better care. It is thought that he will be on his feet again.

ODGE

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The Right Treatment for Throat and Lung Disease.

For years doctors have tried to reach consumption and lung diseases in their various stages through the stomach and have failed, and it was the research of Dr. Joshua Emmons, a noted physician and a graduate of two medical colleges, who discovered the real remedy for consumption, throat and lung disease. He compounded a healing lung liniment and perfected an instrument for using the liniment inside the lungs or anywhere the breath goes and starting a healing condition at once. This medicine was in secret for some time and used in Dr. Emmons' private practices with wonderful success. The value of the remedy becoming known and the demand so great for same at Dr. Emmons' home in Indianapolis, Ind., to put same on the market, and let the people of the world get the benefit of this wonderful remedy for throat and lung diseases.

If you have a sore or irritation on your body you naturally use a liniment to heal same. Dr. Emmons' Throat and Lung Healer works on the same principle; the lung liniment is taken into the lungs and reaches the irritated or diseased parts, starting a healing condition at once. People who have gone South, to California and Colorado for lung disease and have not received any benefit have, on their return, been cured by this wonderful remedy called Dr. Emmons' Throat and Lung Healer. This Liniment is the medical wonder of the age because it saves human lives and prevents human suffering. Such confidence is placed in the healing power of this Lung Liniment that the company will send the instrument and enough of the Lung Liniment to last two months, prepaid, on receipt of price—\$5, enclosing a guarantee that they will return the money paid for it after 15 days' trial, if it does not do even more than is claimed for it. Address: Dr. Emmons, Throat and Lung Healer Company, 418 State Life Building, Indianapolis, Ind.

If you are looking for anything, read the "GAZETTE" WANT ADS.

PLANS FOR LUNCH ROOM WASHINGTON, D. C., April 19.—The bureau of yards and docks of the navy department, is opening bids for putting into shape the lunch room of Miss Morgan's to be located on the first floor of what is known as Building No. 14.

The estimated cost of the changes necessary to be made so as to accommodate the building for luncheon purposes is \$6,000. Naval officials consider the idea a splendid one which will conduce to the benefit of the men and incidentally to the service.

AFTER SUFFERING TEN YEARS Cured by Lydia E. Pinkham's Vegetable Compound

MARRION, N. J.—I feel that Lydia E. Pinkham's vegetable Compound has given me new life. I suffered for ten years with serious female troubles, inflammation, ulceration, indigestion, nervousness, and could not sleep. Doctors gave me up, as they said my

illness was incurable. I was so weak and nervous that I could not get on my feet. I was so nervous that I could not sleep. I was so nervous that I could not sleep.

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Four Days of "Red-hot" Bargains Offered Mesa People.

Elsewhere in this issue of the Gazette will be found a full-page advertisement of the Toggery's big "4" sale, which will begin Wednesday, April 21, and close Saturday, April 24. One thing about the sale is that the goods that are to be offered during this big sale will be that strictly new and up to date line, and not the old shelf goods so common to big sales. Mr. Johnson, the popular proprietor of the Toggery, has the distinction of being an up to date advertiser and one that handles only up to date goods, and the people of Mesa may rely on the goods purchased at The Toggery as being strictly first class goods and the best and the newest for the money. Their reputation in the past has been established on this one feature. The coming sale is to be the biggest and best of this firm's many sales, and the prices of their long list of goods are literally cut to pieces. Just take a look at the ad and see the bargains that are offered to the public.

Interesting Lecture at Regular Session of Mesa M. I. A. There was an interesting session of the Mesa M. I. A. last night at the opera house. After the usual devotional exercises of the two associations, the young men of the evening with lecture by James W. Vesture on "The Influence of Associations." Mr. Vesture gave a very interesting and instructive treatise of the subject and he was listened to with much interest by those present. In the course of his talk he said: "An author is known by his books, a mother by her daughter, a fool by his words, and a man by the company he keeps." He stated that it seemed to be natural for men to imitate something—have an ideal in life, and that this one thing had a great influence on a person's life. "A man with a good character always makes a good impression, and always has an influence for good. Be courteous to all, but intimate with a few." These lectures will be a regular feature in the Sunday evening meetings at the opera house and the public in general is cordially invited to attend. Next Sunday will be the M. I. A. conference at the tabernacle, and Sunday evening, May 2, Dr. J. B. Neilson will lecture on "Manners."

Several Runaways Last Night. Last night seems to have been an unlucky evening for a number of Mesa people, as it happened that a few of them were unfortunate enough to be in runaways. Joseph E. Noble left his horse and buggy standing for a moment while he went into the house to telephone. While he was gone the horse walked out of the lot and away he went just as fast as he could. He ran for several blocks, but was finally captured without any damage to the buggy. Anders Mortensen and brother were coming into town last night, and Mrs. Fannie Dana and Mrs. Joseph W. Clark were going to Lohi, and they collided and for a few moments there was confusion. After the excitement and all had gathered themselves up, it was found that the buggies were total wrecks, yet no one was seriously hurt.

Services at the Tabernacle. Interesting services were held at the tabernacle yesterday afternoon. It was a home missionary day, and there was an unusually large crowd in attendance. John A. Crosby and Joseph W. Clark were the missionaries for the Mesa ward and they gave very interesting remarks. Dudley S. Lewis and W. Aird Macdonald were the speakers at the Alma ward meeting.

M. I. A. Stake Convention. Next Sunday will be the stake convention of the M. I. A. and the afternoon session at the tabernacle will be adjourned, and the convention will hold there at 2 p. m. Elder Le Roi C. Snow of Salt Lake City will be in attendance and will instruct the local workers. The public in general is most cordially invited to attend. There will also be a special session in the evening at the tabernacle, and an interesting program has been arranged.

Says Uncle John. Pullin' weeds out of the garden patch is hard work, but it links it's a heap easier'n pullin' fool notions outen yer own. Ernest Wood is a boy Phoenix is certainly proud of, as well as his parents. He got up early on the morning of the circus and started up town

Noble Work for Poor. During the past winter the family of T. W. Foster has been in very destitute circumstances, caused by contagious illness. Their sad condition was lightened considerably by the charitable neighbors, who have aided them freely. Mrs. C. W. Simpkins has headed a charity work which finally resulted in the removal of the family to the Pisgah home in Los Angeles. There they will receive the proper attention and care.

Mrs. Harrison Quite Ill. Word has been received from Ben Harrison, who is now located at Cutler, New Mexico, to the effect that Mrs. Harrison is quite ill. Mr. and Mrs. Harrison left here only a few weeks ago for Cutler, where they went for Mrs. Harrison's health. But it seems that it has not been improved. During their stay in Mesa they won a host of friends who will regret to learn of Mrs. Harrison's condition. She has been very popular here with the music lovers.

New Librarian for Mesa. Miss Gertrude Hansen has been appointed librarian to fill the position formerly held by Miss Nanmie Kirksey. Miss Kirksey has returned to her home in Charleston, S. C. for the summer. The selection of Miss Hansen is very pleasing to all concerned, and she will no doubt fill the position with ability. It is stated that there is one young man in Mesa who will undoubtedly be a frequent visitor at the free reading room hereafter.

Quite a sad accident occurred to E. D. Cranford yesterday, when his horse took fright at a fly that was enjoying himself (at his expense) and divided the singletire onto about three pieces and lifted himself up out of the harness and shook some of the Arizona soil off of his feet. However, though Mr. Cranford thinks he is lucky, as he had some little children in the wagon, and there was no one hurt. A lady living out of town received a letter the other day with no name. As the letter must be from a friend she is very anxious to know who the letter is. The letter begins with an ancient proverb.

EXHIBIT 148

Ready-to-wear Apparel Interestingly Low Priced

eta Silk Dresses 98

styles, made of fine Chiffon elaborately trimmed in corded and \$12.50 and \$15 values—special \$9.98



Foulard Silk Dresses—Many New Models

A Gem Collection of These—All Empire effects; each is a beautiful creation, rich in materials, original in conception, superb in mastery of color harmony and lines of grace—a perfect example of high-grade workmanship

HOUSE DRESSES
ones, just unpacked—Made of d quality percale in dark striped terms, Dutch neck effects, regular \$1.00 values—special..... 79c

1-3 Off On All Our Wool Tailored Suits

Irrespective of their former selling prices—Fashionable women should take advantage of such an offer as this. Real man-tailored suits in all the newest Spring colorings, built of popular materials in strictly up-to-date models.

HOUSE DRESSES
ones, just unpacked—Made of d quality percale in dark striped terms, Dutch neck effects, regular \$1.00 values—special..... 79c

PETTICOATS
New Washable Petticoats—Made of good quality Seersucker, blue and white stripes—limit 2 each customer—tomorrow, at each..... 29c

TAILORED WAISTS
Regular \$1.25 Tailor-Made Waists —Of nice white linen material, well made, have stiff collars and cuffs, all sizes—special..... 79c

r 48c
retty styles, made of nice lora as well as polka dot and r 65c and 75c values—special..... 48c

The New York Store
WHERE QUALITY COUNTS
PHOENIX ARIZONA

New Linen Suits—Including Frenchy Styles

Another addition of magnificent new models—2 and 3 piece styles, reflecting the very newest ideas in trimming—there is gracious elegance written all over them. They are exact copies of genuine French models—you ought to see them—a delight sure enough.....\$25 to \$50

ST PACIFIC

to been undo to epers either way c requiros li. o the coast and to the territory than Leaving here at 7:20 in Yuma at 7:20 six time, and in 30 the next day. eies at 8:30 p. m. x at 2:40 next day. me. If one carves alm. He leaves here ing and will be in the next day. He

BRIDGE ELECTION CALLED FOR JUNE 10

Three Propositions to Be Voted on at Same Time.

THE MARKETS

\$500 BAUMEISTER PIANO FREE

I the large con- sible for us and ive away many

OFFICIALS APPOINTED To Conduct the Election in the Various Precincts of the County.

The board of supervisors today issued a call for a bridge election on Thursday, June 10, at which time will be submitted three propositions: Shall the county raise by tax levy the sum of \$50,000 to build a bridge at Tempe; the sum of \$60,000 for a bridge at the foot of Center street; the sum of \$20,000 for a bridge on the Agua Fria? The voters will vote on each question separately, and each proposition must receive a majority of the votes cast to carry.

FIVE LIVES LOST ON LAKE MICHIGAN.

MACKINAW CITY, Mich., April 20.—Steamer Eberward sank in Lake Michigan six miles west of here today. Five of the crew were drowned and ten were saved.

The ill fated steamer struck an ice floe, and sank in three minutes.

HOPES FOR PASSAGE OF INCOME TAX

WASHINGTON, April 20.—The income tax will furnish the sharpest fight in the senate. The supporters claim the democrats will carry it. The opponents deny the democrats are solid.

NOTICE OF FORFEITURE.

To James Murray, His Heirs and Assigns: You are hereby notified that I, the undersigned, have expended during the year 1908, the sum of one hundred dollars, in labor and improvements on the following described mining claim, to-wit: That certain mining claim, situated in unknown territory of Arizona known and described as follows: The Pandora No. 2 mining claim, according to location notice therof, recorded in book 8, of Mining Records, page 12, records of Maricopa County, Territory of Arizona. That said work was done and said improvements made on said claim during the year 1908, in order to hold said claim under the provisions of Section 2324 of the Revised Statutes of the United States and the amendments therof, and the laws of the Territory of Arizona, concerning annual labor to be done on mining claims. That there is due from you to the undersigned the sum of fifty dollars on account of your share of the said one hundred dollars expended for annual labor on the said mining claim during the year 1908. You are hereby notified by the undersigned that it with- in ninety days after the service of this notice upon you by publication, you fail, refuse or neglect to contribute your portion of such expenditure, to-wit, the sum of fifty dollars, to the undersigned, your interest in said mining claim will become the property of the undersigned, with the such cases made and provided. Dated Phoenix, Arizona, January 20, 1908.

FOR SALE

One fine 2 1/2-acre tract for sale on easy terms. Call



HARNESS HARNESS HARNESS

N. PORTER SADDLE & HARNESS CO.

The Furniture That You

For Sale

One fine 2 1/2-acre tract for sale on easy terms. Call

NO INDICTMENT FOUND

Foley's Honey and Tar is safeguard against serious results from spring colds, which inflame the lungs and develop into pneumonia. Avoid counterfeits by insisting upon having the genuine Foley's Honey and Tar, which contains no harmful drugs. Evey & Hulott.

MINING STOCKS.
Keweenaw, 3%; Donn, 3%; Warren, 2%; Helvetic, 2%; Quincy, 39; Nipis- sinit, 10%; Greene Cananea, 10%; Sub. & Plus, 18; Mimam, 14%; Utah Con., 40%; Old Dominion, 52%; Calu- con & Arizona, 100%; North Butte, 100%; Butte Coalition, 24%; Shannon, 100%; Butte Coalition, 16%; Arizona Commer- cial, 42%; Globe, 4%; Black Mt., 1%; Concholand, 15; Nevada Con-

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Balloon Puzzle

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Hotel Adams building;

PAINE, WEBER & CO.

LOGAN & BRYAN.

BOSTON, April 20.—The copper

metal market was rather weak in

London, hence our market was not

very active, yet stronger, with some

fractional gains, prominent stocks eas-

ing off some during the latter part of

the session. PAINE, WEBER & CO.

LOGAN & BRYAN.

CHICAGO, April 20.—The wheat

market opened very weak under low-

er Liverpool prices, with Paten sell-

ing July. All the options soon began

to weaken with July leading and after

a slight rally at about noon, when

some better crop news came in, there

again some heavy selling and prices

tumbled and the stop losses began to

be caught and in a few minutes July

dropped 2 1/2c, after which came some

recovery, but closes were very weak.

The situation is not materially

changed, hence would advise the buy-

ing side at these prices.

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EXHIBIT 149

are in our new offices in the CHANDLER COURT. Better Equipped
our business. We appreciate your kindness in the past and earnest

THE ARIZONA LAND COMPANY

partment

W. Aird Macdonald, Representative
Mesa City Bank Bldg. Main 38.

MORE ABOUT THE BRIDGE

Something Concerning the Width of Both the Bridges.

A correspondent of the Gazette says: "If Mr. Smith's statements are all as correct as that in regard to the width of the river at Phoenix there is scarcely any necessity of paying any attention to them."

"This is certainly a neat and speedy method of clearing the calendar. Now what is the width of the river? Mr. Lincoln is quoted as saying that a man's legs should be long enough to reach the ground. We have always been under the impression that we had crossed the river when we got out of the water. The river bed is where the water flows; the channel of a river is where the water is the deepest and the current is the strongest. The river itself is the body of flowing water. Reckoning from this, we might say that there are times when there is no river south of Phoenix. We have crossed it when there was not enough water to water a horse. We remember once pulling out over the last sand bar when a boy overtook us and inquired when we would cross the river. He had come down to water his horse. Imagine the blankness of his countenance when told that he had crossed the river. There is not even a channel south of Phoenix; when we say "a" channel we mean "one" channel or "main" channel. But, river bed! Oh, my! There is plenty of it and more coming. Sand bar after sand bar, and sand bars on top of sand bars, and it is reasonable to infer that there will be more sand bars on top of these sand bars.

Many firmly believe that the river was in '91 seven miles from one edge of the flowing water to the edge of the water on the opposite side. By referring to the map, however, we find that the section lines will count up only about five miles.

Were we told by one that there was no river south of Phoenix and by another that there was a river five miles wide, one might of course conclude that one or the other was a whopper. D. D. SMITH, Mesa.

In the Tolls. Justice of the Peace Irwin had two cases yesterday morning. One was Juan Croker an Indian from Sacaton, who had been arrested for being drunk Tuesday evening. He was caught by an officer after a considerable of a tussle. When he appeared before the judge, he had forgotten just

Furniture And Vehicles
Now is the Time to Buy Refrigerators---All Sizes. Prices from \$8 to \$35.

B. Allen Co.
urniture Co. Chandler Block

A strictly fancy creamery product for table use, always pure and fresh.
The Mesa Dairy & Ice Co.
Manufacturers.
Grocers in Arizona and Mexico

Will Leave for Mountains Soon.
A jolly camping and outing party will leave within the next few days for a delightful trip that will cover most of the summer. The party is Mr. and Mrs. George Wilbur, and they will spend the summer hunting, fishing and camping out in the White Mountain country. This is not their first trip into this country and they have always had a most delightful time and the trip this summer will be no exception to the rule.

Pine Potato Crop.
Fred Phelps, ex-engineer and recently turned farmer, has also demonstrated that he is an expert at the truck gardening business. Fred has three acres of the finest Irish potatoes that have ever been seen in this section of the country and in a short time he will be able to furnish the people of Mesa the very finest in the line of potatoes. He also has a fine patch of tomatoes and some of the vines have small green tomatoes on them about the size of a walnut. Fred says that farming boats pulling the thimble all-holler. He is making good as a farmer with that same point of success that attended his railroad labors.

Large Gila Monster.
Erastus LeBaron has a large Gila monster on display at the Mesa bakery cash store. It is an unusually large fellow. He was found yesterday morning by Benly LeBaron while he was taking orders for the firm of LeBaron Bros. To many people who have never had the chance to see one of the peculiar animals, it will pay them to see the monster at LeBaron's.

The Popular Has Big Sale On.
The new firm of Bates & Shapley, proprietors of the Popular Store, has a big sale on now at the store in the Mahoney building. The attention of the Gazette readers is called to the ad in this issue of the paper. They have an entirely new stock and the prices are being slaughtered and many of the articles that are offered are below actual cost. Besides the leaders in the sale and the special articles, all goods in the store are going and will be sold for 25 per cent off. It will pay to visit the Popular during the next few days. The sale began this morning and will continue until Saturday evening. The store has been packed all day with eager and anxious buyers. Go and get acquainted with the new firm.

The Arizona Land Company in New Quarters.
The readers of the Gazette will notice the ad of the Arizona Land company, calling the attention of the general public to the fact that they are now located in their new offices in the Chandler court. They wish to thank the public for past favors that have been extended and solicit the future patronage of all. This is one of the leading realty firms of the city and they have built up a good trade and a fine reputation by honest dealing in their business. They have four excellent rooms in the Chandler court that have been fitted up especially for their main offices. They will continue to have a branch office at the old stand in the bank building.

Mr. F. G. Fritts, Oncontu, N. Y., writes: "My little girl was greatly benefitted by taking Foley's Kidney Laxative, and I think it is the best

A LIVE BUNCH OF NEWSY BRIEFS

Interesting Items About the Doings of the Gem City.

There was a full rehearsal of the "Royal Slave" last night at the opera house under the direction of Mrs. A. B. Cook.

Dick Holmes was in town yesterday on business.

Jas. W. Lestour returned yesterday after a few days spent on the grand jury. He reports the capital city in a flourishing condition.

Gazette subscribers, who fail to receive their papers, should call phone Main 38, or see the representative at the first door south of the Mesa City bank and the matter will receive prompt attention.

High Dana was a passenger on the early train for the capital city.

O. S. Stapley & Co. have their awning completed and it adds greatly to the cool comfort of the building.

George Best and Mark Newell spent Tuesday night in Phoenix, returning yesterday morning.

Horace Cook left on the stage for Roosevelt yesterday on his way to Globe.

T. A. Robb was in town yesterday. He states that he will probably accept a position in Everybody's drug store. He is at present located at Hamner's in Tempe.

Mrs. Clyde Knoff wife of the government road foreman, located at Mormon Flat, was a passenger on the stage for that point yesterday.

Mrs. H. B. Morris, who has been quite ill at her home southeast of Mesa, is reported much better.

Wallace A. Macdonald is quite ill at his home on West First North from an attack of lagrippe.

Mrs. Fred Bixby of the Virginia hotel of Los Angeles was a passenger on the stage yesterday for Fish Creek.

If you don't see your Gazette, phone Main 28.

Mrs. Henry Peterson is reported ill at her home on East Main street.

A new awning has been placed in front of the grocery store of Ellsworth & Co., which adds to the appearance of the business.

Miss Clara Griffin and Miss Glee Popejoy are assisting in the Popular during the sale.

The latest sensation comes in the way of an editorial in the local paper on "grub worms." We timidly suggest "Castoria" for all so afflicted.

Babitt & Sons have sold out their stock of groceries to LeBaron Bros., and hereafter will conduct a first class ice cream parlor and confectionery store.

A. M. Wyatt was in Mesa yesterday from Phoenix on business.

Itching, torturing skin eruptions disappear, annoy, drive one wild. Don't's Ointment brings quick relief and lasting cures. Fifty cents at any drug store.

DEAT

Henry Ag

PHOE And C Ins

ROOSE Correspon of the oh valley an here last years, aft was one county's loved an here at his funer number o Dan Pa suffer th cause of along fin blown up finning i former s in charge tainly de skill and his pract Roosevelt Roosevelt of visitor week we with a m nix.

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EXHIBIT 150

Department

IDEAS ON THE ROAD QUESTION

G. R. Finch Gives His Views on the Two Existing Highways.

The Gazette came across some very good ideas on the question of roads and highways yesterday which were expressed by a man whose business it is to know roads, good, bad, long, short, pleasant and disagreeable. Who, more than a liveryman, is posted on the subject of roads, especially those over which his animals must work pulling their vehicles. The ideas of such a liveryman as G. R. Finch, manager of the Finch stables, on the question of a road connecting Tempe and Phoenix are very valuable and are undoubtedly of great public interest at this time.

There are two ways of driving to Phoenix from Tempe. One is to cross the river here and follow the road on the north side of the river, and the other is to go along the south side of the river and cross at the site of the so called Center street bridge. The question of the best road to Phoenix and the question of which has the possibilities of becoming the best can be settled only in one way, and that is by a comparison of the two routes.

Mr. Finch outlines the situation as follows: "The distance by the south side is longer than that by the north side. It takes forty minutes longer to drive from Tempe to Phoenix by following along the south road than it takes to cross here and go along the north road to Phoenix.

"The condition of the roads, both present and possible future, is an important item. The present condition of the south road is such that it can scarcely be given the name road. It is mostly native soil and silt, not even traveled over. It will not hold heavy traffic at any time, and in summer light rigs plow deep into the soil. And there is no material at hand with which to grade this road or make improvements.

"It would cost more money to put this southern route in good condition and make a first-class road of it than it would cost to build a bridge at Tempe and in addition put what extra repairs are necessary on the north road to make it an excellent highway.

"The present condition of the northern route is far superior to that of the south side, and its future possibilities as a highway are of the best. This road is in good condition even now. For two miles from Tempe it is almost solid rock, being made of decomposed quartz which wears like stone. Then, too, there is an unlimited amount of the very best road making material close at hand.

"Another thing in the discussion of this road question which most people overlook is the dangers and hindrances to traffic which are caused by a railroad crossing a highway. With the main highway south of the river and crossing at the Center street bridge, all drivers to Phoenix will be obliged to cross the railroad tracks right at a point where congestion of traffic is most often taking place and car sheds."

Mr. Finch and several others were obliged to wait twenty minutes a few days ago for a train to finish switching and clear the highway of cars so that vehicles could cross the railroad and proceed on their way. If such is the case now, in the future, when the railway and highway both carry much more traffic than they do now, much more congestion of traffic will result and the loss of time and money to those driving between the two towns will amount to considerable daily.

"The northern road will do away with practically all this inconvenience," continued Mr. Finch, "for following the course of the road today, one crosses the railroad but once and that a single track two miles from Tempe, where there is no switching or standing of trains across the highway. While this alone is advantage enough to cause the traveling public to choose the north road, it is very probable that a slight change will be made in its course so as to avoid crossing the railroad at any point.

"Mr. Hill, general superintendent of

FREE LUNCH AND FINE DRINKS ESPECIALLY GOOD BEER.

McLachlan, Tempe

A. F. Jasett, Representative
Office, Casa Loma Hotel Building.

The reclamation service, proposes to build a power canal of the present Cross-cut canal, and drop it over on to the Tempe side of the range. On the embankment of this canal he will build a public highway. If this is done the proposed road from Phoenix to Tempe will not touch a railroad. The route will cross the river at Tempe, follow the canal bank for two miles until it meets the present highway, then follow this on into Phoenix. It will make a beautiful drive such as is now being built along the Highland canal."

Finch & Carr, undertakers and embalmers, Tempe. Phones: 151, Finch, and 179, Carr.
See Dr. Swigert for correct glasses. 17 E. Adams St. Phone Red 2451.

BUDGET OF LIVE WIRES

Mrs. Theo. Dines, who has been quite ill, is improving now. The Rev. Fick's twins are very sick. Mrs. B. F. Saylor has just finished making the cement blocks to be used in the construction of his new home. Mr. Spangler of Mesa was a Tempe visitor yesterday.

The Misses Anna and Sallie Redfield spent yesterday in Phoenix. The ladies of the Congregational church, assisted by local talent, will give an organ recital at the church on Friday evening, May 14.

Pres. Matthews was in Phoenix yesterday afternoon.

Mrs. Sheldon of Tucson and her daughter, Ione Pease, are visiting Mrs. Kingsbury, sister of Mrs. Sheldon. Charlie Harris and Jack Prince are doing some railway surveying near Mesa.

Dr. Plath of Phoenix came over today to hold a consultation with Dr. Meaur.

Wednesday evening some of the Tempe citizens were favored with a serenade by a bunch of high school boys.

The Tempe Teddys and the Tempe Tigers are going to select their best men and fight it out Sunday afternoon at 2:30 o'clock on the old high school grounds.

Miss Fanny Corson, who has been ill, is able to fulfill her duties at "central" again.

Frank Empe, the popular clerk in Birckett Bros., was in Phoenix yesterday as delegate to the session of the district lodge of Good Templars.

Roman Sanchis was freed today in Justice Carr's court from the charge of burglary because of lack of convincing evidence.

The annual picnic of the M. E. church South Sunday school will be held on Saturday at the Double Buttes. All members and friends are requested to assemble at the church at 9 a. m. and conveyances will be furnished. Come and have a good time.

Constable Estrada took Jesus Bustamante to Phoenix yesterday afternoon, owing to a change of venue in this case.

Mr. Reed of the reclamation service showed a representative of the Russian government about the experimental farm and neighborhood, making an examination of the alkali soil.

Mrs. Edmonds and Mrs. Peters of Mesa spent Thursday in Tempe. Mrs. Louis Yaeger of Flagstaff, who is visiting her mother, Mrs. Winches, ter Miller, spent yesterday morning in Phoenix.

Mr. and Mrs. Geo. Lobb, who have been stopping at the Casa Loma, returned to their home in Superior, equipped with a complete new outfit of horse, harness and buggy.

Mr. Gray, representing the Phoenix flour mill, was in Tempe yesterday. Mr. Harmick, of the J. W. Dorris Grocery company, Phoenix, made his regular Thursday trip to Tempe this week.

Mr. Simmons of the experimental farm reports that the Russian expert who visited him yesterday said that our climate is similar to that of the Caspian sea region.

There are 1600 bunches of date blooms at the experimental farm. Next Tuesday night the Knights of Pythias will have a social gathering. All the Knights and families and Pythian Sisters are invited.

Underwriters of the Board of Fire and Marine Insurance of Phoenix, who were yesterday establishing rates on new buildings just completed or nearing completion, such as the High school and the new building in course of construction at the Normal, and for adjusting a few changes in rates

Piano Bargain

Can Only Be Obtained at

REDEWILL

We are the only direct factory representative in Arizona

Most other dealers are buying from or through California houses, are paying to houses \$5 a month on each sale made. In buying from the "other fellow" on profits of the California head firm and those of the Phoenix agents. Rents of \$200 in San Francisco and Los Angeles, some piano houses paying \$1500 to \$2200 rent alone. Now, the piano purchaser has to pay \$100 more than the piano is that rent. We own our own premises and pay no rent. We do all business on commissions, hence we can sell and do sell cheaper than any other dealer.

HERE ARE A FEW MORE BALLOON PUZZLES FOR THE PUBLIC TO SOLVE

The LUDWIG PIANO has been sold right along for \$450, \$500 and up to \$600 will sell you the Ludwig with the combination of a player inside, which costs of a Ludwig, for less than you have been paying for the same Ludwig Piano who Can you solve the problem as to who sells cheaper? Before we gave up the Knabe, Smith & Barnes and Mason & Hamlin Pianos, we sold them for \$1000 and we sell more Pianos than all other dealers in Arizona put together. In experience in Phoenix, about twenty dealers, some of them representing them millions dollars, have tried to locate permanently in Phoenix; none have remained a year and a half. What do these things denote? One of two things: that they stand the climate and were not good, or else that they could not sell as cheap as we could be sued for libel. We invite such a suit—in fact, WE CHALLENGE YOU!

MORAL: See Redewill before you buy

If the above statements, which we can prove by facts and figures, are four we could be sued for libel. We invite such a suit—in fact, WE CHALLENGE YOU!

RECORDER'S OFFICE

Following is the Phoenix Title Guaranty and Abstract Company's report of instruments filed in the county recorder's office, Maricopa County, Arizona:

- W. J. Kingsbury and wife to E. C. Monty, deed to lots 6, 8 and 10, block 11, Goldman's addition to Tempe.
- Atos Welter and wife to Anna Voskuhl, deed to west half of northwest quarter of northeast quarter of section 5, township 1 north, range 3 east.
- R. H. Smith et al. to E. V. Spears, deed to lot 13, Orchard Grove.
- Harry C. Thomas to Mary J. Fisher, deed to lot 8 and part of lot 7, block 1, Evergreen place.
- D. H. Burtis and wife to E. P. LaGriffin, deed to northwest quarter of section 14, township 1 north, range 1 east.
- Carrie L. Christy to Charles J. McElroy, deed to lot 9, block 1, Christy Acres.
- F. W. Holsapple and wife to Green & Griffin, deed to lots 16 and 20, block R, University addition.
- James Realy Co. to Zina Millhous, deed to lots 25 and 32, Ranchitos Bonitas.
- Edith Gladie to Ernest A. Cowan, deed to lots 13, 14, 15 and 16, block 19, Montgomery addition.
- J. B. Woodward and wife to Edith Gladie, deed to lots 15 and 16, block 19, Montgomery addition.

When a Man's Busted. "Where's your watch?" "Here it is."

"But that watch is silver. The one

WHEN THE HIRED MAN PLOWS.

Up a furrow, down a furrow, 'cross an' back, an' then Down-a-furrow-up-a-furrow 'rigama-laggin' on the further side t' whistle or t' sing—

Guess I got the speerit of the everlastin' spring. Birds are wingin' north'ards an' they're singin' as they come—

Allus try my durndest fer t' git in tune with em. Up a furrow, down a furrow, 'cross an' back, an'—Whoa!

Dinner horn's a-blowin'—an' I swan-ny let 'er blow. Up a furrow, down a furrow all the afternoon—

Patch is gittin' smaller an' I'll finish purty soon! Sort o' feel a longin' an' a hankerin' t' tush—

Want t' watch the bobber an' t' hear the willers swish—

Mebbe ketch a bullhead or a mess of 'em—I'm blest 'F that ere team ain't sweatin'! Gess I'll hitch an' let 'em rest. Mebbe take a rest myself, an' loaf a spell; I jing.

Guess I got the speerit of the everlastin' spring. —J. D. Wells in Buffalo News. Every day new bargains listed in the classified real estate ads.

Cereals

of all kinds and always fresh. A nourishing and pure Breakfast Food is health for the stomach.

PRICES are as low as anywhere in the city, quality very best and variety large. Give me a trial and be convinced.

GROCERIES always fresh and pure at my well known popular prices. Phone or call.

FRANK GRIEBEL
Grocer.
218 W. Wash. St.,
Phone Main 43.

FOLEY'S HONEY AND TA

Cures Coughs, Colds, Croup, La Grippe, Asthma, Throat and Lung Troubles. Prevents Pneumonia and Consumption

EXHIBIT 151

TONIGHT See the Great Bull Fight

WILLIE," a New Farce-Comedy

en, West and Company

Wilbur Wright's Aeroplane.
The Mexican's Gratitude.
Two Real Feature Pictures.
Always Clean, Always Best.

Chandler, who were much under the influence of liquor, that this tract of 320 acres had never been patented, and that it was open to entry under the homestead law. He at once informed Mr. Shaw, with whom he was interested in mining claims. Mr. Shaw looked up the records and decided therefrom that the land was open to anyone who might wish to acquire it. They visited the property and in accordance with the law made a filing upon it, with the expectation of proving up.

Dr. Chandler claims that his title section of the general land office and

It will probably be not less than six weeks to three months before the rights of the parties will be known.

WHAT'S THE MATTER WITH NORTH DAKOTA?

And Utah and Wyoming. These three states are not represented yet on the "States Register."

People from there are especially invited to come in and register and get these matters in the procession. Post Office News Store, 136 N. Center.

mberlain Lumber

Company

Corner 2nd Ave. and Jackson St.

ne, Cement, Plaster,
oors, Corrugated Iron, Barb Wire,
Mixed Paint, Roof Paint, Boiled Oil
Coal Tar, Crude Oil, Cedar Posts

AGE FENCE

ARE HERE TO PLEASE YOU

of the Ludwig Controversy

ersus "LUDWIG CLAVIOLA PLAYER"

(THE OTHER FELLOW)

BY D. ALLEN COMPANY

WHY YOU SHOULD WORK AND VOTE FOR CENTER ST. BRIDGE

- 1—Twenty-two reasons why the Center street bridge should be built:
- 2—It is the natural geographic center and adjoins the capital of the territory and center of population of the Salt River valley.
- 3—This location serves the best interests of the greatest number of people living in Maricopa county today.
- 4—Opening up most undeveloped land, thus hastening the coming of thousands of home-builders.
- 5—Will be of concrete-steel, the strongest and most permanent form of bridge construction known; increases in strength with age.
- 6—Brings great increase in all lines of business to Phoenix.
- 7—A wide, convenient, absolutely substantial bridge, designed to carry an electric car line with standard tracks, to handle freight cars at night, a great factor in the rapid development of the valley.
- 8—Most permanent type, with least cost of maintenance.
- 9—Original cost to the taxpayers least, owing to large bonus.
- 10—Definite figures as to cost based on thorough personal investigation by competent engineers and practical bridge constructors.
- 11—Large proportion of cost of this type of bridge distributed locally, for labor and material, while on steel bridge most of labor and material comes from outside.
- 12—This bridge can be completed in eight months from date of contract.
- 13—Site and bridge plans approved by many eminent engineers. This wide crossing is safer for bridge under flood conditions than a narrow one. Deep underlying bed of boulders, gravel and caliche provide excellent foundation and to prevent scouring. Plans embody most modern, proven ideas of successful steel-reinforced concrete bridge construction.
- 14—Connects direct with Central avenue boulevard, on which \$30,444 is to be at once expended, thus offering a delightful twenty-five-mile drive from the Arizona canal to Mesa City, through a highly cultivated country, with but one turn.
- 15—A great artery of commerce and transportation like this bridge absolutely connects the north and south sides of the river.
- 16—Indians living southwest of Phoenix donate their labor under definite contracts, and bridge receives cooperation of the U. S. Indian service, which will help to build this bridge.
- 17—Maricopa county, through the enterprise of those who have raised the \$50,000 bonus, secures a \$100,000

permanent bridge for \$50,000, and no more.

17—This bridge will save human lives. The Salt river is now a veritable death-trap. One justice alone in Phoenix has in the past twenty-three years held inquests over the bodies of twenty-three people who lost their lives in the Salt river.

18—Would make possible a satisfactory and regular mail delivery service to the south side.

19—A much longer run for the Glendale beet-sugar factory, each year will be assured by the increased acreage in beets raised on the south side.

20—Probable returns to come from liberal yearly rental to be paid into the treasury of Maricopa county by electric car line using this bridge, still further reducing the cost to the taxpayer. Furthermore, this bridge is to be a county bridge, and not a territorial bridge, and therefore is the only one which may be crossed by a car line. The Tempe bridge, if built as a territorial bridge, cannot carry a car line. Section 14 of the territorial law reads: "No street, surface, steam or electric road shall be constructed upon any portion of a territorial highway, etc., etc."

21—Phoenix and others directly benefited are not only paying one-half of the cost of the bridge as a bonus, but, in addition, 75 per cent of the special bridge tax.

22—The increase in the value of the south side lands, brought about by the construction of the Center street bridge, amounts, in round numbers, at a most conservative estimate, to \$500,000. This is exclusive of the 3,000 acres of cultivated Indian lands, which will not be assessable until allotted individually. At the present tax rate this will add over \$11,000 annually to the receipts of Maricopa county. This increase will not only pay back the cost of the bridge, but be a permanent source of revenue.

The Center street bridge means a greater Phoenix and a more prosperous Maricopa county.

PHOENIX CENTER STREET BRIDGE COMMITTEE.

THE WEATHER.

Forecasts.

For Phoenix and vicinity: Fair to night and Tuesday.

Local Observations.

The following observations were taken on city local time by the United States Weather Bureau:

Barometer, Anches.....	5:30	1:04
a. m.	29.74	29.74
p. m.	29.74	29.74
Temperature, degrees.....	70	96
Dew point, degrees.....	36	30
Humidity, per cent.....	29	10
Wind, direction from.....	E	SW
Wind, velocity, miles.....	4	6
Precipitation.....	0	0
Weather.....	Clear	Clear
Temperatures.....		
2 a. m., 75; 4 a. m., 73; 6 a. m., 72;		
8 a. m., 86; 10 a. m., 91; 12 m., 94.		

L. N. JRSUNOFSKY,
SUNO Director.

Jones Dry Goods Co.

THE LADIES STORE

INTERESTING REDUCTIONS ON LADIES' SUITS

EXHIBIT 152

EXHIBIT 162

25th Anniversary 1909-1934

Section 28. That all laws and parts of laws inconsistent with the provisions of this act are hereby repealed; and no system for the registration of births and deaths shall be continued or maintained in any of the several municipalities of this Territory other than the one provided for and established by this act.

Approved March 18th, 1909.

CHAPTER 77.

AN ACT

Authorizing the County of Maricopa to Construct a Highway Bridge Across the Salt River at Tempe in Said County and a Highway Bridge Across the Agua Frio River in Said County.

Be it Enacted by the Legislative Assembly of the Territory of Arizona:

Section 1. The County of Maricopa, in the Territory of Arizona, is hereby authorized to construct a good and substantial highway bridge across the Salt River at Tempe, an incorporated town in said county, at a cost to said county not exceeding the sum of sixty thousand (\$60,000) dollars, and said county is hereby further authorized to construct a good and substantial highway bridge across the Agua Frio River, at a point as near as practical where the main traveled county highway running between the City of Phoenix and the town of Sidney in said county now crosses said Agua Frio River, at a cost to said county not exceeding the sum of thirty thousand (\$30,000) Dollars.

Section 2. Before said County of Maricopa, or its Board of Supervisors shall proceed with the construction of the bridges provided for in this act, the

Board of Supervisors, of said county shall cause a special election to be held in said county, as provided in this section, for the determining whether or not said county shall construct said bridges. Within thirty days after the passage of this act said board of supervisors shall cause to be published in a newspaper of general circulation in said county a notice of the time and places of holding said election. Said notice shall be given at least thirty days before said election. On the question whether said bridges shall be constructed no person shall be qualified to vote, except he be in all respects a qualified elector in said county and the owner of real or personal property subject to taxation within said county, as shown by the tax roll of said county, for the year 1909. In case a majority of the qualified voters, as described in this Section, voting at said election shall vote affirmatively for the construction of said bridges, then said county of Maricopa, by and through its board of supervisors, shall proceed with the construction of the bridges provided for in this act, and not otherwise. The manner of conducting and voting at said election, the opening and closing of the polls, keeping the poll lists and tally lists thereat, canvassing the votes, and certifying the returns to said board of supervisors shall be the same, as nearly as may be, except at herein otherwise provided, as is or may hereafter be provided by law at general election of county officers; and the question as to whether or not said county shall construct said bridges, as provided in this act, shall be submitted at said election on ballots to be cast by the qualified electors thereat, as defined in this act, in substantially the following form:

“Stub No. Voters No.
Clerk.

(To be torn off by inspector.)

Official Ballot.

Highway bridge election held in and for the county of Maricopa, territory of Aritona, on the day of 1909.

Shall the board of supervisors of the county of Maricopa, territory of Arizona, construct a highway bridge across the Salt River at Tempe, an incorporated town in said county, at a cost not exceeding the sum of Sixty Thousand Dollars, and a highway bridge across the Agua Frio River at a point as near as practical where the present main traveled county highway running between the city of Phoenix and the town of Sidney in said county now crosses said Agua Frio River, at a cost not exceeding the sum of thirty thousand dollars.

Bridges Yes. Bridges No.

Section 3. This Act shall take effect and be in force from and after its passage.

Approved March 18th, 1909.

CHAPTER 78.

AN ACT

Relating to Cemeteries in Towns and Cities.

Be it Enacted by the Legislative Assembly of the Territory of Arizona:

Section 1. Whenever any cemetery or ground used as a cemetery within the corporate limits of any town or city has been abandoned and ceases to be used for such purposes, or whenever in the judgment

of the Common Council of such City or Town, the same is unfit or unsuited for such purpose, or becomes obnoxious or can be used for other public purposes to better advantage, the Common Council of such City or Town may by resolution direct that such cemetery or ground used as a cemetery be vacated, and the remains of persons buried therein be removed to some other cemetery or suitable place, the expense of such removal to be paid by the City or Town.

Section 2. Whenever the remains of such persons are removed as in Section 1 of this Act provided, all monuments and gravestones shall also be removed and replaced and reset at the respective graves in like manner as before; and in addition thereto shall cause each grave to be numbered in numerical order, such numbers to be carved on a suitable slab of stone or hard wood and placed at the foot of the grave. A list of the names of those buried and the number of the grave in which the remains rest shall be recorded in the office of the City or Town Clerk or Recorder.

Section 3. Whenever the title to such cemetery or ground vacated as aforesaid is vested in the Townsite Trustee, or in a trustee or trustees for cemetery purposes, the same shall be conveyed to such City or Town, and used for such public purposes as the Common Council may by resolution direct.

Section 4. This Act shall take effect and be in force from and after its passage.

Approved March 18th, 1909.

EXHIBIT 163

Book 9

until 10 o'clock, A.M. Tuesday April 20, 1909,
Wm. E. Thomas
Clerk.

Leo M. Hoghe
PRESIDENT
BOARD OF SUPERVISORS
MARICOPA COUNTY, ARIZONA

Office Board of Supervisors,
Maricopa County, Arizona.
Phoenix, April 20, 1909.

The Board resumed session at 10 o'clock A.M.

Present Leo M. Hoghe, chairman, John P. Crane, and
Alex. Hunsaker, members; Wm. E. Thomas, Clerk.

Petition
for
Bridge
across
River

Whereas, a petition, having been filed with the
Board of Supervisors of the County of Maricopa, territory
of Arizona, signed by 101 and more taxpayers of the County
of Maricopa, who are qualified electors of said County
of Maricopa, requesting the Board of Supervisors of said County
of Maricopa to construct and maintain a wagon and
foot bridge of concrete reinforced with steel, across the
Salt river, a non-navigable stream, beginning at a
point on the north bank of the said Salt river due south,
as near as may be practicable, of Center street, in the city
of Phoenix, Maricopa County, Arizona, said point being
in the south half of section seventeen, township one north,
of range three east, of the Gila and Salt River Base and Mer-
idian lines, County of Maricopa, territory of Arizona,
said bridge to extend south across the said Salt river
and to be, together with the causeway on the south end,
about three thousand feet in length, and to terminate on
the south side of the said river at a point in the north half
of section twenty, township one north of range three east
of the Gila and Salt River Base and Meridian lines,
County of Maricopa, territory of Arizona, said petition
specifying the cost of construction of said bridge to the
County of Maricopa to be fifty thousand dollars;

And whereas, another petition having been filed
with the Board of Supervisors of the County of Maricopa
territory of Arizona, signed by 101 and more taxpayers
of the County of Maricopa, who are qualified electors of

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said County of Maricopa, requesting the Board of Supervisors of said County of Maricopa, to construct and maintain a wagon and foot bridge, to be constructed of steel or such other suitable materials as the Board of Supervisors may deem best and most practical, across the Salt river, a now navigable stream, at Tempe, an incorporated town in the County of Maricopa, territory of Arizona. Said bridge to be constructed from such suitable point on the north bank of said river opposite said town, and extending from thence in a southerly direction across said river to a point on the south bank of said river within the corporate limits of said town of Tempe as may to the said Board of Supervisors be deemed most convenient and practical, said petition specifying the cost of construction of said bridge to the County of Maricopa to be sixty thousand dollars;

And Whereas, a further petition having been filed with the Board of Supervisors of the County of Maricopa, territory of Arizona, signed by 101 and more taxpayers of the County of Maricopa, who are qualified electors of said County of Maricopa, requesting the Board of Supervisors of said County of Maricopa, to construct and maintain a wagon and foot bridge, to be constructed of steel or such other suitable materials as the Board of Supervisors may deem best and most practical, across the Agua Diva river, a now navigable stream, at a point as near as practical, where the main traveled highway running between the City of Phoenix and the town of Wickenburg in said County of Maricopa now crosses the said Agua Diva river; said petition specifying the cost of construction of said bridge to the County of Maricopa to be thirty thousand dollars.

Now therefore, in pursuance of law, notice is hereby given that on Thursday, the 10th day of June 1909, a special election of the taxpayers of said County of Maricopa, as shown by the last County tax roll of said County, will be held in the County of Maricopa, territory of Arizona, for the purpose of determining the following questions; viz:

Call for Election to be held June 10, 1909

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1st. Shall the Board of Supervisors of Maricopa County, territory of Arizona, raise the sum of fifty thousand dollars by direct taxation and construct and maintain a wagon and foot bridge of concrete reinforced with steel, across the salt river, a non-navigable stream, beginning at a point on the north bank of the said salt river due south, as near as may be practicable, of Center street, in the City of Phoenix, Maricopa County, Arizona, said point being in the south half of section seventeen, township one north of range three east, of the Gila and Salt River Base and Meridian, line, County of Maricopa, territory of Arizona, said bridge to extend south across the said salt river and to be, together with the causeway on the south end, about three thousand feet in length, and to terminate on the south side of said river at a point in the north half of section twenty, township one north of range three east of the Gila and Salt River Base and Meridian lines, County of Maricopa, territory of Arizona. The cost of the construction of said bridge to said County of Maricopa to be not more than fifty thousand dollars;

2nd. Shall the Board of Supervisors of Maricopa County, territory of Arizona, raise the sum of sixty thousand dollars by direct taxation and construct and maintain a wagon and foot bridge to be constructed of steel or such other suitable materials as the Board of Supervisors may deem best and most practical, across the salt river, a non-navigable stream, at Tempe, an incorporated town in the County of Maricopa, territory of Arizona, said bridge to be constructed from such suitable point on the north bank of said river opposite said town, and extending from thence in a southerly direction across said river to a point on the south bank of said river within the corporate limits of said town of Tempe as may to the said Board of Supervisors be deemed most convenient and practical, the cost of the construction of said bridge to said County of Maricopa to be not more than sixty thousand dollars.

3rd. Shall the Board of Supervisors of Maricopa County, territory of Arizona, raise the sum of thirty thousand

by slight taxation and annual repair and maintenance a
 wooden and foot bridge, to be constructed of steel
 or such other suitable materials as the Board of Supervisors
 may deem best and most practical, across the Agua
 Fria river, a now-navigable stream, at a point as
 near as practical, where the main traveled highway
 running between the City of Phoenix and the town of
 Sidney in said County of Maricopa now crosses the
 said Agua Fria river, the cost of the construction of
 said bridge to said County of Maricopa to be not
 more than thirty three and a half dollars.

The following polling places in the several and
 regular election precincts in the County of Maricopa
 at which said election shall be held and the names
 of the officers who shall conduct said election at
 their respective polling places have been designated
 and the Precincts bounded by the Board of Supervisors
 as follows, viz:

Phoenix Precinct No. 1.

Commencing at the N. E. cor of sec 3, 24th R 6. E. thence
 due west to N. W. cor of sec 6, 24th R 3 E. thence due south
 to the Arizona Canal, thence southeasterly along the center
 of the Arizona Canal to the N. W. cor of sec 4, 22nd R 3 E.
 thence due east one mile, thence due south to the
 S. E. cor of sec 33, 22nd R 3 E. thence due west to the N. W. cor.
 of the N. E. 1/4 of sec 5, 21st R 3 E. thence due south to Washington
 Street in the City of Phoenix, thence due east along Washington
 Street for 2 1/2 miles to a point on section line between
 sec 10 and 11, thence due north to the S. E. cor of sec 3,
 thence east along the sec. line to cor of sec 5, 21st R 4 E.
 thence due north 1 mile to the N. E. cor of sec 5, 21st R 4 E.
 thence due west 5 miles to the S. W. cor of sec 34, 22nd R 3 E.
 thence north 6 miles to the N. W. cor of sec 5, 22nd R 3 E.
 thence due east 17 miles to the S. E. cor of sec 34, 23rd R 6 E.
 thence due north 12 miles to the place of beginning

Phoenix Precinct No. 2.

Commencing at the N. E. cor of the N. W. 1/4 of sec 5, 21st R 3 E. thence 2 1/2
 miles west, thence 1 mile south, thence east 1/2 mile, thence south
 to Washington Street, thence east to Center Street, thence north to place of beginning.

County into Maricopa County through the villages of
Washington and Eschwege, and.

Be it further Resolved; That in any case, whether
the Board of Control devise a road from the north to the
south or from the southwest to the northeast, or simply
designate as a Territorial Highway the Tempe Road, that
whatever Territorial Road is established within the County
of Maricopa, that said Tempe Road, leaving Phoenix on
Van Buren Street and passing the Susan Ayleen
and through Tempe on to Mesa, be designated as a
Territorial Road, and that out of the funds raised from
the levy on Maricopa County that a bridge be constructed
across salt river at Tempe.

Attest
Wm. E. Thomas
Clerk.

Leo M. Hogue
Chairman of the Board of Supervisors
of Maricopa County Arizona Territory

Upon motion duly made and carried the Clerk of the
Board was directed to forward a certified copy of
this resolution to the Clerk of the Board of Control.

Attest.

Wm. E. Thomas
Clerk Board of Supervisors.

On motion and by unanimous vote of Board
adjourned to June 21, 1909.

Wm. E. Thomas
Clerk.

Leo M. Hogue
CHAIRMAN
BOARD OF SUPERVISORS,
M. CO. & CO.

Office Board of Supervisors
Maricopa County Arizona
Phoenix, June 21, 1909.

The Board resumed session at 9 o'clock A.M.

Present Leo M. Hogue, Chairman, John P. Ames, Alex. Thomsen members, Wm. E. Thomas, Clerk.

This being the second Monday after the special election held June 10th 1909, and this
being the day fixed by law on which the Board shall meet and canvass the returns
of various voting precincts of Maricopa County and the clerk having reported to the
Board that all the returns from the several precincts had been received and placed
on file, the Board proceeded to canvass said returns, the result of which is
shown in the following tabulated statement.

Official
Commit on
Bridge
Election

Very
truly
yours

	For Center Street Bridge	Against Center Street Bridge	For Temple Bridge	Against Temple Bridge	For Agua Fria Bridge	Against Agua Fria Bridge	Total Vote
Phoenix no 1	145	17	73	39	43	37	188
Phoenix no 2.	183	15	61	63	58	52	215
Phoenix no 3.	125	7	18	18	16	16	137
Phoenix no 4.	59	12	18	17	15	15	78
Brighton	15	7	13	8	8	9	31
Murphy	10	7	2	7	1	7	17
Heard	7	0	0	2	0	2	7
Isaac	9	9	10	9	1	11	23
Tempe	12	118	192	3	148	12	199
Mesa	47	27	115	8	23	26	163
Lehi	3	1	16	1	4	1	22
Alicia	2	47	52	5	1	43	56
Wickenburg no 1.	10	3	21	0	8	6	26
Agua Caliente	5	0	5	0	5	0	5
Osborn	74	5	21	12	17	9	83
Coartwright	10	8	6	11	3	12	19
Arue	8	2	0	8	1	7	10
Buckeye no 1.	23	13	19	17	22	14	36
Buckeye no 2.	13	1	2	2	13	0	14
Buckeye no 3.	8	2	4	3	9	1	10
Buckeye no 4.	3	0	2	0	4	0	4
Fowler	10	10	7	11	7	10	25
Scottsdale	4	8	13	0	5	7	13
Lawlorkreek	0	2	1	1	1	0	2
Meridian	4	1	1	1	2	1	6
Riverside	9	7	4	9	1	11	17
Alhambra	5	5	6	5	1	6	15
Glendale no 1.	16	6	12	3	6	6	26
Glendale no 2.	4	4	0	7	0	7	8
Wilson	14	17	23	5	3	21	35

837.

361.

717.

275

426

349.

1490.

For majority

746.

5-Val. Vote
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There being no election held at M. ^oDowell, Johnstone, Gilda Bend and Wickenburg no 2.

The Board on motion and in accordance with the canvass made this day the result of which is shown in the tabulated statement on page 66, in Record Book 9 of the office of the Board of Supervisors of Maricopa County, Arizona, and pursuant to the provisions of Title 20 Chapter 11 Paragraph 2403 Revised Statutes of Arizona 1901.

The following is the result as shown by the tabulated statement of the Bridge Election.

The whole number of votes in the County were 1490.
The propositions voted upon were, Shall the Board of Supervisors of Maricopa County raise the sum of \$50,000 by direct taxation and construct and maintain a Wagon and foot bridge of concrete reinforced with steel across Salt River at foot of Center St Phoenix.

Shall the Board of Supervisors of Maricopa County raise the sum of \$60,000 by direct taxation and construct and maintain a Wagon and foot bridge to be constructed of steel or such other suitable materials as the Board of Supervisors may deem best and most practical across Salt River at Tempe.

Shall the Board of Supervisors of Maricopa County, Territory of Arizona, raise the sum of \$30,000 by direct taxation and construct and maintain a wagon and foot bridge, to be constructed of steel or such other suitable material as the Board of Supervisors may deem best and most practical across the Agua Fria River at a point as near as practical where the main Road between Phoenix and town of Sidney crosses the same.

The number of votes cast were as follows:

For Center Street Bridge	837.
Against " " "	361.
For Tempe Bridge	717.
Against " " "	275.
For Agua Fria Bridge	426.
Against " " "	349.
Total votes Cast	1490.
Necessary vote to carry each proposition	746

The proposition at Center Street having received 1837 votes being 91. votes more than necessary to carry said proposition. The same is declared duly carried.

The Toupe Bridge and Agua Fria Bridge propositions failed to get the required majority necessary to carry the same.

On motion and by unanimous vote of Board requested the District Attorney to prepare an advertisement for plans and specifications in detail for the construction of a bridge across Salt River at the foot of Center Street. Phoenix, said bridge to be a wagon and foot bridge of concrete reinforced with steel, said bridge to extend south across Salt River and to be together with the causeway on the south end and the rip rap and protection of the bank on the north side of the river, said bridge and causeway to be about three thousand feet in length and to terminate on the south side of said river at a point on the north half of sec 20 T2N R3E. Plans and specifications will be received and filed up to 10 o'clock AM July 7, 1909.

Under authority of an act no 56 passed by the Twenty third Legislative Assembly of the Territory of Arizona the Board approved a Bond this day of the Toupe National Bank of Toupe Arizona, for eight thousand dollars to cover money deposited with said Bank by the County Treasurer with the American Security Company of New York, as security, dated June 15, 1909. The said Bond to be in force on the 28th day of June 1909 and thereafter.

Under authority of an act no 69 sec 3, Session Laws 25th Legislative Assembly, Territory of Arizona 1909. The Clerk of District Court filed his appointment of Frank B. Cook ^{as Deputy Clerk} approved by the Judge of said court at a salary of \$100.00 per month. On motion and by unanimous vote of Board the same was approved.

The Board having heretofore advertised for sealed bids for the purchase of Special Road District number One, Bonds to the amount of Ninety Thousand (\$90,000) dollars, payable in twenty years, and to be annually on June 1st after ten years, the sum of Three Thousand dollars being for the first series of six Bonds numbered 1 to 6 inclusive for

B. Speer

Bridge ad. for plans and spec. July 7, 1909.

Board of Toupe Nat. Bk. appra.

Frank B. Cook as Deputy Clerk

EXHIBIT 164

WAGON BRIDGE PETITION.

4-3-08
The Tempe board of trade, through its committee appointed for the purpose, has addressed the following petition to the board of supervisors:

To the honorable board of supervisors of Maricopa county,

Gentlemen—The board of trade of Tempe believing that the time has arrived when the best interests of Maricopa county demand that a wagon bridge be built across the Salt river; and recognizing that Tempe offers the most practical point of crossing for many miles up or down the river, the board of trade respectfully petitions your honorable body to at once take such steps as your best judgment dictates, toward securing the building of a wagon bridge across the Salt river at Tempe.

Respectfully submitted,

B. A. PICKARD,

A. J. PETERS,

J. B. COOK,

CURT. W. MILLER,

Committee.

In connection with the above, Mr. J. B. Cook, who was in Phoenix today attending a meeting of the Maricopa County Commercial club, reports that organization enthusiastically in favor of the Tempe wagon bridge movement and will aid in every possible way. The chambers of commerce of Phoenix and Mesa will join in the crusade. It is likely that a delegation composed of members of each of the above named organizations will wait upon the board of supervisors at its next Monday's session and urge speedy action with regard to the building of the bridge. With such potent factors at work the prospects look very encouraging.

**BULLARD DECIDES IN FAVOR
OF TEMPE. 5-7-09**

The question having been raised as to whether the county could build a bridge within the corporate limits of any town in the county, and, in this particular instance having reference to Tempe, the matter was referred to District Attorney Bullard, who has just rendered an opinion which is entirely favorable to Tempe. After citing numerous authorities, Mr. Bullard says:

"In view of these authorities, what is the decision of affairs in regard to the so-called Tempe bridge site?

"The proposed bridge to be constructed over a large water-course, to-wit, a large non-navigable stream. While it is true that it will, perhaps, entirely be constructed within the corporate limits of the town of Tempe, still the town of Tempe is moderate in size, unable to build a bridge of that character by itself, and the bridge, when constructed, will be connected within a quarter of a mile, if voted by the people, with one of the large main arteries throughout the county, to-wit, a county road. The bridge will, therefore, not only subserve the interests of the town of Tempe alone, but in reality will be used in a greater proportion by people outside of Tempe in the county of Maricopa than by the people of Tempe alone. Therefore, the main object of the bridge if constructed, is for the subservance of the entire county interests, whether the bridge is located at Tempe or at some other point, all of the taxpayers of the county must pay for its construction, including the taxpayers of the town of Tempe.

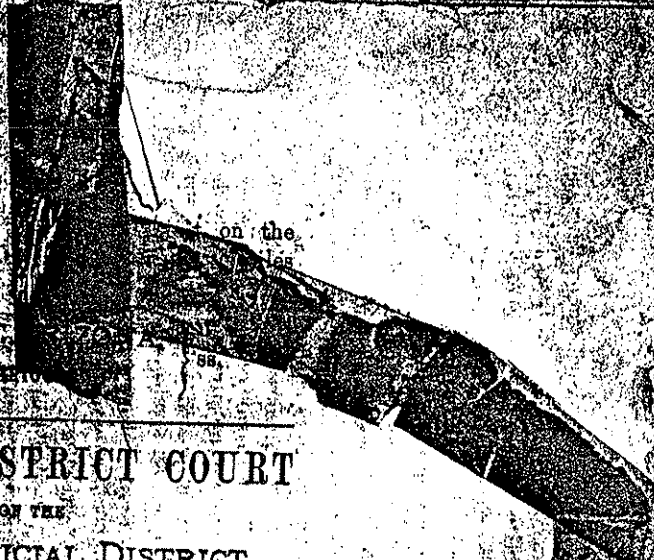
I am, therefore, of the opinion, and so hold, that the great weight and preponderance of authority, together with the best-reasoned cases, are to the effect that the mere fact that there is a statute giving an incorporated city the right to construct bridges within the limits of that incorporated city, does not prevent the county of Maricopa from constructing a bridge within the corporate limits of said city, where there is a general bridge law without limitation, as was passed by the last legislature.

"I should hesitate, if Judge Dillon stood alone in his opinion, to hold, contrary to him, for the reason that he is recognized as one of the ablest lawyers in the United States upon this particular question; but, as I said before, outside of his decision, the great preponderance of authority is in conformance with the doctrine that, under a general power to build bridges, that a county may build a bridge within the limit of an incorporated city, even where there is a statute giving that incorporated city power to build bridges within its limits. Such being the case, I unhesitatingly hold, that if the voters of the county of Maricopa should decide to vote the Tempe site, the

Tempe News, May 7, 1909

EXHIBIT 165

308



on the

TERRITORY OF ARIZONA
COUNTY OF MARICOPA

THE DISTRICT COURT
ON THE
THIRD JUDICIAL DISTRICT

of the Territory of Arizona, in and for the
County of Maricopa.

W. PRINSE, ET AL.
PLAINTIFFS,
VS.
SALT RIVER VALLEY
WATER COMPANY, ET AL.
DEFENDANTS.

No. 708

THIS is a suit instituted for the purpose of en-
joining certain parties to it from the diversion
of water from the Salt River in derogation of the
rights of plaintiffs. Historically the facts out of
which the present litigation has grown are briefly

Salt River enters the County of Maricopa from the east and flows some distance through a mountainous country, at a point about a mile below its confluence with the Verde its valley broadens rapidly into a level alluvial plain, the soil of which when supplied with sufficient water is extremely fertile. The climate in the valley is extremely arid, the average annual rainfall not exceeding seven and a half inches, most of which is precipitated in the winter months. No crop of any agricultural product can be produced in the valley without the artificial application of water to the land. The water-shed of Salt River is extensive, and the river is consequently subjected to very great variations in the volume of water which it carries. During the winter months of December, January, February, and until the middle of May, there is a large volume flowing in the river, more than adequate for the irrigation of all the lands in the valley. The Salt River valley spoken of, is that part of the valley of Salt River extending from the mouth of the Verde River westerly to the Agua Fria.

In 1867, attracted by the fertile plain and the then superabundance of water in the Salt River, and by the demand for hay, grain, and other agricultural products necessary to supply the neighboring military posts, Jack Swilling and some of his associates began the construction of a ditch for the diversion of the waters of the Salt River for the purpose of irrigating fields for the cultivation of those products. This ditch, then known as the Swilling Ditch, and very frequently designated

at the trial of this cause, was taken out on the north side of the river, heading about four miles east of the present site of Phoenix. The Swilling Ditch is now claimed by various mesne conveyances by the Salt River Valley and the Maricopa Canal Companies, corporations, parties to this suit, and as incident to their ownership of the ditch they claim a right to divert certain definite quantities of the water of Salt River.

In the year 1870, certain other persons attracted by the natural advantages of the location, began the construction of a ditch for the diversion of the water of Salt River for the purpose of irrigation, beginning at a point on the south side of the river about seven miles above the point whence the Swilling makes its diversion. This ditch was constructed and has been maintained until now, and is and has been operated as a community ditch, the water diverted by it being chiefly claimed by shareholders who are also the owners of land irrigated by the waters of the ditch. The shareholders are unincorporated, but their association is known by the name of the "Tempe Irrigating Canal," and its affairs are managed after the manner of those of a corporation. The owners of the shares of this ditch are the plaintiffs in this action.

Sometime after the construction of the original Swilling Ditch, it was extended and a branch was taken from it at a point about three miles below its divergence from the river, and constructed northwesterly and became known as the "Maricopa Canal."

In 1874 and '75 the construction of a ditch on the south side of the river emerging therefrom about a mile above the head of the Salt River Valley Canal, and about six and a half miles below the head of the Tempe Canal, was begun, and since that time has been constructed, repaired, and probably enlarged, which ditch has become known as the San Francisco Canal, and is, with its alleged incidental rights to divert water from Salt River, claimed by M. Wormser, who is also a plaintiff in this case.

In 1877, the construction of another ditch for the diversion of water for irrigation was begun on the south side of the river, emerging at a point about five miles above the head (the point of diversion) of the Tempe Canal, which ditch is now known as the "Utah Canal," and is so designated in the pleadings in this case. The Utah Canal was constructed and is now maintained and operated by the owners of and occupants of lands which are irrigated by water conveyed by it, who have associated themselves together and entrusted the actual administration of their affairs to officers after the manner of a corporation. The several interests of the associates are evidenced by certificates reciting the ownership of definite shares, which certificates are transferable. The associates and owners of the Utah Canal are parties defendant in this suit.

In 1878, the construction of another ditch was begun on the north side of the river, emerging therefrom at a point about two miles and a half above the head of the Swilling Canal, by a cor-

poration known as the Grand Canal Company, which company is a party to this suit.

In 1879, there was begun by the Mesa Canal Company, a corporation, the construction of a ditch upon the south side of the river emerging therefrom about two miles and a half above the head of the Utah Canal, being above the head of all the canals or ditches before mentioned. This last ditch is known and designated in the proceedings in this case as the "Mesa Canal," and the Mesa Canal Company is made a party to this suit.

In 1882, certain persons posted a written notice on the north bank of the Salt River at a point a short distance below its confluence with the Verde, of their intention to divert 50,000 inches (miner's measurement) of water from Salt River at that point, for the purpose of irrigation, and a copy of this notice was filed in the recorder's office of Maricopa County. Any rights that may have been acquired or initiated by the posting of that notice, were conveyed to the Arizona Canal Company, a defendant in this case.

In 1883, the Arizona Canal Company, a corporation duly organized under the laws of this Territory began the construction of and with reasonable diligence prosecuted work until the completion of its canal, beginning the diversion of water at the point where the notice before mentioned was posted and claiming the right thereunder to divert the water. The head of this canal (its point of divergence from the river) is above that of all the other canals or ditches in the valley. The

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Arizona Canal was completed and the water was actually diverted through it, in the summer of 1885.

In November, 1887, certain persons posted a notice of intention to appropriate a definite quantity of water from Salt River at a point on the south side thereof, about two miles below the head of the Arizona Canal and above the heads of all the other canals and ditches except the Arizona. On the 6th of December, 1888, the Highland Canal Company was incorporated under the laws of the Territory, and claims the right to divert a definite quantity of water by purchase of all the rights that may have been acquired or initiated under the notice of appropriation last before mentioned. Thereafter it, the Highland Canal Company, proceeded to construct, and with reasonable diligence prosecuted to completion the work of the construction of a canal through which it has since diverted or attempted to divert waters of Salt River for the purpose of irrigation. The Highland Canal Company is a party to this proceeding.

In 1889, the Cross-Cut Canal and Power Company was incorporated under the laws of the Territory for the purpose of constructing a canal from the Arizona Canal to the Grand, the Salt River Valley and the Maricopa Canals and therewith with reasonable diligence began construction and completed such canal, whereby the waters thereof, which were diverted from the river, could be and from time to time have been supplied to the Grand, Maricopa and Salt River Valley Canals.

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all of which headed below the Tempe, the Utah, the Mesa City, and the Highland Canals. The Cross-Cut Canal and Power Company is made a party to this proceeding.

C. T. Hayden, who is a party to this proceeding, as a shareholder of the Tempe Canal Company, in the year 1874 erected a flouring mill at Tempe, and by an arrangement with the other shareholders of the Tempe Canal, had supplied to him through that canal water sufficient to propel his mill, being an amount of water in round figures equal to a flow of twenty-five cubic feet of water per second. Hayden, subsequent to the institution of this suit, individually instituted a suit against certain of the defendants in this case to enjoin them from an alleged diversion and appropriation of water to which he claimed the right for the propulsions of his mill. The trial of that case was begun, and it being found that the evidence was applicable to the issues in this case and that his rights could not be definitely and fully determined unless the parties to this proceeding should be made parties to that, it was ordered by the Court that the suit instituted by him should be consolidated and tried with this, and his rights determined in the consolidated suits.

The earlier efforts of the settlers under these orders of the Court toward cultivation was confined to the propagation of hay and grain, and a few garden vegetables, the cultivation of which was confined to the first period of the year when the water in the river was very abundant. As the settlement became older and its population increased, a more

extended cultivation began to be undertaken. Instead of confining themselves to hay and grain, as above mentioned, the ranchers gradually began the planting and cultivation of alfalfa, fruits and vines, which required water during the entire year. Under the conditions as they originally existed, and as is usual in such cases, there were many usurpations and concessions of rights to the diversion of water, unnoticed at the time, or if noticed, tacitly and without objection acquiesced in because of the then abundance of water. As the population increased and with it the more extended form of cultivation, a deficiency in water began to be noticed. While the river during the months in which hay and grain and the ordinary agricultural crops are being grown had in it a vast volume of water, this volume diminished with the advance of the season, from thousands of cubic feet per second to about, at a minimum of, three hundred cubic feet per second, and as both the increase of population and the different products to which the land was cultivated increased, the demand for water in the summer months when the supply is the least, aggravated by an unnecessary and very considerable waste of water, exceeded the supply. This deficiency of supply made at once the question of priority of right to appropriate water important, and that question is the subject matter of this suit.

On the 7th day of February, 1887, the Salt River Valley Canal Company, a corporation, the Maricopa Canal Company, a corporation, M. Wormser, alleging himself to be the owner of the

San Francisco Ditch; the Mesa Canal Company, a corporation; and C. T. Hayden, M. Wormser and forty-nine others alleging themselves to be the owners of the Tempe Irrigating Canal and constituent members of the Tempe Irrigating Canal Co.; and Henry C. Rogers and forty-five others alleging themselves to be the owners of the Utah Canal and the constituent members of the Utah Canal Company, and the Grand Canal Company, a corporation, filed their complaint in this court against the Arizona Canal Company, alleging that the Salt River is a natural unnavigable stream rising in the mountains in the eastern part of the Territory and running thence in a general westerly direction to its junction with the Gila River in Maricopa County. That the said river during its course in its natural channel flows in and through a tract of country situated in Maricopa County known and called the "Salt River Valley," and that the river at and before the times hereafter mentioned flowed through land that belonged to the domain of the United States. That Salt River Valley begins at a point about twenty miles east of the city of Phoenix, and continues on both sides of the river to its junction with the Gila River, and includes in its area 150,000 acres of land fit for cultivation and the production of crops when irrigated. That the climate of the valley is dry and arid, and the said lands are only capable of cultivation when irrigated, and without irrigation they are unfit for cultivation and will not produce any crops. That through the dry season of the year the volume of

by waters conveyed through the ditch. That for the purpose of protecting themselves against damage by freshets the said two corporations, the Salt River Valley Canal Company and the Manicopa Canal Company have combined the heads of their ditches and take the water used by each of them from one point on the river.

That on or about the 6th day of December, 1870, the grantors and predecessors in interest of the plaintiffs, C. T. Hayden and others, alleging themselves to be constituent members of the Tempe Irrigating Canal Company, being then the owners or occupants of certain lands in the Salt River Valley and intending to cultivate the same, associated themselves together by the name of the Tempe Irrigating Canal Company, and located and appropriated of the waters of said river 11,000 inches, and did thereupon proceed to and did construct at great expense, a dam across the river and an irrigating ditch commencing at the south bank of the river at a point about sixteen miles east of the city of Phoenix and running thence in a southwesterly direction over and across lands then being a part of the public domain, said ditch being capable of carrying said 11,000 inches of water, and they thereafter did continuously appropriate, use and employ said 11,000 inches of water for the irrigation of the lands so owned and possessed by them. That the plaintiffs now composing the said association the Tempe Irrigating Canal Company have succeeded by divers mesne conveyances to all the rights of the original claim-

ants of said 11,000 inches of water diverted and carried by said Tempe Canal, and of the lands irrigated thereby.

That in 1877, the grantors, in interest of the plaintiff, Henry C. Rogers, and others constituting the Utah Canal Company, formed and associated themselves together by that name and took up, located and claimed of the waters of Salt River, 2,500 inches of water, and proceeded to and did construct at great expense a dam over and across the river, and a ditch commencing on the south bank of Salt River at a point about twenty miles east of Phoenix, and running thence in a southwesterly direction across land then being a part of the public domain, the ditch being capable of carrying said 2,500 inches, and that the persons composing said association thereafter by means of said ditch did continuously appropriate, use and employ 2,500 inches of water for the cultivation of the land owned and actually cultivated by them. That the plaintiffs last named now constitute the Utah Canal Company, and have succeeded by divers mesne conveyances to all and every the rights of the original locators and claimants of the said 2,500 inches used by means of the ditch of the Utah Canal Company, and the land irrigated thereby, and have so continuously used the said water.

That about the middle of December, 1870, divers persons the grantors and predecessors in interest of the plaintiff, M. Wormser, being the owners and possessed of land in Salt River Valley, desiring to cultivate the same, appropriated 4,500 inches of water and constructed at great expense

a dam across the river, and an irrigating ditch known as the San Francisco Ditch commencing on the south bank of the river at a point about nine miles east of Phoenix, and running thence in a southwesterly direction across land then being a part of the public domain, the ditch being capable of carrying the 4,500 inches of water so appropriated, and such persons did thereafter by means of that ditch continuously use and employ 4,500 inches of water in the cultivation of said lands. The plaintiff, M. Wormser, heretofore and more than five years before the commencement of this suit, by divers mesne conveyances succeeded to all the rights of the owners of said San Francisco Ditch, and is now the owner and possessor of the same and has been continuously using the same.

That during the month of July, 1870, divers persons being the owners and possessors of land in the Salt River Valley, desiring to cultivate the same appropriated 1,500 inches of water of said river and constructed at great expense a dam across the river, and an irrigating ditch called and known as the Griffin Ditch, commencing on the north bank of Salt River at a point about a mile and a half south of the city of Phoenix, and running thence in a northwesterly direction across land then being a part of the public domain and capable of carrying 1,500 inches of water, and the persons so mentioned by means of that ditch continuously diverted and appropriated and used said 1,500 inches of water for the cultivation of the land owned and possessed by them. The plaintiff,

M. Wormser, thereafter and more than five years before the commencement of this suit, by divers mesne conveyances succeeded to all the rights of said persons, and continues now to be the owner of the same.

That on or about the 24th day of June, 1878, divers persons being the owners and possessors of land in Salt River Valley and desiring to cultivate the same, formed and caused to be created a corporation known as the Grand Canal Company, and thereupon the said company appropriated 10,000 inches of the water of said river, and thereafter constructed at great expense a dam across the river, and an irrigating canal commencing at a point about twelve miles east of the city of Phoenix, running thence in a northwesterly direction and through and across land then being a part of the public domain, capable of carrying 10,000 inches of water, and used the waters of said river in and about the cultivation of the lands of the persons forming said corporation and owning its capital stock, and for their use and benefit, using the said 10,000 inches of water.

That on or about the 2d day of March, 1878, divers persons being the owners and possessors of land in Salt River Valley and desiring to cultivate the same, organized the Mesa Canal Company and appropriated 10,000 inches of the water of said river for the purpose of the irrigation of said lands, and constructed at great expense a dam across the river, and an irrigating ditch commencing on the south bank of the river at a point about twenty-five miles east of Phoenix, and run-

ning thence in a southwesterly direction over and across the land then being a part of the public domain, capable of carrying 10,000 inches of water, and by means of that ditch did thereafter appropriate, use and employ for the purpose of cultivation of said lands of the persons forming the corporation and owning its capital stock, said 10,000 inches of water.

The plaintiffs further allege that the aggregate quantity of water which they had appropriated and used for the purposes aforementioned, is 62,500 inches of water, and that they and their predecessors in interest have expended in and about the construction of the several dams and ditches mentioned, a sum aggregating \$350,000 and upwards. They further allege that the then present season was dry and that the quantity of water in the river was then insufficient to supply the plaintiffs with the several quantities to which they were then entitled. And the plaintiffs allege that at the then present time a great portion of the crops in the valley had been planted and that the water was required for their irrigation, and that but for the wrongful acts of the defendants hereinafter alleged, all the water flowing in the natural channel of the river would have flowed down and through their several ditches, and they would have been able to secure whatever water there was in the river, and that by a judicious and economical use of it preserved portions of their crops planted as aforesaid. The plaintiffs further allege that on or about the 1st day of January, 1887, being long subsequent to the appropriation and use by them

and their grantors of the several quantities of water hereinbefore mentioned, the Arizona Canal Company, defendant, in violation of the plaintiff's rights entered upon the river at a point above any of the dams and ditches of the plaintiffs, and about twenty-eight miles east of the city of Phoenix, and by means of a dam constructed by it across the river, there, capable of holding all of the waters flowing in the river, and by means of a canal commencing at the dam and running thence northwesterly, of a size sufficient to carry all the waters flowing in the river during a dry season at a time when the water is needed by the plaintiffs, diverted and turned out of the river a large quantity of the water of the river, and by such diversion prevented the water from reaching the ditches of the plaintiffs, and had diminished the quantity of water to such an extent that the plaintiffs and each of them was prevented from procuring a sufficient supply of water for their crops aforesaid, whereby such crops are now suffering and are in immediate danger of actual destruction. That without the use of the water naturally flowing in the river the plaintiffs cannot receive and take the amounts of water to which they are severally entitled and of which they are actually in need, and that the continued diversion of the waters by the defendants as aforesaid would prevent the cultivation of the lands under the ditches of plaintiffs, and work irreparable damage to them. That the defendant, the Arizona Canal Company, threatens to continue its diversion of said water and threatens to divert all the water flowing in the river

and thereby to deprive the plaintiffs of procuring any water from the river. The plaintiffs further allege that the defendant does not divert any water for any useful or beneficial purpose. That of the water so diverted, and carried away by the defendant, a small quantity not exceeding 1,000 inches is being sold and disposed of by defendant for the purpose of irrigation, and that the remaining portion of the water so diverted by the defendant is carried away and allowed to run to waste and wholly lost, and is not thereafter restored to the river. Wherefore the plaintiffs pray that pending the action the defendant be enjoined from in any way or by any means interfering with or obstructing the present flow of water in the river or the waters to flow therein at any times hereafter, whereby the plaintiffs or any of them shall be impeded in their right to the use thereof. That defendant may be ordered to remove from the river its dam and any other obstructions placed in the river by it whereby the flow of the water in the river is impeded or obstructed, and that it be required at all times to permit the water of the river to so flow in its natural channel that the plaintiffs and each of them can receive the several quantities of water to which they allege themselves in this complaint to be entitled.

This complaint was sworn to by the President of the Salt River Valley Canal Company, the President of the Maricopa Canal Company, the President of the Mesa Canal Company, the President of the Grand Canal Company, and by M. Wornser, Winchester Miller and E. R. Jones,

constituent members of the San Francisco, Tempe, and the Utah Canal Companies. The complaint was presented on the 4th day of February, 1887, to J. W. Crenshaw, the then Court Commissioner of this court, who ordered that the defendant show cause on or before the 14th of February, 1887, why an injunction *PENDENTE LITE* should not be granted, and further ordered that upon the plaintiffs giving an undertaking in the sum of \$10,000, the defendant should in the meantime be restrained from in any manner interfering with or obstructing the flow of the water in the river and suffer all the water therein flowing to flow through its natural channel.

On the 17th of December, 1888, an amended complaint was filed by those plaintiffs in the original complaint who constituted the Tempe Irrigating Canal Company and the Utah Canal Company, making the Salt River Valley Canal Company, the Maricopa Canal Company, the Grand Canal Company, the Arizona Canal Company and the Mesa Canal Company, defendants. This complaint, after alleging the manner in which they acquired their right to divert and to appropriate the water from the Salt River, alleges that during the year 1867, divers persons owning and possessing lands in Salt River Valley, associated themselves together under the name of the Swilling Irrigating Canal Company, and located, appropriated and claimed for the purposes of irrigating lands, 1,500 inches of water of the river, and constructed a dam across the river, and thereafter constructed two certain ditches over and across

the rights that the plaintiffs had to divert, depriving the plaintiffs of water to which they were entitled. That the defendants, the Maricopa Canal Company and the Salt River Valley Canal Company threaten to continue to claim, assert, and exercise their alleged right each to take out of the river 6,000 inches by means of the canal of the defendant, the Arizona Canal Company, and that the Arizona Canal Company permits and consents to it, and threatens to continue to permit, and consent to the use of its canal by each of the aforementioned defendants for the purpose of diverting such excessive quantities of water from the river for the use and benefit of the aforementioned defendants at a point upon said river above the place where the plaintiffs take their water from said river, when in fact the places where each of the said defendants, the Salt River Valley Canal Company and the Maricopa Canal Company, originally took the waters from the river and their ditches, at the time the plaintiffs first acquired their rights to the quantities of water herein alleged, were below the places on the river where plaintiffs then took and now take their water. That such proposed diversion through and by means of the Arizona Canal will diminish the quantity of water in the river over which plaintiffs claim the right, to the injury of plaintiffs and to the benefit of the defendants, and that the Arizona Canal Company, either alone or with the Salt River Valley Canal Company, or for about the benefit of either of them, will without right and in violation of the rights of the plaintiffs, take up, locate, appropriate

the lands which they desired to irrigate, each capable of carrying 750 inches, and that the said Swilling Irrigating Canal Company and the persons composing the same became thereafter entitled to and continued to appropriate, use and employ 750 inches of water, and no more. And that during the year 1875 the defendant, the Salt River Valley Canal Company, by divers mesne conveyances succeeded to all and every the right, title and interest of the said association, the Swilling Irrigating Canal Company, and of the persons composing the same, in the lower or westerly of the two aforementioned ditches. And that during the year 1875, the Maricopa Canal Company, defendant, by divers mesne conveyances succeeded to all and every the right, title and interest of the Swilling Irrigating Canal Company, in and to the upper or easterly of the two aforesaid ditches, and since that time has been and is now the lawful owner and possessor of all and every the rights, privileges, and franchises of the Swilling Irrigating Canal Company, in and to said upper or easterly ditch. And that while said Salt River Valley Canal Company and the Maricopa Canal Company have been using said waters, they have for certain purposes committed the negligence of diverting and for some time herebefore the waters from their said ditches, and that plaintiffs have been and are being injured by the diversion of water from the river, and that the Maricopa Canal Company and the Salt River Valley Canal Company, in violation of the rights of the plaintiffs have diverted from the river quantities of water in excess of

ate, and claim, 10,000 inches of the water of Salt River, and constructed a dam across the river, and an irrigating ditch commencing at a point about twelve miles east of the city of Phoenix, and running thence in a northwesterly direction over and across the land then being a part of the public domain, capable of carrying 10,000 inches of water, and by means of such ditch and dam thereafter diverted 10,000 inches of water, thereby diminishing the quantity of water in the river so that plaintiffs could not supply themselves. That the point at the river where the Grand Canal Company first took out the water into its ditch is below the point in the river where the head of the ditch of the Tempe Irrigating Canal Company originally was taken out and is now situated, and below that of the Utah Canal Company, and is above the point on said river where the head of the San Francisco Ditch was originally taken out and is now situated. That the said defendant has, subsequent to the appropriation of the plaintiffs above set forth, diverted the water and threatens to continue to do so, by means of the Arizona Canal Company's canal.

That the Mesa Canal Company has made appropriation of the water of Salt River long subsequent to the appropriation made by the plaintiffs, and that its point of diversion is above the place where the plaintiffs take the water from the river into their respective ditches. That the quantity of water that the Mesa Canal Company claims and asserts the right to divert is 10,000 inches, and that when that defendant made its ap-

propriation of water the plaintiffs were in the peaceful and undisturbed possession and enjoyment of their right to use and employ the waters of the river, which they had theretofore appropriated.

That the defendant, the Mesa Canal Company, wrongfully prevents the waters of the river flowing down the ditches of the plaintiffs and threatens to continue to do so. That such diversion lessens and diminishes the quantity of water flowing in the river to such an extent that the plaintiffs cannot obtain the supply to which they are entitled by their prior appropriation.

Plaintiffs further allege that long subsequent to the appropriation by them their grantors and predecessors in interest, namely on or about the 1st of January, 1887, the Arizona Canal Company, without right and in violation of the rights of the plaintiffs to use the waters of Salt River at a point about 28 miles east of Phoenix by means of a dam across the river and a canal commencing at said dam capable of carrying all the waters flowing in the river during the dry or rainless seasons, diverted and turned out of the river a large quantity of the waters flowing therein, thereby preventing the water from flowing to or reaching the ditches of the plaintiffs, and thereby lessening the quantity of the water in the river to such an extent that the plaintiffs are prevented from diverting the water into their respective ditches. That the quantity of water for the purposes by which they allege themselves to be entitled to use it, that is, without the use of all the water now flowing in

The plaintiffs further allege that the defendants, the Salt River Valley Canal Company, the Maricopa Canal Company and the Grand Canal Company, have since the filing of the original complaint, by means of a transfer of a certain share of the stock of those companies to divers persons acting in concert with the Arizona Canal Company in order to aid that company in its efforts to wrongfully continue its alleged appropriation of the waters of the river against the rights of the plaintiffs, combined with the Arizona Canal Company to injure the plaintiffs and prevent the plaintiffs from proceeding with this action. That the persons who have received the said transfers of stock of the above companies respectively, are now holding control of the management of the said respective companies, and subordinating the claims and rights and interests thereof in such a manner as to seriously impair the rights of the plaintiffs by collusively permitting the said transfers of the stock to the said Arizona Canal Company in order to enable it to secure an undue and wrongful advantage over the plaintiffs and to control the diversion of the water of the river, in violation of the rights of the plaintiffs.

This complaint is sworn to by Winchester Miller, one of the plaintiffs, and by M. Wormser and others.

On the 14th of January, 1897, a third amended complaint was filed, wherein in addition to the allegations of the foregoing complaint, the amendment consisted in the substitution of the Utah Canal Company as a party defendant instead of a

the river the plaintiffs cannot take or receive therefrom the several quantities thereof to which they are entitled and of which they have actual need.

That the defendant, the Arizona Canal Company does not divert the said water for any useful or beneficial purpose. That of the said waters so diverted and carried away by the Arizona Canal Company, a small quantity not exceeding a thousand inches is sold and disposed of by that company for the purpose of irrigation, and that the remaining portion of the water except what is being carried through the canal as before mentioned, is allowed to run to waste and to be wholly lost, and no part thereof is ever restored to the river.

That the defendant is insolvent and unable to respond in damages.

Plaintiffs further allege that the aggregate quantity of the water of the river which they have appropriated and used is 20,000 inches of water. That they have expended large sums of money in and about the construction of their several dams and ditches.

Plaintiffs further allege that during the dry and rainless season of the year the quantity of water in the river is greatly diminished, that the entire amount thereof is insufficient to supply the plaintiffs with the quantities to which they are entitled after first making an allowance therefrom of the quantity of 750 inches due each of the defendants, the Maricopa and the Salt River Valley Canal Companies.

party plaintiff, and on the 11th of June, 1889, by a still further amendment, the Highland Land and Water Company, a corporation, was made a defendant. It is alleged that the Highland Land and Water Company was a corporation, and that in January, 1889, it diverted waters of Salt River by means of its canal, beginning at a point on the river about twenty-seven miles east of Phoenix, and above the point of diversion by the plaintiffs, whereby they deprived the plaintiffs of the ability to divert to the uses to which they were entitled, as before alleged.

On the 14th of July, 1890, an amended complaint was filed, wherein the alleged owner of the San Francisco Ditch and the alleged owner and constituent members of the Tempe Canal Company were plaintiffs, and the Salt River Valley Canal Company, the Maricopa Canal Company, the Grand Canal Company, and Arizona Canal Company, and Mesa Canal Company, the Highland Land and Water Company and the constituent members of the Utah Canal Company, were defendants. In addition to the allegations made in the original complaint, it is alleged in this amended complaint that the defendants, the Salt River Valley Canal Company, and the Maricopa Canal Company, and the Grand Canal Company, are original plaintiffs. They made the filing of this amended complaint by means of the signature of an attorney at law of those companies, to wit, by one George W. H. Smith, and in and to the Arizona Canal Company, and the defendant company in its efforts to wrongfully

maintain its alleged appropriation and use of water against the rights of plaintiffs, combined with the Arizona Canal Company to injure the plaintiffs and to prevent plaintiffs from proceeding with its suit and obtaining the relief sought. That the persons who received the said transfers of stock above mentioned, are now holding control of the same and subordinating the claim and rights and interests of those companies so as to seriously impair the rights of the plaintiffs. That the above named companies have collusively permitted and acquiesced in such transfer of stock to the Arizona Canal Company in order to enable that company to secure and enjoy a wrongful advantage over the plaintiffs and to control the diversion of the water of the river in violation of the rights of the plaintiffs. It is also alleged in the amended complaint that in January, 1889, the Highland Land and Water Company, a corporation, entered upon the said river above and east of the dam and ditches of the plaintiffs at a point about 27 miles east of Phoenix, and there by means of a dam which it constructed across the river and a canal beginning at said point and running thence in a south westerly direction, capable of carrying 6,000 inches of water, diverted and turned out of the river a large quantity of water, and thereby such diversion prevented the water from passing through the existing ditches of the plaintiffs, and thereby diminishing the quantity of water which they were entitled to have carried and conveyed, and the same was done and caused to be done by the defendant company in its efforts to wrongfully and to endanger the interests of the plaintiffs.

plaint the Arizona Canal Company, the Grand Canal Company, the Maricopa Canal Company and the Salt River Valley Canal Company filed their several answers; first, demurring to the complaint upon the ground that it does not state facts sufficient to constitute a cause of action against them or either of them.

Second. That the several defendants have each of them separately been severally and in the peaceable and adverse, open and notorious and actual possession and use and enjoyment of the waters and of the rights and franchises described and referred to in the amended complaint, and every part thereof, under color of title for more than three years next preceding the commencement of the action and before the filing of the amended complaint.

Third. Alleging that the cause of action set out in the amended complaint had not accrued within two years before the commencement of the action, or the filing of the complaint.

Fourth. That neither the plaintiffs nor their grantors or predecessors have been in the possession of the franchises or rights they claim, within five years next preceding the commencement of the action and filing of the amended complaint.

Fifth. Denying specifically the allegations of the plaintiffs that they had, in 1870, or at any time, appropriated any water of Salt River in a quantity exceeding 300 inches, except that some time in the year 1871, certain persons constructed a small temporary dam across Salt River, and a very small irrigating ditch in the vicinity of the

place where it is alleged plaintiff's predecessors constructed a dam and ditch in the complaint described. That by means of that dam and ditch, water was taken out of the river during said year after the construction of the said dam and ditch, in sufficient quantities to irrigate small patches of summer crops covering not to exceed a small number of acres of land. That thereafter and sometime about the year 1871, the said ditch was from time to time enlarged and increased in its capacity to some extent, but the total amount of water diverted therefor did not at any time exceed 300 inches of water, miner's measurement, until the year 1873. That thereafter and up to the month of January, 1877, the ditch was enlarged from time to time to enable it to carry water for irrigating purposes to such an extent that on or about that date the ditch was capable of carrying about a thousand inches of water in addition to the water carried for mechanical purposes, as hereinafter mentioned. That sometime in the year 1873, one of the plaintiffs, namely Charles T. Hayden, having constructed a flouring mill on the ditch with a water-wheel whereby the same was intended to be driven, by some arrangement the details whereof are unknown to the defendants, enlarged the ditch and increased its carrying capacity sufficient to enable it to carry about 1,000 inches of water in addition to the said quantity, it was capable of carrying before that. And that thereafter, from time to time while said mill was running, the ditch was used to carry about not exceeding 1,000 inches of water, miner's measure-

ment, for irrigating purposes, and not exceeding 1,500 inches of water for said mechanical purpose of driving said water wheel. That all of said water which was diverted and used to run the mill except such part as was lost by evaporation and seepage, was, by means of a tail-race below the mill immediately after passing through and over the water-wheel of said mill, permitted to flow and did flow back into the river at a point above the dam and head of the canal of the defendants the Salt River Valley Canal Company and the Maricopa Canal Company, and the same and every part thereof except what was lost by evaporation and seepage flowed to said dam and ditches of said defendants and was available to them and each of them for the purposes of irrigation. That thereafter from time to time said ditch was enlarged in capacity. That up to the year 1883, it was not capable of and did not carry for any purpose, more than 3,000 inches of water, miners' measurement. That not more than 1,500 inches of said water was at any time diverted for the purpose of being used by any person or persons, by means of the ditch and dam for any purpose except the driving of the mill. That thereafter from time to time the ditch was enlarged to such an extent that in January, 1886, it was capable of carrying about 10,000 inches of water, carrying said 10,000 inches of water by means of measurements diverted by means of the dam and the population of the mill. That not more than 2,000 inches of water was used for any other purpose than the driving of said mill and that the proper

irrigation of the lands could and ought to have been had with the use of at least twenty-five per cent less water than the quantity the ditch was capable of carrying, after deducting from its total capacity the 1,500 inches it carried for the propulsion of the mill.

And further answering, those defendants deny that the predecessors in interest of the plaintiff, M. Wormser, appropriated 5,000 inches, or any other quantity of the water of Salt River in December, 1870, or at any other time, or that he or they ever applied 5,000 inches to the irrigation of any lands, or that he ever acquired by any conveyances the interest of any person who had any such right to appropriate water, but allege that sometime in the year 1872, some person or persons to the defendants unknown constructed a small irrigation ditch at or near the place where the said alleged San Francisco Ditch is alleged to have been excavated, but it was not capable of carrying more than fifty inches of water. That thereafter that ditch or some other one constructed near by the place where that one had been made, was from time to time enlarged to some extent, but that up to and in the year 1877, and '78, it was capable of carrying not more than one hundred and fifty inches of water from the head of the said ditch, was enlarged from time to time, and in 1883, it was capable of carrying not more than 100,000 inches of water. That the ditch was said enlarged from time to time to some extent, but that up to the present time it has not been nor is it now capable of carrying

more than 400 inches of water.

The answer further denies that the water of the river in dry and rainless seasons is ever diminished to a quantity not exceeding 13,000 miner's inches. They further allege that the amount of water appropriated by the Swilling Irrigating Canal Company was, instead of 1,500 inches, 12,000 inches, and the two ditches constructed by the Swilling Canal Company were each capable of carrying 6,000 inches instead of 750 inches as alleged in the complaint, and that the whole amount thereof was and has been continuously used in good faith in the irrigation of lands by the owners of lands under those ditches, and asserts their right to divert the same.

It is further averred that on or about the 24th day of June, 1878, divers persons being then the owners and possessors of lands in Salt River Valley and desirous of irrigating the same and requiring water for that purpose, formed and caused to be created the Grand Canal Company, and thereupon appropriated 10,000 inches of water of the river for that purpose, and proceeded to and did construct a dam over and across Salt River, and an irrigating ditch commencing at a point about twelve miles east of the city of Phoenix and running thence in a northwesterly direction over and across the lands then being a part of the public domain, the ditch being capable of carrying 10,000 inches of water, and that thereafter they applied the said 10,000 inches of water for the purpose of the irrigation of those lands. And they make a similar allegation as to the Arizona Canal Com-

pany, and deny that since the filing of the original complaint that by means of any transfer of stock in any of the companies to any person or persons whatsoever that they sought to act in concert or in collusion whereby the rights of the plaintiffs should anywise be injured, or to prevent the plaintiffs or any of them from proceeding with their action.

The answers of the other defendants raise substantially the same issues, asserting in themselves the rights to divert and appropriate water of the river in the order suggested in the original complaint.

During the pendency of this action the court has attempted as best it could by means of Commissioners appointed for that purpose, to control the distribution of water among the various claimants in accordance with the rights of the consumers as nearly as that could be ascertained on preliminary hearings, and the waters of Salt River are now being distributed under the supervision of such a Commissioner.

The final trial of this cause was begun in March, 1899, the evidence being adduced before a Commissioner appointed for that purpose, and before whom about 3,000 pages of evidence were taken and reported to the court. The continuation of the trial was begun before the court in July, 1890, and continued until its conclusion in August of that year. The amount of evidence taken in the

case is very voluminous, consisting of 6,000 pages of typewritten matter. Counsel desiring to argue the case and their engagements and the business of court being such that it could not be heard then, the further trial of the case was continued till February, 1891, at which time the cause was fully and ably argued, the argument occupying 15 days.

This resume of the origin and progress of this case as brief as the multiplicity of the issues involved would permit, suggests at once its importance. From the time of the construction of the first ditch in 1867 until now, there has been expended in the construction, operation and maintenance of irrigating ditches in the Salt River Valley a sum exceeding a million of dollars. The population of the valley has grown from 200 or 300 to 10,000 people. Its products from being simply barley and hay, now range through all the long list of grain, fruits, and vines, to the production of which the soil and climate are peculiarly adapted. From a valueless desert, lands have been reclaimed, aggregating millions of dollars in value. The city of Phoenix itself began its existence since the Swilling Ditch was constructed. Without water, the Salt River Valley would still be a desert inhabited save by the jack rabbit, coyote, and the rattlesnake, and devoid of vegetation except the sage brush and the cactus. Water is just as essential to the maintenance of the population, not there, and the production of the means of its subsistence, as the air itself.

Before proceeding to the finding of facts I shall

to some extent discuss the law as I have found it and believe it to be relevant to the issues of the case to illustrate the import of the facts the finding of which will follow.

That part of Arizona in which the Salt River Valley is situated, from the time of the Spanish conquest until the establishment of the Republic of Mexico was under the dominion of Spain, and thence until 1847 under the dominion of the Republic of Mexico, and was subject, of course, during those periods, to the laws of Spain and of the Republic of Mexico, respectively. It might be interesting and instructive to study the laws, the rules and customs which prevailed under those governments concerning the appropriation and use of water, but it would here be out of place to discuss or to even cite them, further than to state that the common law doctrine of the rights of riparian proprietors did not there prevail; because, as disclosed by the evidence in this case, no rights whatsoever were acquired until at least twenty years after the acquisition of that territory by the United States under the treaty of Guadalupe Hidalgo. In 1848, and from that time to 1863, that part of the Territory of Arizona within which is the Salt River Valley was a part of the Territory of New Mexico, and there were expressly enacted by that Territory laws governing the appropriation and use of water for irrigation. In 1863 a part of the then Territory of New Mexico was parted into a temporary government by the name of the Territory of Arizona, and the laws of New Mexico were by the act of Congress establishing the Ter-

ritory of Arizona, made applicable to that Territory. In 1864, the first legislative assembly of the Territory convened and enacted the code of laws commonly known and cited as the Howell Code. By article 22 of an act of that legislature, known and designated as the "Bill of Rights," it was provided that "all streams, lakes, and ponds of water capable of being used for the purposes of navigation or irrigation are hereby declared to be public property, and no individual or corporation shall have the right to appropriate them exclusively to their own private use except under such equitable regulations and restrictions as the legislature shall provide for that purpose." This act went into force on the 1st day of January, 1865. This provision has been incorporated in the successive revisions of our code, and is still a part of our statutory law. At the same session of the legislature and by a law taking effect at the same time, an act governing acequias and irrigating canals was adopted. The first section of that act provides that "all rivers, creeks and streams of running water in the Territory of Arizona are hereby declared to be public and applicable to the purposes of irrigation and mining," as afterwards provided. Section 2 saves all vested rights. Section 3 provides that "all the inhabitants of this Territory who own or possess arable or irrigable lands shall have the right to construct public or private acequias and obtain the necessary water for the same from any convenient river, creek, or stream of running water." Section 4 provides for the assessment of damages resulting from the con-

struction of ditches across private property of individuals. Section 5 provides that no inhabitant of this Territory shall have the right to erect any dam, or build a mill, or place any machinery, or open any sluice, or make any dyke, except such as are used for mining purposes or the reduction of metals, as provided for in sections six and seven of the act that may impede or obstruct the irrigation of any lands or fields, as the right to irrigate the fields and arable lands shall be preferable to all others; and the justices of the peace of their respective precincts shall hear and determine the question relative to all such obstructions in a summary manner, and cause the removal of the same by order directed to a constable of the precinct or sheriff of the county, who shall proceed to execute the same without delay. By section 7 it is provided that when any ditch or acequia shall be taken out for agricultural purposes, the person or persons so taking out such ditch or acequia shall have the exclusive right to the water, or so much thereof as shall be necessary for the said purposes, and if at any time the water so required shall be taken for mining operations, the person or persons owning said water shall be entitled to damages, to be assessed in the manner provided in section six of this chapter. Section 8 prohibits the construction or maintenance of by-paths and foot-paths across cultivated fields. Section 9 provides that all owners and proprietors of arable and irrigable land bordering on, or irrigable by, any public acequia, shall labor on such public acequia, whether such owners or proprietors cultivate

the land or not. Section 10 provides that persons interested in a public acequia, whether owners or lessees of land, shall labor thereon in proportion to the amount of land owned or held by them, which may be irrigated by the ditch. Section 11 provides that animals shall be herded to prevent trespass upon cultivated fields. Section 12 provides that in case a community desire to construct an acequia and the persons desiring to construct the same are the owners or proprietors of the land upon which they design constructing the acequia, no one shall be bound to pay damages for the land taken. Section 13 provides for the election of overseers of public acequias. Section 14 prescribes the manner of the election of overseers. Section 15 provides for the payment for services of the overseers. Section 16 prescribes the duty of the overseers, of which, among others, is enumerated his duty to distribute and apportion the water in proportion to the quantity to which each one is entitled according to the land cultivated by him; and that in making such apportionment he shall take into consideration the nature of the seed sown or planted, and the crops and plants cultivated. Section 17 provides that "during years when a scarcity of water shall exist, owners of fields shall have precedence of the water for irrigation, according to the dates of their respective titles or their occupation of their lands, either by themselves or their grantors. The oldest titles shall have precedence always." Section 18 provides for the contribution of labor by irrigators, to the maintenance of the acequia. Sec.

tion 19 prescribes penalties for malfeasance or nonfeasance of the overseer in discharging his duties, and provides for his removal in certain events. Section 20 provides for the filling of a vacancy occasioned by the removal of an overseer. Section 21 imposes a penalty upon the owner or proprietor of land irrigated by an acequia for neglect or refusal to furnish the number of laborers required by the overseer for the maintenance and repair of the acequia. Section 22 prescribes the penalties against any person who shall in any manner interfere with, impede or obstruct any such acequia, or use the water from it without the consent of the overseer. Section 23 provides that the fines and forfeitures recovered under the provisions of the act shall be applied by the overseers to the improvement, excavation and repair of the acequia, and for the construction of bridges at points where they may be crossed by public streets or roads. Section 24 provides for the appeal from judgment of conviction under any of the provisions of the act. Section 25 is, "The regulation of acequias which have been worked according to the laws and customs of Sonora and the usages of the people of Arizona, shall remain as they were made and used, up to this day, and the provisions of this chapter shall be enforced and observed from the day of its publication." Section 26 provides that plants and trees growing on the banks of any acequia shall belong to the owners of the land through which the acequia runs. Section 27 provides that any person owning lands which may include a spring or stream of running water, or

owning lands upon a river where there is not population sufficient to form a public acquia, may construct a private acquia for his own uses, subject to his own regulations, provided he does not interfere with the rights of others.

In the year 1866 the National Congress enacted a law for the disposal of its lands containing valuable minerals, and among the provisions of that act, with some subsequent slight verbal changes not affecting the substance or meaning, is the following:

(Sec. 2339, Revised Statutes of the United States.)

"Whenever by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same; and the right-of-way for the construction of ditches and canals for the purposes herein specified is acknowledged and confirmed: but whenever any person, in the construction of a ditch or canal, injures or damages the possession of any settler upon the public land, the party committing such injury or damage shall be liable to the party injured for such injury or damage. Section 2340 provides that all patents granted or pre-emption or homestead allowed, shall be subject to any vested and accrued water-rights, or rights to ditches and reservoirs used in connection with such water-rights as may have been acquired under or recognized by the preceding section." This provis-

ion of the act of Congress has been held by the supreme courts of the United States and of some of the states not only to confirm rights that have been initiated or had vested prior to the passage of the act, but that it was continuous in its operation and was the license of the government to persons to thereafter appropriate water on the public domain for agricultural, mining, manufacturing or other purposes.

98 U. S. 453.

13 Oregon 596.

On the 3d of March, 1877, there went into effect an act of Congress providing that any citizen of the United States, or any who had declared his intention to become such, upon the payment of twenty-five cents per acre may file a declaration with the Register and Receiver of the land district in which any desert land is situated, of his intent to reclaim a tract of land not exceeding one section, by conducting water thereon within the period of three years thereafter. It provides that the right to the use of the water by the person so conducting the same on or to any tract of desert land of 640 acres "shall depend upon bona fide prior appropriation: and such rights shall not exceed the amount of water actually appropriated, and necessarily used for the purposes of irrigation and reclamation: and all surplus water over and above such actual appropriation and use, together with the water of all lakes, rivers, and other sources of water supply upon the public lands and not navigable, shall remain and be held free for the appropriation and use of the public for irriga-

tion, mining, and manufacturing purposes, subject to existing rights."

By an act of the legislative assembly of the Territory of Arizona, approved February 19, 1877, all the laws of the Territory then in force were directed to be recompiled, which was done; and the compilation is known and cited as the "Compiled Laws of 1877" among which are the section of Bill of Rights and the various provisions governing the construction of private and public acequias, and the appropriation and use of water for irrigation, that we have above quoted from the Howell Code. The same laws have been carried forward into the revision of 1887. In 1887, the acequia law was not re-enacted, but not having been repealed, it is still in force, and the editors of the revision of 1887 have incorporated it in that revision:

Secs. 3199-3226 R. S. 1887 Arizona.

In 1887, the legislative assembly enacted a law providing that the common law doctrine of riparian rights shall not obtain or be of any force or effect in this Territory:

Sec. 3198 R. S. 1887, Arizona.

CUSTOM AS A SOURCE OF WATER RIGHTS.

There has during the argument of this case, been much reference to customs prevailing in the Territory and in the Pacific slope states and territories as a guide to determine the rights of parties to the appropriation of water. I am of the

opinion that we cannot refer to customs, because we have covering the subject express statutory law. There is no evidence in this case of any customs prevailing, and if the Court may revert to its judicial knowledge of what customs have prevailed, resorting to whatsoever means it may to ascertain them, the court would have to say that there are as many customs prevailing as there are persons who have enunciated them. In short, there has been no custom; there has on the contrary been an entire want of uniformity of practice among appropriators, and no two attorneys in this case who have agreed upon what has been the custom. There has until recently been no two canal companies or associations who have concurred in their practice of either appropriation, distribution, or application of water. It may be noted here that there seems to have prevailed a practice of posting a notice of intention to appropriate water, this notice being posted at the point whence they expected to divert it from the river, and thereafter to record that notice in the recorder's office. This practice has been imported from California where by express statutory provision a person who seeks to appropriate water may initiate a right by posting such a notice; but it is there further provided that such posting must be followed within sixty days by actual work of construction of means of diversion. This practice has prevailed to such an extent in the Salt River Valley that notices of intention to appropriate many times more water than ever did flow down the Salt River, have been given; and so in the Gila

River Valley. It has been an impression quite commonly prevailing, that by posting such a notice, some rights were acquired. Yet in the argument of this case none of counsel refer to it as a source of right, or a means of initiating one. I am unable to understand how such a notice can vest in the person who posted it, any right whatsoever. On the contrary, it does not, and the most that can be said of it is, that it is a mere expression of intention, and may serve to limit the person who thereafter appropriates the water, to the amount of water which it was his declared intention to appropriate. So far as I am able to determine after a careful and continuous study of this subject for more than three years among those among whom it would be supposed customs would prevail if any existed, or from the evidence in this case, that any customs exist in this Territory relative to the appropriation and use of water. Until after the organization of the Territory the use of water for irrigation was almost unknown here. There is no evidence that there was any use of it in Salt River Valley prior to that time. Our Bill of Rights says, that the water can only be appropriated under regulations prescribed by legislature, and at the same session of the legislature that body did prescribe regulations for the appropriation of this water for the purpose of irrigation, and to those statutes we must resort to determine the rights of those who seek to appropriate water for that purpose.

With all due respect to the very able opinion of Judge Silent in the case of Kelsey vs. McAteer

before him in the District Court, and the opinion of our own Supreme Court in the case of Clough against Wing, I cannot accede to the doctrine that any of the rights of the appropriators of water in this Territory may have their origin in any local customs or the decisions of the courts: they are statutory, purely and simply. Even if there had prevailed any customs, they must yield to the express statutory enactments.

87 U. S. 684.

And a careful review of the cases elsewhere, of which there are at least one hundred and fifty in California alone, discloses that there as well as elsewhere, the right does not rest in custom. It was there held that the right was by the implied license of the state and national government—that upon public lands the riparian proprietor was the national government, and that as between mere possessors of public lands the old maxim, "Qui prior est in tempore, potior est in jure," controlled and defined their rights as among themselves—that the first possessor could not avail himself of the riparian rights of the true owner against subsequent occupants of the public domain.

It is true that in most of the cases something is said about custom of the country and about local conditions making the old rules inapplicable, but I think that as a source of right to appropriate water mere custom cannot be referred to. Custom might in some cases regulate the use of it; the right to appropriate it in this Territory at least, emanates clearly from congressional and leg-

islative grant. The conditions existing on this coast making impracticable the strict application of rules of right prevalent elsewhere may have been and no doubt did suggest the legislation on the subject to which we refer for the right to appropriate water.

RIPARIAN RIGHTS.

The diversion of water and its proper application to the irrigation of lands necessarily results in an entire consumption of the water so applied, so that the amount of water taken from a natural water-course for irrigation, to that extent, diminishes the quantity left in the stream. In the Salt River Valley where there has been at least an attempted appropriation of the entire amount of water flowing in Salt River, there is an entire consumption of the water of that stream. Naturally there occurs to the mind of anyone whose knowledge of the rules governing the rights of property has been derived from the study of the common law of England as it exists there and in the United States, in considering the subject of appropriation of water for irrigation, the question of the effect of the common law doctrine of riparian rights, and whether that doctrine exists in Arizona.

The United States at the time of the cession by the Republic of Mexico, to it of the territory which now constitutes the Territory of Arizona, became possessed of all the rights of a proprietor

of the lands the title to which had not been theretofore vested in private ownership, by grant from the Mexican or Spanish governments, and as incident thereto acquired those rights relative to water in streams running over its land which are denominated "riparian rights" at Common Law, notwithstanding the non-prevalence of that doctrine in that particular territory prior to such cession. The first legislature of the territory enacted (1864) the law concerning public and private acquias which we have heretofore recited, which law was and is utterly inconsistent with the assertion by a riparian proprietor of his "Common Law rights" to have the water run as it went to run, undiminished in quantity and undeteriorated in quality. From the time of the enactment of that law to the time of the act of Congress of 1866, the United States was the only proprietor of the lands in the Salt River Valley. There is no evidence of any private ownership, and as a matter of fact the United States had not granted to any individual any part of the lands in the Salt River Valley of which it was the primary owner. By the act of Congress of 1866, the United States being then the riparian proprietor of all the lands in Salt River Valley, expressly acknowledged the rights of occupants and owners of land on the streams of the territory to appropriate water, *inter alia*, for the purpose of irrigation, and thereby acquiesced in the implied abrogation of the Common Law doctrine of riparian rights; for the use of water for irrigation does diminish the quantity of water in the stream whence it is taken

even to its entire and exclusive consumption by another than a riparian owner. The difficulties attending the use by a riparian proprietor of the water of Salt River render the right under the rules of the Common Law valueless. Under the homestead, the pre-emption and the timber culture laws providing for the acquisition of public lands by citizens, only a quarter section could be acquired. Under the Desert Land Act, 640 acres could be acquired. The surface of the water of Salt River at ordinary stages is at least twenty feet below the surface of the lands not subject to annual inundation through which it flows, and as the river itself has a fall of only eight or ten feet to the mile, it is impossible for any such owner to divert the water to his own land unless he should begin his diversion at the river at a point more than two miles above his own boundary, necessarily thereby trespassing upon the rights of some other riparian owner. There is not an owner of land in the Salt River Valley, whether that land be bordering upon or be crossed by Salt River or not, who can irrigate his land without constructing a greater part of his works therefor on the lands of others. It cannot be maintained that the doctrine of riparian rights gives the right to trespass upon the rights of others. To apply the doctrine of riparian rights would at once render valueless every foot of arable land in the Salt River Valley. During the entire progress of this case, it was conceded, practically, by all the counsel, that the Common Law doctrine of riparian rights had no place in the policy of our law, and to it

no one has referred for any right he claims; nor has any person directly or indirectly asserted that the doctrine of the right of prior appropriation of water for the purposes of irrigation has been in derogation of any rights that he might have as a riparian proprietor, except in the one instance of C. T. Hayden, to which we will hereafter refer.

Mr. Pomeroy, in his work on riparian rights, deprecates an attempt to inject into American institutions practices or customs in derogation of common law; but as the conditions which give rise to the common law are entirely different from those existing here which give rise to the doctrine of exclusive appropriation of water for irrigation, mining, or manufacturing purposes, the rule and practice themselves must necessarily differ. It has been said by courts in repeated cases, that the conditions in an arid country like that of Arizona where the artificial application of water to the soil is necessary to make it productive are so radically different from those in a humid country, like England, where arose the common law doctrine, and where instead of the artificial application of water to the soil to make it productive, there is required a constant effort to remove from it a superabundance of water, that it would not be strange that we should require different rules and different regulations governing the rights of persons to water running in the streams, than those prevailing in England; and if there is anything anomalous in the doctrines of our local law it is an anomaly arising from conditions over which we have no control. It is unnecessary for us here to note or

discuss those cases arising chiefly in California, Nevada and Oregon, which maintain the existence of the common law rule. The result there has not been happy, and we fortunately are relieved of any effort to reconcile the rights of riparian owners with those of irrigators or other appropriators of water. The conditions which gave rise to the celebrated case of *Lux vs. Haggin* in 69th California, do not and cannot exist in the Salt River Valley—had Arizona in 1866 or in 1877 been a state and had a constitution like that of California, we might now have been confronted with this difficulty. It has been distinctly enunciated by our Supreme Court that the common law doctrine of riparian rights does not exist in this Territory.

Clough vs. Wing, 17th Pac. Rep. 453.

In California the doctrine of riparian rights is held to obtain:

Lux vs. Haggin, 69th Cal.

In Colorado it is as positively denied application there:

Coffin vs. Ditch Co., 6th Colo. 443,

Hammond vs. Rose, 11th Colo. 524.

In Nevada, the Common Law doctrine of riparian rights prevails. And for an able and elaborate decision of that question and as well the power of territorial legislatures relative to these rights, see the leading case of *Vansickle vs. Haines*, 7th Nev. 249.

The common law doctrine prevails in Oregon:

Weiss vs. Oregon & Co., 13th Ore., 496.

As I have before said, we have been relieved

of the difficult task of reconciling this apparent conflict, by the abrogation of the doctrine necessarily implied from congressional legislation, supplementing our local legislation.

THE APPROPRIATION OF WATER.

An appropriation of water consists of the actual diversion of it from its natural course and its application to a useful purpose, as irrigation, mining, or manufacturing. Until there has been this actual diversion and application of the water, there can be no valid right of appropriation. The extent of the right of appropriation depends upon and is limited by the intention of the person making the appropriation. So, although intention is not a necessary element of appropriation, yet it is important to be taken into consideration in determining the extent of the right of appropriation. Water may be taken and used one single season for a purpose which may be accomplished during that season, and the appropriation would have been simply for that season, and its extent would be limited by the expiration of that season. In other words, the purpose having been accomplished for which the water was appropriated, the right of appropriation ceases. It has been decided by a number of courts, that water may be appropriated for the irrigation of a crop the maturing of which requires only a portion of a year, and that the water thereafter running in the stream from whence it was taken, may be subject to ap-

proprietion by other persons for other purposes, at a time different from that at which it was used by the original appropriator:

Smith vs. O'Harra, 43 Calif., 371.

Barnes vs. Sabron, 10 Nevada, 217.

Edgar vs. Stevenson (Calif.), 11th Pac. Rep. 704.

And so, if of two persons on a stream of water carrying a volume say sufficient only for the irrigation of a hundred acres of land, one may have made a valid appropriation for the cultivation from year to year of one hundred acres of barley, which matures and is harvested by the middle of May, while another and different person upon another and different piece of land may use the water in that stream at a period of time in each year beginning with the middle of May and ending with the time for replanting barley. We have, then, two appropriations, and so long as the appropriators continue the same use for which they appropriated, there cannot be any conflict of right. But assuming that the first settler appropriated all of the water and for a number of years has used it for the irrigation of barley, which as we have said, matures and is harvested by the middle of May, and that during the remainder of the year water is allowed to flow down the stream unused and is wasted, and that later a settler comes, and seeing the unused water running down the stream to waste during a part of each year, appropriates it, and begins the use of it after the middle of May in each year for the cultivation of crops that may be grown during that period. Then if the

first settler should conclude even after a series of years of cropping during only a portion of each year, to attempt the cultivation of a crop that requires irrigation for the entire year, there would be, as between himself and the subsequent settler, a conflict of claims to the use of water, and this conflict can only be determined by ascertaining as a matter of fact for what purpose the first settler did appropriate the water, and, consequently the extent of his right of appropriation. The earlier settlers in this valley confined their efforts to the cultivation of crops during only a portion of the year—that portion, which under the natural conditions existing here, the water was the most plentiful. By the middle of May more than nineteen-twentieths of the land which was under actual cultivation, did not need irrigation because the crop that was grown upon it was harvested. There ran down the river after that date in each year and until a succeeding crop for the next year had been planted a large quantity of water which was permitted to flow upon its way to the sea unused and unappropriated. But as time went on, new settlers came in and began the cultivation of crops which required water during the entire year. The earlier settler also attempted to improve upon his method of cultivation finding the products they had theretofore raised were less profitable, or that the cultivation of different and other products was more profitable, and from time to time gradually adopted a culture that required for its successful prosecution, irrigation for the entire year.

We think that it might be safely assumed that when a man enters upon a piece of government land and has conformed to the requirements imposed by the national government as conditions to the acquisition of the title to that land, makes improvements upon it and finally becomes the owner of it, that he intended from the time of the initiation of such proceedings to make that land produce all that it could to his profit; that if he discovered that it was adapted to a more profitable production though requiring more extended cultivation and irrigation he would have the right to avail himself of those possibilities. But he could not do this unless he had the water for such new culture, at a time he had not theretofore used it, and we are again reverted to the extent of the appropriation. It is a question of fact to be determined as any other question of fact is. If, as a matter of fact, the settlement upon the land was with an intention to appropriate water simply for the raising of hay and grain, the settler could not by virtue of that appropriation use it for any other purpose, as against subsequent appropriators. The question is one of great practical difficulty. As before noted, the first cultivation in the valley was to grain. Subsequent settlers finding the water flowing down the river unappropriated and being wasted after the harvesting of the grain crops, settled upon lands, reclaimed them and planted therein alfalfa, and orchards and vineyards. So long as the earlier settler continued the use of the water as he had theretofore, so long there was no dispute as to

the right to use the water, for there was an abundance for both, but as the earlier settler in the pursuance of his right, if such right he had, planted his field which he had formerly cultivated only to barley, to alfalfa and trees, the supply of water was insufficient.

Public policy requires that this question should be determined in such a way as shall conduce to the greatest good of the greatest number, or that the question of the appropriation, use, and distribution of water shall be determined in such a manner as to encourage the highest development of the lands and increase their products to the greatest extent. It may be that the earlier settler intended only to plant barley. It may be that if he did change the cultivation of his land to a culture that required water for the greater period of the year, that he was induced to do so by the example of the newer settler, and that had it not been for the newer settler the older settler would not have attempted the new culture. It is desirable that the new culture be encouraged. But to say that while that is desirable, and that while the water was wasting at a definite period of the year no one could appropriate it for the purpose of a cultivation resulting in a greater public benefit than that which had theretofore followed unless the new settler made his appropriation subject to the right of the earlier settler and made possible, by the exercise by the earlier settler of his right, his deprivation of water necessary for this culture, and the consequent loss of immense labor is, to say, practically, that there

shall not be an advancement in the methods of cultivation and improvement in the character of the products of the valley. Yet, as we have just noted, the first settler may be presumed to have taken his land and appropriated the water for the irrigation thereof, with a view and intent then formed, to make that land produce the most profitably that it can. There would seem to me to be but one solution of the difficulty—the difficulty arising from want of specific evidence as to the actual intent of the first appropriator other than that which may be afforded by his use of the water, and that is to presume that the first proprietor of land intended to and in fact did acquire the right to appropriate water for any culture of his land that inured best to his benefit and profit.

As before stated, having determined the extent of appropriation, by which we mean the determination of the purpose for which the appropriation was made, we determine the superiority of right of several appropriations by determining the question of fact: Who first appropriated? As we have said, appropriation of water consists in the actual diversion of it from its natural course and its application to a beneficial use, and that that appropriator's rights are superior to those of others in the order of time in which their several appropriations were made, the first in time being superior. To determine the question of the time when an appropriation is made, we are not confined to the point of time at which an actual application of the water was made in the accomplishment of the purpose for which it was appropri-

ated, but we may go back to a time when the first efforts were made to make an appropriation that were followed with reasonable diligence and resulted in the actual appropriation, and that point of time will be deemed the time of the actual appropriation, by relation back thereto. In the case before us, large works were undertaken occupying years in their completion before the water could be actually appropriated. But if the construction of those works was prosecuted with reasonable diligence to completion, the right to appropriate water, if the right existed at all, dates from the beginning of the work. So it may have happened that persons may have made appropriations intermediate to the time of the beginning and completion of such works, yet their appropriation must be deemed subsequent to the appropriation accomplished by the former. The question of what constitutes reasonable diligence is not one of peculiar difficulty; the natural conditions and the difficulties of the work must be taken into consideration: and it is not the policy of the law to presume abandonments.

THE RELATION OF CANAL COMPANIES TO CONSUMERS.

Among the parties to this case are a number of corporations organized under the laws of this Territory, which claim the right to divert water from Salt River. The law of the Territory under which they were organized is not one especially providing for the creation of irrigating companies.

but is a general incorporation law. These irrigating companies so incorporated have simply by virtue of their incorporation, the rights generally incident to corporations. Some of them were organized as disclosed by their constating instruments, for the purpose of constructing ditches, diverting the water from the river and selling it for consumption in irrigation to the occupants of land lying under the lines of their respective canals.

The question has arisen in this case, as to the right of a corporation to thus appropriate the water; whether it can make a valid appropriation of water, and whether it can appropriate water for sale. The water in the streams in Arizona is public, subject to be appropriated "for a beneficial use." It seems to me that this means the actual use of the water in irrigation, mining, milling and domestic uses; that that is what is meant by "useful purposes," and that water cannot be appropriated for sale. Indeed, it seems to me that in this Territory there is no private property in water. It is public property subject to the uses that we have before defined. If in that use it is entirely consumed, it does not matter, for consumption is not an incident to ownership of water any more than the consumption of the amount of air that we breathe into the lungs and vitiates and destroys as air, thereby makes the air our property. We have a right to use it, and if the use results in its destruction or vitiation, the right is none the less nor greater. It then becomes important to consider what rights, if any, corporations which have constructed at large expense these irrigating canals, have. It is

a familiar principle governing dealings among men, that whatever one may do himself he may do by another, as by an agent. There is no doubt that a community may by joining together and contributing labor or money, or both, to the construction of a ditch of sufficient capacity to divert and carry water necessary for the irrigation of their lands, accomplish the result more cheaply, better, with less waste and more promptly, than if each attempted by a separate ditch to divert and appropriate the water which he himself needed, and it seems to me that there can be no doubt of the right of a community or a association of valid appropriators to thus combine. It is but a step further and in the same direction to say that this community can select or appoint an agency to construct their works and do the actual work of diversion and delivery of water for their use; and there is nothing in the law of this territory that prevents a corporation from sustaining just this relation to the water appropriators. Many of these corporations claim the absolute right of appropriation; and their business affairs are conducted on the theory that they as corporations are the owners of the water. There are many cases reported in the books wherein the courts refer to a sale of water by corporations as a business, seemingly thereby to recognize the right of a corporation to acquire by diversion a property in water. My attention has not been called, however to a case that expressly decides that either an individual or a corporation can acquire such a right. In applying the rules laid down in Call-

a sovereignty. Indeed the political status of our territory to the United States government is almost if not quite strictly analogous to that of a subordinate municipal corporation to the sovereignty that creates it. We can look alone, then, to the legislation of Congress and to our own legislation within the limits prescribed by our own organic act, to ascertain the rights that may be acquired to divert and use water. We cannot go further than Congress has expressly and impliedly authorized it, for the doctrine of appropriation of water is in derogation of the common law rights of the United States as proprietor, and of the rights of its grantees. Reference to the acts of Congress, the one of 1866 and of 1877, (the Desert Land Act),* will disclose the purposes for which Congress has authorized an appropriation of water. The act of 1866 defines those uses to be mining, agricultural, manufacturing, or other purposes. I do not think that a sale of water is a use of water, any more than a sale of wheat or any other commodity is a use of it; and that that was the intent of Congress we derive from its subsequent legislation of 1877 wherein it is provided that the water * * * "shall remain and be held free for the appropriation and use of the public for irrigation, mining, and manufacturing purposes." But whether the act of 1866 authorized an appropriation of water for sale it is hardly necessary here to determine, for it is not claimed by any party to this suit that

* The provisions of the act of Congress of March 3, 1891, amendatory of the desert land act of 1877 are elsewhere noted.

formia by her courts, a distinction which is often lost sight of should be observed. California is a state, sovereign in all matters not expressly of national concern, and may regulate and define the tenure upon which property may be held within its territory. It may declare or abrogate the Common Law doctrine of riparian rights. It may declare ownership in water running in the streams and water-courses of the state in others than riparian proprietors, and may allow such ownership for purposes other than that of immediate beneficial use. It may declare the diversion of water for sale to be for a beneficial use; and the constitution of that state taking effect January 1, 1880, Art. 14, Sec. 1, prescribes:

"Art. 14, Sec. 1. The use of all water now appropriated or that may hereafter be appropriated for sale, rental or distribution; is hereby declared to be a public use." * * * (And we may add here, *passim*, that the same article provides that such use shall be subject to the regulation and control of the state.) On the other hand, the Territory of Arizona is only a temporary government erected by the national government. We possess none of the attributes of sovereignty—those all inhere in the United States. The legislative power conferred by Congress upon this territory to legislate upon all rightful subjects of legislation, does not vest the territory with sovereignty, any more than does the charter of the city of Phoenix by conferring upon its Common Council certain legislative power—as of taxation—make the city of Phoenix

it acquired or initiated any right to divert water for sale, prior to the act of 1877.* The act of our own legislature, providing for the appropriation of water which was in effect at the time of the adoption of the act of 1866, recognized the appropriation of water for mining, agricultural and mechanical purposes, and suggests no others, and that law is a "local law" which by the act of 1866 is made a measure of the right of appropriation. It would seem to me under this state of our law, even prior to the act of Congress of 1877, that neither a corporation nor an individual can by the construction of a canal and of a dam, no matter how elaborate or expensive, become the owners of an amount of water equal to the capacity of its canal, nor become vested with a right to divert any greater quantity of water than may be necessary to supply its or his needs as an irrigator, miner or manufacturer, and as a quasi agent to supply to them sufficient for their needs, irrigators, miners or manufacturers. To say otherwise is to say that they may divert water and refuse to deliver it to those who may have use for it. If they are the owners of it they may store and impound it, or waste it and discharge it upon the desert, to the advantage of nobody. To say that they are the owners of it is to say that they have the right to control it, and they are at once

* The professed purpose of the organization of the Salt River Valley and the Maricopa Canal Companies as disclosed by their constituting instruments and their practice relative to distribution of water will be noted in the finding of facts which is to follow. These were the only corporations in the Salt River Valley organized for the purpose of diversion of water prior to the act of Congress of 1877 known as the desert land act.

a monopoly which it seems to me to be against the public policy to permit to be created. So, in my opinion, a canal company whether it be a mere association of persons who may or may not be land owners, or may consist indifferently of both, whether it be a corporation or whether it be an individual, cannot become the owner of water. The total amount of water that a canal company, as well as either an individual or an association of land owners may divert from a stream in this territory, is the amount they devote immediately and not mediately to a useful purpose. In other words, the amount of water that a canal company may divert from a river is the amount of water needed by those to whom water can be supplied through such canal and to whom such water is actually supplied and no more.

The Constitution of Colorado provides:

"Art. XVI. Sec. 5. The water of every natural stream not heretofore appropriated, within the State of Colorado, is hereby declared to be the property of the public, and the same is dedicated to the use of the people of the state, subject to appropriation as hereinafter provided." A comparison of this language with that employed in the Desert Land Act, while there appears a difference in phraseology, discloses no difference in substance. The language of the Desert Land Act is "and all surplus water over and above such actual appropriation and use, together with the water of all lakes, rivers, and other sources of water supply upon the public lands and not navigable, shall remain and be held free for the appropriation and

use of the public for irrigation, mining and manufacturing purposes, subject to existing rights." (See act of Congress entitled "An Act to Provide for the Sale of Desert Lands in certain States and Territories," approved March 3, 1877.)

U. S. Stat. 2d Sess. 44th Cong. p. 377.

Sec. 8. Art. 14 of the Colorado statutes provides that the general assembly of the state shall provide * * * to establish reasonable maximum rates to be charged for the use of water, whether furnished by individuals or corporations. Certain of the statutes of that state contain provisions for the regulation of the purchase and sale of water.

In the case of *Wheeler vs. Northern & Co.*, 10th Colo. 582, the Supreme Court of that state discusses at some length the power of a corporation to acquire property in water. After noticing the provisions of the Constitution, and thereafter the statutes which seem to recognize such a right, Helm, C. J., speaking for the Court, says: "But giving these rights all due significance, I cannot consent to the proposition that the carrier becomes a proprietor of the water diverted."

QUANTITY OF WATER THAT MAY BE APPROPRIATED.

The quantity of water to which a person may be entitled for irrigation is necessarily an indefinite quantity. Definite quantities of water have been spoken of throughout the proceedings in this case; the Tempe Canal Company, for instance,

claiming 11,000 inches of water, the Grand Canal Company claiming 10,000 inches of water, etc. An inch of water is a definite quantity of water, as before stated, and is a unit of measurement in this valley. The law is, that water may be appropriated for a useful purpose, and a valid appropriation is necessarily limited to the accomplishment of that purpose, and there can be no definite appropriation of any amount of water over and above that which the necessity requires. The amount of water necessary for irrigation even on the same identical piece of land and for the same crop, may not be constant. It varies with the season, varies with the rain-fall, varies with the temperature, varies with the manner of cultivation.

The amount of water necessary for irrigation in this valley varies between very wide extremes, being affected by the character of the soil, which varies greatly, by its location, by the length of time during which it has been irrigated and cultivated, by the character of the crop, by the method of its irrigation, by temperature, by amount of rain-fall, and by the prevalence of the winds. It cannot be determined in advance what amount of land an inch of water will irrigate. If an inch of water is too small for a given quantity of land and the appropriator is limited to that amount, though he may have a valid right of appropriation of an amount sufficient for the irrigation of the land he is deprived of his right; and on the other hand, if an inch of water is too much for the irrigation of the given extent of land, then the amount taken by an appropriator who takes an

inch for such land exceeds that to which he is entitled, and others are deprived of its use. While it is to be desired to limit to the smallest possible quantity the amount of water that may be used by the land owners in this valley consistent with the proper cultivation of the soil, yet, as I have before said, the conditions are so varied that it cannot be done by fixing any definite quantity in advance of its use. The best that can be said is, that the extent of a man's appropriation must be measured by the necessity as it exists at the time it is attempted to be measured. It is in evidence in this case that there are lands which produce a full crop of alfalfa throughout the year with the use of not more than one inch of water to ten acres. It is also in evidence, as to other lands planted to alfalfa, that it requires for the production of a full crop on them, the use of half an inch to an acre. To fix a definite quantity to which the respective owners of lands might be entitled, we must resort to an average of the requirements of all the lands, so in the cases we have just mentioned taking them for the purpose of illustration an average between half an inch per acre and the tenth of an inch per acre would be three-tenths of an inch per acre, and in that event he whose land was irrigated with one-tenth of an inch per acre would have two-tenths of an inch per acre too much water, while the alfalfa on the land requiring one-half an inch per acre, if limited to the average found, would for the lack of water be destroyed. An average is never right, except accidentally; it is always too much

or too little for any particular case.

PRO-RATING AND OTHER AGREEMENTS.

It appears from the evidence in this case that the owners of lands under a number of the canals, have entered into contracts with the corporations who claimed to be owners of those canals, for the delivery of water to them for the purposes of irrigation. These contracts in general terms, between the Arizona Canal Company, the Grand Canal Company, the Maricopa Canal Company, the Salt River Valley Canal Company, and the Highland Land and Water Company, are similar. It is provided in those contracts that in the event of an insufficiency of the water in the river to supply all who may need it, those companies may respectively distribute the water among their customers, pro rata. This presents a question somewhat novel in this Territory, and one of very considerable importance. Its importance is suggested by what has elsewhere been said, that the right of a canal or ditch company or owner to divert water is dependent upon the needs of those whom it supplies who have a valid right of appropriation. It is always the policy of the law to declare that principle governing the dealings among men, which shall conduce to the greatest public good and as will best accomplish the result contemplated by the law makers—the observance of the public good being really the purpose of the law makers. The law of this Territory is, as before stated, that he

who is first in point of time in the matter of the appropriation of water for the purpose of irrigation, is first in right to take that water. These pro-rating agreements render this provision of law practically nugatory, for it places all who are under these canals upon an equality so far as priority is concerned. There is no limit to the extent of land to which these canal companies may agree to furnish water, and therefore he who was first in the valley and took from Salt River the first water that was applied to the cultivation of the soil, may by these agreements be required to submit to a distribution of the water among the owners of such an extent of land that the water applicable thereto will not produce a crop. The carrying out of these agreements, then, may result in the deprivation of some who are entitled to water sufficient for the cultivation of their crops, and in the attempt to irrigate so considerable an extent of land none of them may be properly irrigated and their crops may be lost. This is a direct public injury and, as I think is hereafter shown, directly contravenes the policy of Congress as found outlined in its acts relative to that subject, and of our own local legislation, and the courts should not give countenance to that which so results. I shall discuss later, when considering the question whether a right to appropriate water for irrigation is appurtenant to the land for which the water was actually first appropriated, the policy of the national government in authorizing the appropriation of water. If I am correct in the conclusion reached (hereafter discussed), that the right to appropri-

ate water for irrigation is appurtenant to the lands for which the water was originally appropriated (of course subject to forfeiture by abandonment), the same policy that forbids a segregation of the right of appropriation from the land, equally prohibits a diminution by agreement of the right to appropriate the quantity of water an appropriator has the right to take for the proper irrigation of his land—otherwise he might do indirectly that which he cannot do directly.

If he may by means of these pro-rating agreements consent to a diminution of his right to any extent, however slight, I see no reason why it may not be continued to an absolute destruction of the right itself. We are then confronted with the question: If these contracts be against the policy of the law and therefore invalid, what is the situation of these companies who are the real as well as the nominal parties in this proceeding? If what I have said as to the right of appropriation being simply a right to take and apply water to a useful purpose be true, then the right of a canal company to divert water from the river depends upon the right of those who have acquired a right of appropriation and who by agreement or otherwise have the right to have the water diverted through and carried by that canal for the purpose of irrigation, and if any agreement between such consumers and the canal companies is invalid because of being against public policy, we have presented for our consideration this further question as to the right of the consumer to water at all whether they have abandoned their right to the

use of water, or whether their agreement with the company is simply invalid to the extent that it violates, if it does violate, the public policy outlined in the course of Congressional legislation, and that in that event they are entitled to the use of the water just in that order of time and priority as if the agreements had not been made. It appears that those persons who are now the owners of the lands originally irrigated by water taken by and carried through the Swilling Ditch, have entered into these agreements with some one or more of these corporations. They have accepted from such corporations what purports on its face to be a grant of the right to the use of the water of the corporations. Have they then abandoned the right which had inured to the owners of these lands under that old ditch? And when I speak of the Swilling, I do so merely for illustration, for the same question applies to nearly all if not all of the canals in the valley. If there has been an abandonment by this acceptance by the land owners of the grant to the use of water, then the priority that the owners of these lands which were first irrigated had, has been lost.

The law does not favor abandonments or forfeitures. It can hardly be said, considering the evidence in the case, that these persons intended to abandon their rights, nor has there been an abandonment through laches, for the evidence discloses that there has been a continuous use by these persons of the water formerly appropriated by them or their grantors. Nor would a declaration of a forfeiture or abandonment now by the

courts subserve that policy which we have conceived to be the one that prompted our congressional legislation.

I am then, of the opinion that these agreements to pro rate are void because in violation of our express statutory provision that he who is first in point of time, shall be first in right supplemented by the act of Congress of 1866, and of the express provision of the act of Congress known as the Desert Land Act, and the amendments thereto of 1891, and of the policy of the government there outlined.

In Colorado the Supreme Court announced a doctrine relative to agreements among appropriators to pro rate apparently in conflict with the conclusion to which I have come:

Schilling v. Rominger, 4th Colo., 100.

In that case, however, which was decided in 1878, the particular agreement which was under consideration was made and had been acted upon before the enactment of the Desert Land Act. In that state there is a statute providing for a pro rating among consumers in certain cases, and the question came up again in the case of:

Farmer's Highline & Co. vs. Southworth, 21

Pac. Rep., 1028.

Each of the three justices delivered an opinion. The case is instructive and emphasizes the difficulty of the question. Justice Hayt declined to give an opinion upon that particular question, stating that it would be time enough to do so when it was properly presented by the pleadings. Justice Elliott very vigorously assails the constitu-

tionality of the statute, and among other things, says:

"A single illustration will suffice to show the disastrous consequences which would ensue if the pro rating statute should be made the rule for the distribution of water for irrigation, instead of the rule of priority:

"An irrigating ditch is constructed, the first and only one taking water from a small and natural stream. The first year, five consumers applied for and received, each, one hundred inches of water for the irrigation of their lands. The next year, the ditch being enlarged, five more apply and receive the like quantity. The third year; five more, and so on successively until thirty or forty consumers are located under the ditch. Perhaps the first five might be required to pro rate with each other in times of scarcity and their appropriation being practically equal in point of time. But under the statute the first five would also be compelled to pro rate with all subsequent consumers until the amount of water that each would receive would become so infinitesimally small as to be of no practical value, and would eventually be entirely wasted before it could be applied. It requires volume or head of water to irrigate successfully. Under circumstances like these, what mockery to pretend that the pro rating statute is a reasonable regulation provided for the distribution of water for the early settlers and prior appropriators who bought and improved their lands and expended their money, relying upon the doctrine that priority of appropriation shall give the

better right as between those using water for the same purpose.

"It may be said that the foregoing illustration is founded upon an extreme and unusual case; but extreme cases are often necessary to test the correctness of a general rule."

Chief Justice Helm, on the contrary, maintains the constitutionality of the statute upon the grounds, first, that it would be wholly impractical to apply the rule of prior right among a large number of consumers, and second, the view that that statute be unconstitutional, rendered other legislation delusive; that other provisions beside the pro-rating section must fall.

The second reason assigned by Chief Justice Helm does not concern us, because the result he anticipates is one dependent upon their statute, and would be inapplicable here. I cannot concede that his first reason is valid—that it is difficult to ascertain facts upon which rights are predicated is not a reason why a court should refuse to administer justice. In a dispute between two the question of priority is ordinarily easily ascertained, and the Court will restrain an infringement by one upon the rights of the other. Why the Court should decline so to do when the right of the first is infringed by twenty or by five thousand persons I cannot understand. The mere difficulty of ascertaining the fact cannot and ought not to change the rule of law.

The distinction between the Colorado case and the one at bar, in that that was based upon a statute compelling pro rating, and this involves the

right to effect the same by voluntary agreement of the parties affected, is noted; but I, as stated before, am of the opinion that parties cannot by their agreements thwart the whole scheme of Congress devised for the reclamation and cultivation of the desert lands.

While the relations existing between the several corporations and their customers cannot in this proceeding be directly adjudicated and the judgment of the Court cannot bind those customers, nevertheless, as I have before said, the determination of the right of these corporations to divert water must depend upon the right of their customers to have water supplied to them—hence the consideration of the validity of these contracts.

It might be suggested that there is a limit to the extent of lands for which canal companies might contract to deliver water; that the canal companies themselves have fixed a limit; the Tempe, for instance claiming a right to divert 11,000 inches of water, the Salt River Valley Canal Company 6000 inches, the Maricopa 6000, the San Francisco 4500, the Grand 10,000, the Utah 2,500, the Mesa 6,000, the Highland 6,000 and the Arizona 50,000—this makes an aggregate of 96,000 inches. It may be argued that none of them would attempt to contract to deliver water in excess of their carrying capacity. But this statement of their claim shows a capacity seven or eight times as great as the volume of water in the river at its lowest stages. So the limit to which they should be confined is already passed—were it not this suit would not be pending.

There is another provision of some of these contracts, which has been the subject of much discussion among counsel in this case, that requires the attention of the Court. The contract into which some of the purchasers entered with certain incorporated companies, parties to this proceeding, incorporated companies, parties to this proceeding, for what have been termed "water rights," provides that neither the selling of water to the purchaser nor the fact that the purchaser uses water out of the canal, or that the water sold by the canal company shall be used to irrigate any particular tract of land, shall give any right to the purchaser or to the owner of the land to the continuance of the supply, or give to the purchaser any claim to the use of water for any other time or times than that mentioned in the contract, nor shall such use be construed into a custom or usage or precedent for the use of water for any other year or time than that mentioned in the contract; and it is further provided in those contracts that the purchaser waives any and all right or claim which he may have by virtue of any statute, custom or law, of the use of water from the canal after the expiration of the period of time limited by the contract.

It is argued by the plaintiffs that the provisions of this contract constitute an express waiver by the purchaser, of any right of appropriation of water which he may theretofore have had. It will be noted that the waiver is a waiver of any right which the purchaser may have by virtue of any statute, custom or law to the use of water from that particular canal after the expiration of

the period of time limited by the contract.

Counsel for the defendants very ingeniously and plausibly argue that this does not constitute a waiver or abandonment by the purchaser of any right he may have acquired before entering into the contract to appropriate water from the river, but that it only defines his rights as against the canal company. It seems improbable that owners of land the cultivation of which depends upon the use of water, should voluntarily abandon a right, once acquired, of appropriation of water—there is nothing in the evidence indicating that there was any consideration for an abandonment. On the contrary it appears that the owners of these lands continued the use of water for their cultivation and made improvements, and planted trees and vines for the enjoyment and maintenance of which the right to use water for a time extending far beyond the period limited by the contract is necessary. By their acts, by their conduct, they evinced anything but a purpose to abandon a right, the possession of which was so essential.

In the case of *South Boulder vs. Marfell*, reported in 25th Pacific Reporter, at page 504, the Supreme Court of Colorado, in discussing the rights of a consumer who had entered into an agreement with a canal company, in which agreement there was a provision that upon the failure of the consumer to pay a certain annual rent or delivery charge, he should forfeit and relinquish all rights and claims whatsoever, both against the company and in and to the use of water from the

ditch of the company. It appeared that the consumer had refused to pay the water rental, and litigation arose. Chief Justice Helm, speaking for the Court, says:

"Whether appellees could by contract forever relinquish rights relating to the water conferred upon them by the Constitution and statutes, we need not determine. The instrument itself in our judgment does not indicate any such intent. It contains no declaration that upon a failure to accept the annual proposition and make the annual contract the consumer abandons all right to obtain in any manner water from the carrier's canal. In the absence of an express declaration or clear implication to the effect that such omission or failure should produce a forfeiture of constitutional and statutory rights collaterally provided for in the agreement, such collateral rights would in any event, unquestionably remain. The simple and obvious meaning of the provision is, that the rights and claims intended to be forfeited are those mentioned by the instrument itself."

The canal company is but a carrier, and I know of no principle of law in the absence of statutory provisions that compels it to carry against its consent or will.

That one has a valid prior right of appropriation of water from Salt River, in itself gives him no right to have that water conveyed to him through the works constructed by another whether that other be an individual or a corporation. He can only do that by and with the consent of

the carrier. Nor is there, it seems to me, any reason why the carrier may not limit the period of time during which he or it will consent to carry the water that another has appropriated. But however that may be, it is only necessary to decide for the purpose of this case, that these agreements do not operate to deprive the consumer of his right of appropriation.

As has been before said, the right of a canal owner, whether a corporation or not, to divert water, depends upon the fact that there are persons, the owners or occupants of land having the right of appropriation of water for their irrigation, whom they supply with water for that purpose. If, then, a canal company have agreements with its customers or any of them limiting the time during which it will carry water to such of those who have a valid right of appropriation, it would after the expiration of that time have no right to divert the water to which such persons are entitled.

RIGHT TO APPROPRIATE WATER APPURTENANT TO

THE LAND.

It appears from the evidence that some of the canals, the owners of which are parties to this proceeding, were constructed by associations of individuals without any attempt at corporate organization. The associations have a nominal capital stock, and certificates of the ownership of that stock were issued to persons who were the constitu-

ent members of the organizations, and by the practice of the association there was incident to the ownership of each of these certificates or shares of the stock, the right to the use of a proportionate part of the water diverted by and conducted through the association's ditch. In the first place not all of the shares were issued, but have from time to time been issued, so that the whole amount of the capital stock is now outstanding. These shares were transferable much as shares of the capital stock of a corporation are, by assignment and transfer thereof on the books of the association. Most, if not all of the shares of this association have in that manner changed hands, and persons now the owners of such shares by such transfers, claim as incident to their ownership, certain rights to the use of water. It is urged by some of the defendants in this case that the right to use water is a right lying in grant, and that it cannot be transferred by parol, but that it must be done by deed, and that the attempt to pass such rights by assignment of the shares of the stock in the manner adopted, results in an abandonment by the original appropriator of his appropriation of the water, and that the grantee or transferee of the stock becomes simply an appropriator himself, his right to take it dating from a time subsequent to the time such share was transferred to him. Of these associations the Tempe Canal is one. If this be the true construction of the law, then from the evidence it would appear that the rights of most of those who claim the right to the use of water diverted by and con-

ducted through the Tempe Canal, would be subsequent to that of those who obtained the right to use the water diverted by and through canals and ditches constructed long since the Tempe Canal. It is and must continue to be until finally determined, a question of very great interest and importance to the citizens of the Territory, whether a right to divert and use water for the irrigation of land is an appurtenant to that land, or whether the right can be a distinct right to take water, independent of any ownership or occupation of any land whatsoever; and a solution of that question affords us the means of the determination and definition of the rights of such shareholders. If what we have said before relative to the appropriation of water in this Territory be true, it follows, I think, that a man cannot be the owner of a right to appropriate water from a river in this Territory, unless he has for it some beneficial use. It is in evidence in this case that there are owners of the capital stock of some of these associations, who have not any lands and who have never used any water whatsoever for the irrigation of land, or for any other purpose, but have from year to year and from time to time let out, leased, or attempted to lease their right to the use of water to some other persons who were the owners or occupants of land.

It further appears that some of the owners of shares to which by the practice of the company there were incident the right to use water from the canal while they have been the owners of land for ten years or more capable of being irrigated by

the water taken from that canal, have not cultivated the same or applied water to it nor permitted any one else to use the same or apply water to it, but have leased their alleged right to use water to others to take and use the water diverted and conveyed by the canal. There is one specific instance wherein it appeared that a man entered a section of government land under the provisions of the Desert Land Act, reclaimed the same by means of his right to the use of the water, derived from his ownership of certain shares in the capital stock of the canal association, who has never since cultivated that land or any part of it, or permitted any one else to do so, but has allowed or attempted to allow others to use the water to the permanent right to which, in his proof required under the Desert Land Law to entitle him to a conveyance of the land, he adduced evidence.

There is now a scarcity of water; were there not, this suit would not be pending. What can be the right of this man who claims to be the grantee of the government, of land under the provisions of the law which required that he should have the right to the permanent use of the water for its cultivation, as between himself and those whom he has permitted to use that water? There is not enough for both. Either the lessees of this right who have used the water and thereby made productive lands in the valley, or the lessor who has not used the water, is the owner of the right to such use—and this is an important question, which sooner or later must be determined. While

some of the owners of lands claiming the right to use the water for the irrigation thereof, are parties to this suit, there are other parties to this suit, viz: the corporations, who have constructed, operated and maintained the canals, who are not the owners of land. Nevertheless, under our view of the law, it is the individual ownership of the land and the right to use water therefor, to which we must look to determine the rights of the parties to this proceeding. If one of these corporations or associations, having constructed, maintained and operated a canal, does not apply the water to some beneficial use and has no customers who do apply the water that they divert, to some beneficial use, it has no right to divert the water at all. Permanence of ownership of land, and, under the conditions in this country, of right to appropriate water necessary to cultivate it, are necessary to the best development and highest degree of production of that land; and a course of dealing between individuals themselves or between individuals and corporations, whereby the right to the use of water is abridged and made less than permanent, is directly injurious to the general good, and consequently against public policy. While one who has the right to divert and use the water may abandon that right, or may forego the use of the water for a time without abandonment, yet there cannot, it seems to me, be a course of dealing between persons who claim a right to the diversion of water whereby such use of water may be a mere matter of barter and sale. The greater portion of the cases that have been

decided by the various courts of the Pacific Coast states and territories, involve questions concerning the rights to the use of water for mining purposes. The doctrine of the right of appropriation of water and principles governing its use was first announced in cases involving the right to such use of water, and to those cases the courts have latterly looked for the principles that should obtain in the determination of the rights to the use of water for irrigation. This, I think, has led to some confusion, because the analogy between the use of water for mining and its use for irrigation is not complete. In using water for mining, the use is strictly a mechanical one; it is needed for no other purpose than that its mechanical power shall be applied to the separation of gold from the earth that contains it. Hydraulic mining is a California invention and the tremendous mechanical effects produced by the use of water in mining under that system has excited the admiration, and almost the wonder of engineers. But in no sense is its use for that purpose similar to its use for irrigation. The water is not consumed in the process of mining. It is true that the water was often lost because of the fact that it had been used in mining, and that it was often so deteriorated that it was unfitted for any other use, but this was merely incident to its use as a mechanical power, and not necessarily incident. It is a use as distinctly mechanical as if it had been used for the propulsion of machinery. The force of the water by its direct impact of the particles of earth containing the precious metals, separates the earth

from the minerals. The fact that there might not have been intervening between the water itself and the object of the mechanical operation any machinery or mechanical appliance, makes no difference. Upon the other hand, water for irrigation is not in any sense a mechanical use. The element of force or power does not concern the irrigator of land, except to the mere extent that it serves to convey the water to him; that is, by the force of gravity, water will deliver itself from a source higher in elevation than the point at which its use is desired, to that point. No amount of rain would help the miner in his operations except indirectly by storing for his use a source of power. On the other hand, rainfall renders the use of water unnecessary, temporarily, to the irrigator. The requirements of mining, just as of the miller, demand a constant, uniform and definite supply of water. The requirements of the irrigator varies both in time and quantity. If a miner or a miller has acquired the right by grant, license, prescription or otherwise to the use of water for a given mechanical purpose, he has acquired the right to a definite quantity of water that is commensurable. And again the analogy fails when we come to consider whether the use to which water may be put may be changed, or whether the locus of its use shall remain as at first. In mining, the use of water cannot be confined for any considerable length of time to a particular locality, because as the process of mining proceeds, the earth is exhausted of its minerals and the water must be used elsewhere—and hence

it was the policy of the government that it should be so used, because mining operations could not be carried on otherwise.

As each cubic yard of gravel containing mineral is subjected to the mechanical process of hydraulic mining, the purpose of that process has been served and the mechanical power of the water is applied to the next cubic yard of earth, and so on until the entire field has been subjected to the process, and the use of water to that particular purpose in that particular locality has ceased to be beneficial; while with irrigation, the application of water to any particular square yard of earth does not render unnecessary the future application of water to it; in fact the application must be continuous. So that in considering the cases, we must not lose sight of this distinction between the use of water for mining, which is a mechanical use of the water or a use of water for its mechanical power, which is accomplished by one application to any locality, and the use for irrigation which is continuous from year to year. It is, no doubt, a failure to note these distinctions that has led to the belief by some that the use of water for irrigation may be changed from place to place at the will of the appropriator.

It has been the policy of the general government during all that period of time covered by the events that we are discussing, to induce the rapid settlement upon and development of public lands, and to that end it has proposed to bona fide settlers, liberal terms, upon compliance with which they can obtain title. The Desert Land Act, for

instance, provided prior to its recent amendment (and that is the law under which title to most of the lands in this valley was acquired), that a citizen of the United States might settle upon and acquire the title to 640 acres of land upon the condition that he would reclaim it from its desert character by the application to it of water. The price of the land was fixed at a dollar and a quarter an acre, and express license was given by the act to appropriate any waters of the public streams for the purpose of reclamation and cultivation.

The desire of the general government to have these lands settled upon and thereafter cultivated to the highest degree attainable, is what prompted it to this liberality in its terms. To say that the water so appropriated for the reclamation and cultivation of that land is not appurtenant to it, is to make possible a direct fraud upon the government and the defeat of its evident purpose. To illustrate, we may assume a case. Suppose that in a stream in the Territory there is a volume of water flowing sufficient to irrigate 640 acres of land and no more. A, locates 640 acres of land under the Desert Land Act, and diverts this water and appropriates it for the reclamation of that 640 acres. He then in due course prescribed by the statute, makes proof of his reclamation and appropriation of the water and pays his dollar and a quarter an acre and obtains from the government the title. The government expects of him thereafter, and has the right to expect of him, no less than that he shall diligently and in good husband-like manner cultivate that land. If, however, he

has the right to segregate from that land his water-right, we may further suppose that B settles upon the same stream upon another 640 acres, and purchases of A his right to appropriate water and he, (B) may then in the same manner as did A, acquire a title from the government. And so we may repeat the process until we have an indefinite quantity of land the title to which has been acquired from the government in direct violation of the intention of the government—for upon our hypothesis there is not sufficient water to irrigate more than 640 acres. It is a direct fraud upon the government and a direct perversion of its bounty which could not have been intended.

So, in my opinion, when one under the Desert Land Act has appropriated water for the reclamation and cultivation of desert land, he cannot segregate it, as it is appurtenant to the land. And what is said here of lands acquired under the Desert Land Act applies equally to land acquired under any of the provisions for the sale of public lands. The United States government did not propose to sell its lands to private owners for speculative purposes—on the other hand, stringent regulations have been prescribed to prevent mere speculators from acquiring the title. The whole purpose has, been to induce bona fide settlers who will cultivate the lands, to take them up. What a perversion of such intent if he who took up a timber claim, for instance, and should, after fairly starting the growth of timber, the very object the government had in view in giving him the land, be permitted to segregate

from that land the right so generously given him to appropriate water, and make of it a subject of barter, sale and speculation—and by such segregation destroy that the existence of which was a condition to his title.

And in strict consonance with the view expressed that our territorial and national legislation contemplates permanency of right to use water upon land reclaimed is the amendment of March 3, 1891. That act was approved after the trial of this case, but it makes no change in the law as I understand it so far as the right of appropriation and use of water is concerned. It requires that at the time of filing the declaration required by the desert land act of an intention to reclaim desert land the declarant shall also file a map of the land which shall exhibit a plan showing the mode of contemplated irrigation, which plan shall be sufficient to thoroughly irrigate and reclaim said land and prepare it to raise ordinary agricultural crops, and shall also show the source whence the water is to be obtained:

26 U. S. St. 1096. ch 561 Sec. 4.

Can it be imagined that any plan for irrigation contemplating or disclosing a right to the use of water temporarily would be accepted by the government under this provision? Or a right less than a permanent one? It cannot be conceived that the "reclamation" meant by that act, and by the desert land act of which it is amendatory, is a mere temporary one. And if the right is severable from the land is not the right, at the will of the land owner, merely temporary—if the

right is segregated does not the land relapse into its desert character? If by some casualty, as a flood, his lands were destroyed or rendered useless for agriculture it is possible that he might settle upon another piece of land and apply his original appropriation of the water to it; but by any voluntary act of his own, we do not think he can effect the segregation.

It is true that one who has acquired land and the right to appropriate water for its cultivation, may abandon that right and by his own neglect, laches, or expressed intention, forfeit it, but in so doing he exhibits a want of good faith toward the government by whose bounty he obtained title, and he should not be permitted to designate the beneficiary, by granting to some particular person not the grantee of the land itself, such right—if he has lost his right to appropriate, the common stock of water for public use is increased to that extent and can only inure to the next comer, who may appropriate anew, dating his appropriation from the date he actually makes it—a pretended grantee cannot "tack," if that term can be so applied to the process, his pretended grantor's right to his own.

I have come to the conclusion, then, that the right of appropriation of water for the cultivation of land becomes permanently appurtenant to that land, for without it the land is worthless; without the land the appropriation could not have been made.

It would follow, then, from what I have said as to appurtenance of the right to appropriate wa-

ter to the land for which the appropriation was made, that a conveyance of lands under the Tempe Canal operates as a transfer with it of the water-right appurtenant to it, whether there be a transfer of the stock representing that right or not—the transfer of the stock being merely a convenient mode of making known to the Canal Company the fact of the purchase of land and the right to the use of water therefor. I am of the opinion that the transfer of the stock cannot operate per se to transfer the water right. And so it must be said of those corporations whose stock is supposed to represent water-rights.

For the purposes of this suit it is not necessary here to decide what is the status of any shareholder who may have neglected to himself use the water the right to which is evidenced by his ownership of shares in the canal. If he shall have leased or attempted to lease his right to another and permit that other to assert by reason of such lease a right to the use of water, the right of that other is subordinate in point of time to that of any appropriator who made his appropriation prior to the time of the attempted lease. In other words such lessee's rights, if he has any at all (as against others than the alleged lessor), are those of an independent appropriator dating from the time of his first actual use of the water. He can not acquire any priority against others by virtue of any transfer or lease from the owner of the shares, or by his consent. The owner of such shares, unless he himself be the owner or occupant of land upon which he uses the water, or of

a mill which is propelled by the water, has not by reason of his ownership of stock, any right of appropriation, and of course he can transfer none. And when an owner of stock who is also the owner of land for the irrigation of which the water, the right to which is evidenced by his certificates of stock, was appropriated, and who has leased the same and failed and neglected to cultivate his own land for a long period of time, seeks to obtain water, the question of his abandonment will arise. In the meantime he cannot claim for himself, and the rights of his lessee are subordinate to others in point of time, in the order of first actual use.

And as a necessary conclusion it must be decided that the owners of shares who have not a beneficial use for the water, have no right to divert it.

PRIORITY OF APPROPRIATION AMONG CONSUMERS UNDER THE SAME CANAL.

It has been frequently decided by the courts of last resort in most of the states and territories on the Pacific Slope, that the time to which is to be referred the vesting of a right of appropriation of water is not necessarily that time at which an actual diversion and appropriation of the water to the contemplated use, is made; it may antedate that time. It is to be referred, in this Territory, to the time when the appropriator begins the construction of the means of diversion

of the water and its conveyance to the point of use, if he shall have thereafter prosecuted the work of such construction, with reasonable diligence to completion, and made an actual application of the water to the contemplated use. What constitutes reasonable diligence, has upon particular facts, been the subject of frequent judicial decision. From these decisions it may be deduced that in determining what constitutes reasonable diligence in such cases, there must be taken into consideration the difficulties inherent in the natural conditions attending the enterprise, the magnitude of the work, the difficulty of obtaining labor and material, etc. More want of pecuniary ability will not warrant delay, nor, it has been decided in one case, illness of the projector of the enterprise. So long as we have to determine only the rights of successive appropriators who have each provided his own means of diversion and conveyance of water, the rules are of easy application.

The actual application of water to the contemplated purpose and its diversion from the original stream are two elements that must concur to constitute a valid appropriation. It is not necessary, however, that each of those concurrent acts should be performed by the same person: One may divert and another may make the application of water so diverted, and their combined acts would constitute a valid appropriation. And so, if a number should combine who are the owners of land, desiring to appropriate water for its irrigation, may agree with another, either an individual or a corporation, that that other shall provide the

means of the actual diversion of the water, and thereafter their application of it to the purposes of irrigation would constitute a valid appropriation, but the right of appropriation is vested in those who make the actual application of the water to the useful purpose.

As has been before suggested, most of the consumers of water in the Salt River Valley obtain their water from ditches and canals constructed by others than themselves. The act of diversion, however, as we have said, and the application of it to the purposes of irrigation, constitute a valid appropriation. As, however, between those who take from the same canal or ditch, it has been suggested that those in whom is vested the right to appropriate water in the aggregate equal to the capacity of the canal, are equal in point of priority, and further that that they are all prior as appropriators to any one who may have appropriated by means of some other ditch and canal, even though such other ditch and canal may have been begun and completed before the completion of the first after, but that actual appropriation may have been made under such other canal before some of the appropriations under the first if the Grand Canal through which the former take, was first commenced, and work thereon prosecuted with reasonable diligence to completion. It is argued that where, for instance, a corporation undertakes the construction of a canal of a capacity sufficient to carry water for the irrigation of say a hundred thousand acres of land, that a reasonable time shall be allowed from the initi-

ation of the enterprise in which to complete it, and that all who take water by means of that canal may date their appropriations from the time of the commencement of the canal. From what has been said before, this doctrine cannot prevail. The right to appropriate has its origin, as we have before said, in our express statutory provisions upon that subject, and they all contemplate that he who is first in point of time, shall be first in right. It can be readily seen by assuming a case, how unjust any other rule would be. Let it be supposed that a large canal enterprise is undertaken. A canal is surveyed and its construction undertaken of sufficient capacity to irrigate a hundred thousand acres of land, and to divert from a natural water-course for that purpose the entire quantity of water flowing in that course. It can be easily supposed that the projectors of a canal might impose such terms either as to the use of water or the cost of its delivery as to deter the owners or occupants of land from taking water from that source. It is, then, obviously unjust that the public should be delayed by the want of agreement between a canal company and its proposed customers, and as equally unjust to say that the public should wait until such disagreement shall have been adjusted. The true rule, it seems to me, should be, that when a canal enterprise is undertaken, that those who being the occupants or owners of land have, relying upon their agreements then contemplated with the canal company or owner have gone about, the reclamation of their lands and the preparation of them for irri-

gation by that means, should be deemed to be appropriators of water dating their appropriation from the commencement of such canal provided that it shall have been completed with reasonable diligence. All others should be postponed as between themselves and appropriators by other means of diversion just in the order of the actual time of their application of the water. There can be no doubt, it seems to me, from a consideration of the evidence in this case, that the San Francisco Canal, the Tempe Canal, the Salt River Canal, the Maricopa Canal, the Utah Canal and the Mesa Canal have been enlarged so that their capacity to divert water has been from time to time increased; and I am of the opinion that the order of the priority of the consumers of those several canals, should take precedence in the order in which they actually completed their appropriation by the actual application of the water to the irrigation of the soil. The Tempe Canal did not divert in 1870, 11,000 inches of water, nor did it do so for a very considerable length of time after that date; nor did the Salt River Valley or the Maricopa Canals for a long time after the commencement of their construction, divert such an amount of water. But each and all of them have gradually increased the capacity to meet the increased demand of new irrigators. And it may be said of the Arizona Canal and the Highland Canal, that while they are now of the capacity originally designed, that nevertheless their appropriation cannot be measured by that capacity. Their right of diversion must be measured by the

rights of those who have valid rights of appropriation of the water of Salt River, who have also, by agreement or otherwise, a right to divert the water through the Arizona and the Highland Canals.

Reviewing the entire doctrine of the right of appropriation of water, taking into consideration the fact that the water is public property subject to the use of the public, I cannot accede to the proposition that any canal company can by the beginning of the construction of a canal of large capacity, acquire the right to divert a quantity of water equal to the capacity of its canal, independent of the rights of actual appropriators. It must be admitted that if the Arizona Canal or the Highland Land and Water Company have no customers who have need for water and a right of appropriation of water, that neither of those companies could divert any water at all. And it cannot, it seems to me, be said that either of those canal companies or any canal company or association, has a right to divert water as against one who has actually appropriated water by the concurrence of the acts of diversion and application to the purposes of irrigation, even though such company may not then have customers whose needs require an amount of water equal to the capacity of such canal.

It has been before said that it is my opinion that pro rating agreements are void; and yet, where a number have actually appropriated at one and the same time, their rights are equal. If they should have attempted to appropriate more

water than was left for appropriation, they have perpetrated somewhere a fraud upon the government. As between them, however, nothing remains for the Court to do but to compel them to pro rate. As long as there is water enough for all, no difficulty arises.

USE OF WATER FOR MILLING.

Charles T. Hayden is the owner of a flouring mill in Tempe, the water for the propulsion of which has since 1874 been obtained from Salt River by means of the Tempe Canal, being diverted in the first instance by the Tempe Canal, and thence conducted to the mill through what is known as the Kirkland and McKinney Ditch, whence, after propelling the mill, it is discharged into the river. He claims that the defendants have by the diversion of the water above him, deprived him of the water which he had appropriated for the propulsion of his mill, and the use of which he had enjoyed before the construction of the Arizona Canal and the Cross-Cut Canal.

As before stated, Hayden instituted a suit subsequent to the commencement of this, seeking an injunction against certain of the defendants in this case to restrain them from diverting the water from his mill. A plea, in abatement, that this suit was pending was filed, and it was urged that the plea in abatement should be sustained and that Hayden's separate suit be dismissed. Practically it would make no difference whether

the plea should be sustained or overruled, for Hayden's right must be determined. If I am right in the statement elsewhere made that the constituent members of the Tempe Irrigating Canal Company, of whom Hayden is one, are here not as individuals seeking the enforcement of their several rights, but that they are here as co-owners of a canal asserting the right to divert by means of that canal a definite quantity of water from Salt River, then the pendency of this suit will not sustain a plea in abatement to Hayden's individual suit. If the contrary be true, then the plea should be sustained. But in that event Hayden's rights remain a part of the subject matter of this suit. The only question on the plea, of any importance, that could arise, is one of costs—that can be settled on a motion to tax.

Upon the evidence in the case, the court now finds against the defendants in the suit of Hayden vs. the Arizona Canal, et al, on the plea in abatement.

The evidence discloses that until 1888 the water to supply irrigators under the Salt River Valley, the Maricopa and the Grand Canals was diverted from the river at a point below the point whence the Tempe Canal makes its diversion. That since that time the Cross-Cut Canal has been constructed, so that water may be and has been diverted through the Arizona Canal at a point above the head of the Tempe Canal into the Cross-Cut and thence to the Salt River Valley, the Maricopa and the Grand Canals. Prior to the construction of the Cross-Cut Canal, the water necessary for

the needs of irrigators under the Salt River Valley and the Maricopa Canals was diverted from the river at a point below that at which the water used in the propulsion of Hayden's mill was returned to the river, and their diversion by the means theretofore used could not in the nature of things interfere with the use of water for the mill.

The point whence the diversion by the Tempe Canal was made is above the point where the Grand Canal, prior to the construction of the Cross-Cut, made its diversion—the head of the Grand Canal, however, is above the point at which the water used by Hayden's mill is returned to the river.

It is urged by counsel for defendants that under our statutes the right to appropriate water for irrigation is preferred to its use for mechanical purposes, and Sec. 3203 R. S. 1887 (a re-enactment of Howell Code p. 501) is cited, wherein it is declared that "the right to irrigate the fields and arable lands shall be preferable to all others," and that therefore the right of an appropriator of water for mechanical purposes must yield to that of an irrigator even though the appropriation by the irrigator be subsequent in point of time to that of him who uses water for mechanical purposes.

The question is a new one, it seems, as counsel have not cited any decisions involving the exact question.

In California there was a statute (1852) giving the right of action to any one who had settled upon public lands for the purpose of grazing or cul-

tivation against trespassers, but provided that "if the lands so occupied and possessed contain mines of any of the precious metals, the possession or claim of the person occupying the same for the purposes aforesaid shall not preclude the working of such mines by any person or persons desiring to do so, as freely and unreservedly as they might or could do had no possession or claim been made for grazing or agricultural purposes." This act distinctly gave to miners the preference over agriculturalists on the public lands in the state. Disputes between miners and agriculturalists upon public lands frequently arose, and this act became the subject of judicial consideration.

Stokes vs. Barrett & Co., 5 Cal., 37.

McClintock vs. Bryden, 5 Calif. 97.

Martin vs. Browner, 11 Calif. 13.

5th Cal., 308.

6th Cal., 45.

15th Calif., 100.

16th Calif., 153.

23rd Calif., 452.

The court in those cases seemed to place the preferred right of the miner as much upon the policy of the national government in reserving mineral lands from occupation and sales upon their own local statute. The mere possessor of government public lands would individually acquire no right thereto—could not maintain an action for ejectment or for trespass, ordinarily. However, certain rights are given to such possessors in most of the western states and territories, as the right of possession and undisturbed enjoyment as

against all but the United States; and it being the early policy of California to encourage mining, deeming it paramount to every other industry, the legislature withheld these possessory rights in favor of the miner. But it was distinctly held in that state that miners could not invade the possession of a private owner of land, whether such owner was an agriculturist or not. It was only where neither the miner nor the agriculturist had title to the soil that this preference was given to the miner.

The act of Congress of 1866 confirms rights to the use of water for mining, agricultural, manufacturing or other purposes that shall have vested and are recognized by the local customs, laws and decisions of the Courts. This act, as I have before said, vitalized the acts of our legislature, embodied in the Howell Code, concerning water-rights, and made the provisions therein contained the measure of the right to appropriate water. By the Howell Code, the use of water for milling was made distinctly subordinate to its use for agriculture—so that he who made an appropriation of water after 1864, and before the Desert Land Act of 1877, made it subject to the preferred use of irrigators.

But whether the use by Hayden of the water of Salt River in the manner in which it is used does interfere with the use of it for irrigation, need now I think, be decided, for I am of the opinion that the act of 1877, the Desert Land Act, gave the right to appropriate water not theretofore appropriated, for milling purposes as well as for ir-

irrigation. The grant is there distinctly given for the appropriation of water for irrigation, mining and manufacturing. I do not think any preference was intended to be implied from the order in which the uses are named—wherever a preference is intended it is expressed.

So from 1877, at least, Charles T. Hayden has been a valid appropriator of water for the propulsion of his mill.

It is urged in the argument that Mr. Hayden has lost his priority by reason of the transfers of his stock at various times.

The history of the ownership of the shares claimed by Mr. Hayden need not be followed—that he has continuously used the water is sufficient evidence that his appropriation has been continuous and uninterrupted, and that there was no actual abandonment—that there may have been an intermediate grantee of the mill and of the appurtenant water-right does not alter the matter. It does appear that the mill and the shares of stock were at one time—and during the pendency of this suit—conveyed and assigned to one J. A. Ford; but it also appears that Ford was really but a trustee, and that conveyance and transfer cannot operate to defeat Mr. Hayden's rights.

REASONABLE USE OF WATER.

Incident to the right of the inhabitants of this Territory to appropriate water for irrigation or other uses, is the restriction that such use, includ-

ing the means and manner of diversion, distribution and application, shall be reasonable.

That the means of diversion shall be reasonably adapted to the purpose, to the end that the water that is made free to the public shall not be diminished beyond the quantity sufficient to supply the actual needs of the appropriator. That the methods of application of the water to the purposes for which it is appropriated shall be of a character to insure as small a consumption of water as is reasonably consistent with the accomplishment of that purpose.

No man has a right to waste a drop of water—any excess of water that he diverts and wastes by carelessness, negligence or ignorance of economic methods of cultivation or irrigation, or failure to adopt them, he unlawfully diverts.

It appears in the evidence in this case that large quantities of water is allowed to flow in the various canals and ditches to supply stock with water. This necessarily involves a great waste of water—at a small estimate I should think the evidence discloses an amount of water wasted thus sufficient, if properly applied to irrigation, to make productive 10,000 acres of land. The amount of water actually consumed by the stock is insignificant—the loss is that due to evaporation and seepage in its long passage through the various canals and the miles of subsidiary ditches. This, it seems to me, to be an unreasonable use of water. I do not mean to deny the right to the use of water for stock, for it has always been a recognized use, like that for domestic purposes.

But it cannot, I think, be diverted from its original course for that purpose. It has always been the law that stock and the public could drink from a water course—but not to impede its flow or materially diminish its quantity for that purpose. Instead, I consider the law to be, of bringing the water diverted from a natural water course a long distance by means necessarily involving an enormous proportionate waste, to water stock, the stock must be taken to the natural water course to drink, or otherwise provided for.

If the water be in the ditches on a man's ranch in the course of application directly to irrigation, it might be permitted to allow stock to drink of it—but it is an unreasonable use of it to permit water to be in the ditches for that purpose alone.

Another matter for our consideration in this connection, is the right of the appropriator of water to the exclusive possession, maintenance, operation and use of the conduit, as he has prepared it, for the diversion of the water; whether or not, having constructed such a conduit, he thereby has the right to have the water flow in the river to that conduit and thence to the point where he desires to use it, or whether his right is limited to the actual delivery of water to his lands; with or without increased expense to himself, whether it be by means thereof provided by himself or by means provided by someone else. To illustrate: If those who operate the Highland Canal should divert from the river the water to which the consumers under the Tempe, the Mesa, the Utah and the San Francisco are entitled, and yet should that

company deliver the water so diverted through its own canal to and upon the lands of those under the other canals named, in the quantities to which they are entitled to it, would those who constructed and since have operated and maintained the Tempe Canal, the Utah Canal, the Mesa Canal and the San Francisco Canal, have any just cause of complaint? or have the owners of those last mentioned canals a vested right not only to the use of the water for the purpose of irrigation, but also to have it conveyed by means of their own conduits?

Following out to their sequence the propositions I have advanced as to the ownership of water and the right of appropriation, I am of the opinion that the entire right of the appropriator for irrigation is limited to the delivery of water, sufficient for the purpose, upon his land at a point whence he can use it for irrigation, and that so long as such water is so delivered he may be indifferent to any acts of diversion or obstruction of the flow of water in the natural water course, and has no just cause of complaint therefor. He might be compelled to adopt a more expensive means of delivery of the water to his lands if the means that he has already adopted are such as would result in a loss of water; for, as we have repeatedly affirmed, the water is public property; it is a common stock to which all may go, and no man has any right by faulty construction of his conduits, or by their deficient construction, or by a desire to appropriate more than his share of the water, to diminish that common stock of the wa-

ter to any greater extent than his necessities require.

This brings us to the question whether or not it is the duty of a prior appropriator to make use of such new means as may result in the more economical conveyance of water than those which he had theretofore provided for himself. Whether or not it would be his duty, if, for instance, he was an irrigator under the Tempe Canal, to construct a new conduit from the Highland Canal to his lands and thereby conduct his water at a considerable saving of the common stock of water, assuming, of course, that the Highland Canal is capable of carrying in addition to that which it is already under obligation to carry, the quantity sufficient for his use.

The variety of means adopted for the diversion of water, vary under different conditions. The person who first appropriates usually finds in the natural water course a volume of water in excess of that which he himself needs, and to divert the comparatively small proportion of the whole volume which he may need, would be inexpensive and easy of accomplishment. It is usually unnecessary for the first appropriator to construct a dam, or that he should excavate a ditch to the bottom of the water course whence he diverts his water; because of the superabundance in the natural water course, enough for his purpose may be diverted by less expensive means. As, however, others seek, subsequently, to appropriate a portion of the same stream above the point of diversion by the first, a diminution of the quantity of the wa-

ter going down to the first appropriator, results in such a reduction of the volume of water that the means adopted by the first appropriator will not enable him to continue his diversion, and he must, in order to get the water, either construct a dam so as to divert the water, or, excavate his ditch deeper so as to reach and divert the water from the diminished quantity flowing in the natural water course. This would, of course, entail an additional expense upon the first appropriator. To illustrate the question, let us suppose that upon a water course there is an average flow of water of four feet in depth: That the construction by the first appropriator of a ditch, the bottom of which is two feet below the surface of the water, enables him thereby to divert all the water that he needs. Suppose that thereafter another appropriator constructs above the point of diversion by the first, a ditch which appropriates two feet in depth of the water, and diminishes it so in volume that instead of flowing by the point of diversion by the first, four feet in depth, it now flows only two feet in depth. Still the quantity there flowing is sufficient to supply the needs of the first appropriator. It will be seen that the first appropriator cannot by the means he then had, divert his amount of water, and there is necessarily entailed upon him an expense of either further excavation of the ditch or the erection of a dam in order to raise the surface of the water to a point at which it can be diverted into his ditch; and this additional expense is entailed by the act of the subsequent appropriator. It is not a ques-

tion, as I have put it, of a deficiency in the supply of water, but it is merely a question of the right of a subsequent appropriator to diminish the volume of water flowing, to such an extent that it cannot be diverted by a prior appropriator by the means he then had. We think that it certainly cannot be said that the first appropriator has the right to have the water flow in such a way that by his first means of diversion he can still continue his appropriation of the water. The whole policy of the law is, that all of the waters in the streams in this Territory should be used for mining, agriculture, and milling, and that there shall be no appropriation by any one in a manner that shall prohibit subsequent appropriation by others, unless that subsequent appropriation leaves an insufficient quantity of water. The difficulty, however, on this subject, may be illustrated by the case, for instance, of the Tempe Irrigating Canal. It is in evidence in this case that a considerable quantity of the water of the river even at its lowest stages, escapes below the dam of the Tempe Canal. It is contended by appropriators above, that inasmuch as they have permitted a sufficient quantity to go down to the dam, that it is the fault of the Tempe Canal if by means of its dam or by means of a dam not calculated for the purpose, it fails to capture and divert this quantity of water. Is it the duty of the Tempe Canal if there is a quantity of water left unappropriated by those who attempted to appropriate above, sufficient for their use, to erect a dam sufficient to stop and divert the water, no matter at what ex-

pende. Or have the owners of that canal the right to have the water of Salt River flow down the river in a volume equal to that necessary for their actual use plus the amount wasted through their dam? The evidence discloses that the construction of a dam sufficient to prevent the escape of any water below it, at any point along the Salt River, involves a vast expenditure of money; an expenditure of money so great that it might practically be prohibitory.

The late Professor Pomeroy in his work on riparian rights seems to announce the doctrine that an appropriator of water has a right to the natural flow of water at the head of his ditch:

Pomeroy Rip. Rights, Sec. 60.

A careful examination of the authorities he cites in support of his proposition will disclose that they do not warrant his deduction. The statement by Mr. Pomeroy is indefinite. If he means that if an appropriator is entitled to 100 inches of water, that there must be left by subsequent appropriators 100 inches for his use, we accede to his proposition. If, however, he means that if an appropriator is entitled to 100 inches, subsequent appropriators must leave a volume of water in the water-course sufficient under the conditions existing at the time of his appropriation to enable him to take his 100 inches by his then existing means of diversion, even if that volume be 10,000 inches, we cannot accede to it. We cannot consent to a doctrine that involves in its practical application a possible waste of ninety-nine per cent of the water to

which the public is entitled.

I have been unable, after diligent search, to find any adjudicated cases, the consideration of which would assist in the solution of this question. The cases cited by Prof. Pomeroy, as I have before said, do not in my opinion sustain the doctrine announced by him. The first case that he cites is the Lower King's River &c. Company vs. the King's River &c. Company, 60th California, 408. The facts in that case disclose that the injury complained of there was an attempted appropriation by one situated along the water course above the complainants, and the Court simply says: "Granting that the plaintiff does not own the corpus of the water until it shall enter its ditch, yet the right to have it flow into the ditch appertains to the ditch." This it was not necessary to decide in the case, as the suit was an action for the diversion of water, and there was an application for a change of venue by the defendant upon the ground that the suit was one in personam and therefore transitory, and not one relating to real estate. And all necessary to decide was that the right to appropriate water was appurtenant to the land; and that is all it did decide. The next case that he cites is, Parks Canal & M. Co. vs. Hoyt, 57 California, 44. That was an action by one ditch appropriator against another for a diversion of water and the deprivation by him of its use. The suit was in the nature of assumpsit. The Court held that the right that an appropriator may have in water in the natural course above the point where he actually diverts it, is

not personal property and is not subject to the particular kind of a suit there brought. It was unnecessary to decide and the Court did not decide, that the appropriator was entitled to have the water flow in its natural and accustomed course to the head of the appropriator's ditch. The next case that he cites is the case of Reynolds against Hosmer, 51 California, 205. In that case that question did not arise, and was not decided. The next case that he cites is in the 29th California, page 200. That was an action restraining defendants from erecting a dam across Bear River whereby as alleged the water of the river would be set back from a wheel of the plaintiffs' flouring mill. This was the question that was involved in that case, and is the one decided, and we think it is not analogous to the announcement in the text. The next case that he cites is in 23 California, 481. That was an action to recover damages and for an injunction to restrain defendants who were the owners of a saw mill upon a stream the waters of which the plaintiffs claimed by a prior appropriation, for mining purposes, from interfering with the regular flow of the water of the plaintiff's ditch, and from throwing saw-dust and other refuse into the water and thereby deteriorating it for the purposes for which the plaintiffs had appropriated it. This is not the question announced in the text in support of which the case is cited. The next case that the author cites is the case of Barnes against Sabron, 10th Nevada, 217. The Court in that case says: "It logically follows from the legal principles we have

announced, that the plaintiff, as the first appropriator of the waters of Currant Creek, has the right to insist that the water flowing therein shall, during the irrigating season, be subject to his reasonable use and enjoyment to the full extent of his original appropriation and beneficial use. To this extent his rights go, but no farther; for in subordination to such rights the defendants, in the order and to the extent of their original appropriation and use had the unquestionable right to appropriate the remainder of the water running in said stream."

I do not think these cases warrant the announcement in as broad terms as those used by that author, that the party who has perfected an appropriation has the right to have the water flow in its natural manner to the head of his ditch; indeed, it seems to me that the last case cited (10th Nev.) expressly limits it.

In a recent case in Colorado—

Mack vs. Jackson, 13 Pac. Rep. 542,

which was an action upon an injunction bond, the Supreme Court approved a charge given by the lower court to the jury which was as follows:

"In passing upon the question of damages * * * you may consider whether or not the plaintiff might have obtained water through another ditch readily and at slight expense; and if he could have obtained sufficient water through some other source to have prevented the injury, he is not, it seems to me, entitled to recover a greater sum than it would have reasonably required for him to have expended in procuring the water from

some other source * * *"

Applying this rule, although I have no hesitancy in saying that it is a novel application of it, to the question we are considering it suggests the solution.

If a subsequent appropriator should by his diversion deprive a prior appropriator of his ability to divert the water he needs, yet should he supply or offer to supply such prior appropriator an amount of water at a place and in quantity and time commensurate with the first's right of appropriation at a cost not exceeding that attendant upon the manner of diversion theretofore employed by the first, such prior appropriator has no just cause for complaint.

So if the Arizona Canal Company and the Highland Canal Company (and I name these because they are those diverting water at points above all the irrigators in the valley) should supply or offer to supply in good faith water to irrigators on either side of the river under canals making their diversion below those points, and at no greater cost than theretofore attending their appropriation, such irrigators should be required to accept it.

This would result directly in a saving of water—a saving under the actual conditions existing in the Salt River Valley as disclosed by the evidence, sufficient to properly irrigate several thousand acres of land. No injury is done to those former irrigators and a public good is accomplished.

I appreciate the difficulties attending a practi-

cal application of this rule, but I am confident that its application is just and equitable; that it would result beneficially to every legitimate interest in the valley.

To say that every appropriator of water in the Salt River Valley may be supplied to the full extent of his just right, at no increased cost to him, even though it be by means not of his own providing and thereby affecting a great saving of water, compels the conclusion that it ought to be done.

It is possible that the application of this rule might result in the abandonment of some of the earlier canals and ditches—but that this is an evil cannot be conceded.

In the argument of this case both orally and upon brief it is urged that canal companies have a status relative to water that is distinct and that insures to it the right to divert water.

It is unnecessary again to repeat that unless the canal company has customers it cannot divert water—and that a canal company may be deprived of its customers by the construction of new and better conduits for water is not an incident peculiar to canal companies; a railroad may be paralleled and its business by cheaper facilities offered by a newer railroad diminished or destroyed. No one is hardy enough to argue that this could not and ought not to be done; that a railroad company may not be subject to competition.

It further appears that there are other considerable causes of waste in the valley due to improper methods of irrigation as well as cultivation—

that the duty of water, that is, its capacity to irrigate properly a given extent of land, can by the adoption of improved methods of cultivation and irrigation in Salt River valley be very materially increased; and it is the duty of every irrigator to adopt and practice the best practical system of cultivation and irrigation; if he will not do so voluntarily, then some system of control of the distribution of water should be devised to enforce its adoption.

I am of the opinion that this control can only be properly exercised by some one who himself experienced in the matter of irrigation is appointed to supervise the diversion of water from the river—not to limit any one's rights but to see that each receives that justly due him and no more.

The adoption of these precautions against waste of water will, I think, demonstrate that there is enough water in the valley for all.

The parties to this suit, as is disclosed by their pleadings, proceeded upon the theory that an association of individuals and a corporation, and as well as an individual, might become entitled to divert from a natural water course a definite quantity of water, and that this depended not upon the fact that the constituent members of an association or corporation had for the water a beneficial use and applied it to that use, but that the right to divert depended upon the amount that

they had actually been accustomed to divert. The evidence in the case before the Commissioner, and at the trial before the Court, proceeded upon this theory. There is, accordingly, an omission to make that particular proof of the rights of individual appropriators, upon which, as we have before said, the right of diversion necessarily depends. In the consideration of the evidence, the Court in this case, will have to indulge in some presumptions because of the absence of that testimony. I think it is fair to presume, for the purposes of this case, that when there has been proof that any particular piece of land was reclaimed and cultivated, that it was done so by the owner or legal possessor, that that particular piece of land has since then, been in ownership or legal possession, and that the right to appropriate water for its cultivation, being appurtenant to it, has been continuous from the time of its first cultivation.

It appears in the evidence that many of the earlier cultivators of the soil in the valley were, in the language of the witnesses, mere "squatters" upon the public domain. However that may be, for the purposes of this suit they may be deemed to have had at least a possessory interest in the land and a consequent right to appropriate water. It will be impossible as well as unfair to attempt in this proceeding to define the rights of individual appropriators, because they are not parties, except in the case of M. Wormser and Charles T. Hayden, and their rights can only be defined as against the corporations and associations, the par-

ties hereto. The Tempe Irrigating Canal Company, while its constituent members are parties here, yet they, I conceive, are not appearing here in their individual capacity, but in their joint capacity, representing the association known as the "Tempe Irrigating Canal Company." So that the attempt will not be made to define the right of the individual appropriators under the Tempe Irrigating Canal Company, except so far, as we have before said, it may be necessary to determine the rights of the association itself to divert water. There cannot be an adjudication of their several rights.

As was said in the case of Clough vs. Wing, by the Supreme Court of this Territory, the association itself or corporation, might neglect to either prosecute or defend its rights in which are involved those of its customers or constituent members, because of a disinclination upon their part to engage in expensive litigation, or because of collusion for the accomplishment of purposes adverse to the interests of such customers. Those consumers may have certain rights as against those corporations and as among themselves which we have not here discussed. It is not the purpose in this case to lay down rules that will hereafter govern this Court in the determination of the rights of those consumers as against the corporations and associations from whom they may derive their water supply. It might be that a Court could in a direct proceeding between a consumer and a canal company, hold that the canal company was acting as a quasi public agent,

and therefore amenable to the orders and judgments of the courts to secure to the consumers reasonable regulations for the distribution and cost of distribution of water to them, and as well to protect these corporations and associations in their rights, but that is not necessary here to decide.

It would be futile in this case to attempt to define the rights of individual irrigators—it would not operate as an adjudication of their rights.

Accordingly I shall find as matters of fact the quantity of land for which water was from time to time appropriated under the various canals as the only means under the pleadings and evidence in this case to measure the right of the several canal companies to divert water.

This particular litigation should end at some time, and while the Court might retain the case for the purpose of making the individual irrigators parties to it, the same result can be accomplished so readily by the voluntary action of the parties themselves that I shall not do so.

Of course under my views of the law the decree cannot determine the ultimate rights of the parties; conditions may not, and it is hard to conceive that they will, remain as they are now—and any change in the relation of the parties among themselves, or of those who while not parties are directly concerned, must render the decree to that extent at least nugatory.

In the case at bar only the right to divert water in the immediate present can be determined upon the facts disclosed by the evidence—that

the future rights of the parties may be, depending as they do upon their conduct and their agreements, upon a vast number of conditions varying constantly, cannot even be surmised, much less ascertained.

In substance I wish now to XXX express my thanks to all of counsel engaged in this case for their uniform courtesy displayed throughout and for their assistance in determining the questions present.

There has been exhibited to all a desire to assist in proper determination of the disputes existing between the parties to this action and a settlement of their respective rights.

F I N A L D E C R E E

The judgment which of course will be confined to a determination from the records of the amount of land appropriated to the several canal companies and supplied by the several canals and ditches. The quarter-section (160 acres) is for convenience used as the unit of measurement. The right of a canal or ditch company to divert water from a public stream being solely dependent upon the water actually applied to useful purpose the finding will be confined to that determination alone. And it should be noted that these findings are for the determination of the rights of the several canal companies and not for the determination of the rights of individuals who may be purchasers of such canal companies. The court cannot undertake in this case to settle the rights of individual irrigators or consumers.

From the evidence I find the several amounts of water which the parties of this suit were in each year entitled to divert from Salt River by means of their several canals and ditches to be the amounts necessary under proper methods of irrigation and cultivation to irrigate the quantity of land shown in the following table:

From the evidence I find the several amounts of water which the parties of this suit were in each year entitled to divert from Salt River by means of their several canals and ditches to be the amounts necessary under proper methods of irrigation and cultivation to irrigate the quantity of land shown in the following table:

EXHIBIT 166

AGE

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In the District Court of the
 Judicial District of the
 Territory of Oklahoma
 in and for the County of
 Muskogee, Oklahoma

Plaintiff
 vs.
 Defendant

The former Equal
 Company, et al.

The former Equal
 Company, et al.

Complaint

Filed 8th Sept 1879.
 James A. Shaw

J. H. Kemp
 Clerk of the Court

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1912
In the District Court of the Second Judicial
District of the Territory of Arizona in and for
the County of Maricopa

The Farmers Canal Company
The Griffin Ditch Company and
The Mesquite Ditch Company
Plaintiffs

vs
The Grand Canal Company
The Verde Canal Company
and The Empire Canal Company
Defendants

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South east corner of Section fourteen (14)
in Township one (1) north of Range two (2)
East of the District of Lands subject
to sale at the land office at Florence
Arizona and runs thence north -
westward for about five (5) miles =

That the said ditch was construc-
ted by the Salt River Farming Canal Co-
a Company or association of per-
sons formed for the purpose of con-
structing said ditch which said
Company or association on or about
the

page 2

day of May in the year 1877 (1871)
 appropriated and diverted by means of the said
 ditch about 3500 inches of water out of the
 said Salt River the said water being divided
 among the persons owning shares or in-
 terests in said ditch according to their
 respective interests or shares, and by the
 said persons used for irrigation -
 watering stock and other agricultural and
 useful purposes

That the said ditch was owned and held
 and used, by the said Salt River Farming
 Canal Company up to about the 9th day
 of May 1878 when the same passed
 into the possession of the said plaintiff The
 Farmers Canal Company for a valuable con-
 sideration and has ever since been con-
 tinuously used and kept by the said
 Canal Company for the same uses as above men-
 tioned to wit: for carrying water or conveying
 the same to the portions of the Valley of Salt-
 River lying adjacent to said ditch, where
 said water so carried and conveyed as afove-
 said were used for irrigation of land, water-
 ing stock and other agricultural
 and useful purposes, except
 when prompted by the wrongful acts of
 the defendants herein after complained
 of =

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1 VII That the Griffin Ditch Company one of the
 2 Plaintiffs herein is the owner of a certain
 3 ditch situated in said County of Maricopa
 4 and Territory of Arizona and taking water
 5 from the said Salt-River from the North
 6 Side thereof, at or near the South-west
 7 Corner of Section Sixteen in Township
 8 one North of range three East of the District
 9 of lands subject to sale at the land office
 10 at Florence Arizona -

11 That on or about the _____ day of
 12 March 1869 the owners of the said
 13 Griffin Ditch Company appropriated for
 14 useful purposes to wit: for irrigation
 15 of land, watering stock, and other
 16 agricultural purposes about 1500
 17 inches of the waters of said Salt-River
 18 and caused the same to flow through
 19 their said ditch and by means
 20 thereof the said waters so appropriated
 21 as aforesaid were distributed to the
 22 various persons falling in said Val-
 23 ley of Salt-River and adjacent to
 24 said ditch and the said waters so
 25 appropriated as aforesaid, have been
 26 used continuously every year by the plu-
 27 tiff The Griffin Ditch Com-
 28 pany or by said Plaintiffs -

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AGE 51

(5)

Grantors up to the present-time except-
when prevented by the wrongful and
unlawful diversion of the said defen-
dants.

VII That the Monterey Canal Company
one of the plaintiffs herein is the owner
of a certain ditch situated in said
County of Maricopa and Territory of
Arizona, and taking water from the
north side of said Salt River from
the north side thereof at a point -
about five miles from the Town of -
Phoenix in said County -

VIII That on or about the month
of March in the year 1870
the said ditch was constructed by the
Grantors of the said plaintiff, the Monterey
Ditch Company and at that time the
said Grantors appropriated by means
of said ditch 1500 inches of water of
the waters of said Salt River and by
means of said ditch caused the said
amount of water to flow upon the
lands adjacent to said ditch, and
the water so appropriated was used
for useful purposes to wit: for the
purpose of irrigation of the said lands

1 and watering stock and other agricul-
 2 tural purposes generally and the said
 3 water so appropriated has been used
 4 continuously every year by the plaintiff
 5 as the Montrose Canal Company or its
 6 grantors up to the present time,
 7 save and excepts when prevented
 8 from doing so by the wrongful
 9 and unlawful diversion of said
 10 water by the defendants as hereinafter
 11 complained of, set forth and alleged =

12
 13 IX That by means of the waters so
 14 appropriated and used as aforesaid
 15 by the plaintiffs about four thousand
 16 acres of lands now cultivated by the
 17 persons using the waters of said three
 18 ditches =

19
 20 X That the lands of the Valley of
 21 Salt-River adjacent to said ditches
 22 and upon which the waters so ap-
 23 propriated were used is agricult-
 24 tural land, and will produce good
 25 crops of grain and vegetables when
 26 irrigated, but without water the said
 27 land will not produce any useful
 28 crops =

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XI That the said Salt-River from which the waters that flowed through the said ditches was taken is a natural water course and surface stream and from time immemorial has flowed and the waters thereof were undiverted and undisturbed flow to and past the mouths of all of the ditches of the plaintiffs as above set forth, and supplied the said ditches with water for use as aforesaid =

XII That subsequent to the appropriation of water from said Salt-River by the plaintiffs as aforesaid and by the means aforesaid - The defendants have constructed ditches at three several points on the said Salt-River above the mouths of the ditches of the plaintiffs and have erected dams and placed obstructions in the channel of said Salt-River above the mouths of the ditches of plaintiffs and by means thereof have diverted large portions of the waters of Salt-River from its natural channel and retarded the flow of the waters of said River so that during the

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months of March, April, May and June in the year 1879 there was not sufficient water flowing in the channel of said river at the mouths of the ditches of the plaintiffs to properly supply said ditches with the water that usually flowed therein so that there was not sufficient water to irrigate the land that was want to be irrigated by the waters of the said ditches =

XIII. That during the said months of March, April, May and June in the year 1879 there were large crops of grain and vegetables growing upon the lands adjacent to said ditches of the plaintiffs which said crops were all damaged and some totally lost from the want of the water that should have been furnished to said lands from said ditches

XIV That the said defendants still continue to maintain the said obstructions in the said Salt-River and prevent the water from flowing in said Salt-River at the mouths of the ditches of -

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the plaintiffs, and still continues to take water from the said Salt River and by so doing prevent the waters of the said streams from flowing into the ditches of the plaintiffs as the said waters were wont to do, and would do if not so obstructed and diverted as aforesaid, and therefore to so continue to divert the waters of said River and obstruct the flow thereof to the damage and injury of said plaintiffs by preventing the said plaintiffs from obtaining the waters appropriated by them and as these plaintiffs are enjoined and believe will unless prevented by a restraining order of this Court continue to divert the waters of the said Salt River and obstruct the flow thereof to the damage and injury of the plaintiffs =

Therefore the plaintiffs pray for a judgment and decree of this Court
I. That the said Farmers Ditch Company is entitled to the amount of 3500 inches of the water of Salt River, and that the Griffin Ditch Company is entitled to the amount of 1300 inches

1 of the waters of said Salt-River and
 2 that the Monterey Canal Company is
 3 entitled to 1500 inches of the waters of
 4 said Salt-River and that all of
 5 said rights to water are prior and
 6 paramount to any and all rights
 7 of the Defendants herein =

8 #2 That the said defendants be
 9 perpetually enjoined and restrained
 10 from diverting the waters of Salt-River
 11 from their natural channel or from
 12 obstructing the flow of the waters of
 13 said River to the detriment or
 14 damage of the plaintiffs, or in der-
 15 ogation of the rights of the said
 16 plaintiffs; and for such other and
 17 further relief as may be equitable
 18 and just - and that the said
 19 defendants pay the costs of this
 20 action

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25 Territory of Arizona }
 26 County of Maricopa } Ex Geo R. Roberts
 27 Being first duly sworn deposes and says that
 28 he is the President of the Board of Directors

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and one of the Directors of the Plaintiff
 the Farmers Canal Company, and the
 above entitled action and as such
 make this affidavit; that he has read
 the foregoing Complaint and well
 knows the contents thereof and that
 the same is true of his own knowledge
 except as to the matters therein stated
 as information and belief and as to
 those matters he believes it to be true
 Subscribed and sworn
 to before me this 8th day of September 1879.
 J. H. Lee
 Notary Public

No 88

in Dist Ct

The Home Credit
Company Etc

The Grand Jurors
County of Essex

~~Answer~~
~~in answer to~~
Order of the Court
made on the 11th
of Dec 1877

John T. Albee
att'y at law

Filed 31st Dec. 1877

Francis C. O'Hara

Clk

In the District Court of the Second
Judicial District of the Territory
of Arizona, in and for the County
of Maricopa.

The Farmers Canal Company	} Plaintiffs
The Gribbin Ditch Company	
The Mantua Ditch Company	
vs.	
The Grant Canal Company	} Defendants
The Mesa Canal Company	
The Tempe Canal Company	

Answer.

And now comes the above named
Defendants, The Mesa Canal Company
and The Grant Canal Company, by Attorneys,
separately and each for itself, answering
the complaint herein filed:

I

That the Plaintiff, The Farmers Canal
Company, or said Plaintiff Grants, on
or about the — day of May 1871, or at any
other time prior to the construction of
Defendants ditches, respectively, and the
appropriation of water as hereinafter
stated, appropriated 3500 inches of
water from said Salt River, for irrigation
watering stock, and other agricultural
and useful purposes, and appropriated

any other amount greater than 1500 inches of water: And deny that the amount so appropriated" was used by said Plaintiff and his grantors continuously, except when prevented by the wrongful acts of these Defendants" or either of them.

II

Defendants deny that the Plaintiff, the Griffin Ditch Company, appropriated, or was entitled thereto by virtue of an appropriation of any quantity, 1500 inches of water of said Salt River, or any amount of said water, prior to the construction of Defendants said ditches, respectively and the appropriation of water by them as herein after set forth: And deny that said Plaintiff ~~and~~ or Plaintiff's grantors used continuously 1500 inches of water of said Salt River, or any other amount, "except when prevented by the wrongful acts of these Defendants" or either of them.

III

Defendants deny so much of Plaintiff's Complaint contained in Paragraph 7, as alleges, that the Montezuma Canal Company is the owner of a ditch; that said Company or its grantors appropriate 1500 inches of the water of said Salt River:

and used the same continuously, except when prevented by the wrongful acts of Defendants; or that said company has appropriated any amount of water of said Salt River.

IV

Defendants deny that 4000 acres of land were cultivated by persons using the water of said three ditches claimed by Plaintiffs, but avow that the amount cultivated by said persons will not exceed 7500 acres

V

Defendants deny that said Salt River has from time immemorial flowed, and the water thereof when undiverted and unobstructed flows to and past the mouths of the ditches of Plaintiffs, and supply them with water.

VI

Defendants admit that during the months of March, April, May and June in the year 1879, at times, there was not sufficient ^{surface} water flowing in the channel of said Salt River to supply Plaintiffs' ^{opposite the mouths of the same} ditches, but deny that said insufficiency and scarcity of water was during any considerable portion of said time, or that the same was in any wise occasioned by the diversion of the waters of said Salt River, or obstructing the flow thereof by Defendants or either of them.

And Defendants further deny that any damage accrued to Plaintiffs in loss of crops or otherwise, by reason of any diversion or obstruction of the flow of the water of said Salt River, on the part of Defendants, or either of them.

VII

Defendants for a further answer allege:

That during the Spring of the year 1878, Defendants, constructed their respective ~~canals~~ ^{ditches} at points on said Salt River above said Plaintiffs' ditches, and then and there appropriated respectively, for irrigation watering, stock and other ^{domestic} ~~agricultural~~ purposes, by said Mesa Canal Company about 1000 inches of water and by said In and Canal Company about 1500 inches of water; which said water so appropriated has ever since said time (except when prevented by the scarcity thereof) been used by Defendants, the same being distributed and divided among the shareholders of Defendants respective Companies, and by them used for irrigating lands adjacent to said ditches, owned, possessed or cultivated by said shareholders.

That the shareholders in Defendants

said Companies, an inhabitant of Arizona
Leaving out our own lands there
That by means of the water appropriated
as of ours, and distributed to said lands
about 2300 acres of valuable, arable lands
are irrigated and made to produce
and yield rich crops of grain and
vegetables; and without such irrigation
said lands would be entirely sterile,
valueless, and unfit for cultivation.

That said appropriation of the water
appreciated by Defendants, did not, and
does not injure or damage Plaintiff's,
or diminish the flow of the water of
said Salt River at the mouth of Plain-
tiff's said ditches.

Defendants further allege; that between
the points of diversion of Defendants' ditches,
and Plaintiff's ditches, said Salt River,
divides and flows into three channels,
the outer banks thereof being distant
apart, about one mile; and the space
between said banks, consists of rocks,
gravel, and sand, beneath which by
soaking, leaking, percolation, and under-
flowing, and currents, the water of said Salt
River in dry seasons, disappears to and
again below the mouth of ^{Plaintiff's} said ditches;
And as Defendants aver, ^{the water} that, of all,

appropriated by them, & of its use, was left free to flow past their best water openings of appropriation, down said Holt River, the same together with a considerable amount of additional water, would disappear by the means aforesaid and never reach or flow into the mouth of Plainfield, said ditches.

VIII

Defendants further allege, that their said companies, were organized and incorporated with the full knowledge of Plaintiff; and with like knowledge Defendants ditches, were constructed at great expense, and cost, with the Mess Canal ^{and ditch} at the cost of \$5,000 and the Grand Canal ^{and ditch} at the cost of \$25,000, and the water appropriated as aforesaid. And that valuable improvements have been ^{made} upon said lands, by the occupants thereof, who have found homes, and by their art and industry, brought into successful cultivation some 2300 acres of land.

IX

Defendants further answer, and allege, that they are improperly joined

and that there is a large area of valuable water land worth 60,000 acres subject to the construction and enjoyment by the owners of the Grand Canal and ditches and of the Holt River.

C #

as dependants herein; their said interest
in this cause of action, being separate
and distinct; and separate and distinct,
from any interest the Temp Canal Company
may have in this cause of action

X

Defendants further aver and answer,
that since the alleged date of construction
of Plaintiffs said ditches by Plaintiffs
grantees, there have been constructed the
following named ditches diverting water
from said Fall River at points between
Plaintiffs and Defendants ditches, to wit
the Hancock Ditch and the Wilson
Ditch; at points above Defendants
ditches the Utah ditch and Indian ditch;
and further, prior to said alleged date
of construction of Plaintiffs said ditches,
and at points between Plaintiffs and
Defendants ditches, the Fall River Valley
ditch and the San Francisco ditch,
diverting water from said Fall River;
so Defendants say there is a wrong done
to parties Defendants herein.

XI

Having fully answered Defendants
claim for judgment. Not said Plaintiffs
take anything by reason of their action
herein, and that they be discharged

and this mixed with their
particular costs

W. A. Hancock
& Son
Atty for Govt

Secretary of American
Canal Co

It is indeed being

delivered upon deposit and I am
the President of the Canal Company, one of the
dependents herein? That I
have read the foregoing
answer and know the
contents thereof, and the
source is true of my own
knowledge of facts to the
matter therein stated
on information and belief,
and as to those matters I
believe them to be true
Subscribed and sworn to before
me this 31st day of

October 1879.

James A. Shaw Clerk

Township of Ansonia }
County of Worcester }

George W. Irvine

" Being duly sworn deposes and says that
I am the President of the Green
Canal Company one of the defendants
herein; that I have read the foregoing
affidavit and know the contents thereof
and the same in truth of my own
knowledge except to the matters therein
stated on information and belief
and as to those matters I believe
them to be true

Subscribed and sworn to by G. W. Irvine
to before me this 31st

day of October 1879

Francis A. Shaw Clerk

88

James Bond

Grand Canal

decree and
Judgement

Filed 14th April 1880

James A. Shears
Clerk

Farmers Canal Co, et al }
v.s.
The Grand Canal Co et al }

Findings

This cause having been tried before the Court, without a jury, by the consent of the respective parties, the Court finds the following as the facts in the case:

First, that the Farmers Canal Co is a corporation duly incorporated under the laws of this Territory and is the owner of a certain ditch constructed for the carrying waters to land adjacent, for agricultural purposes. That said ditch is located on the north side of Salt River, Maricopa County, Territory of Arizona, the head thereof being at or near the South East corner of section fourteen, in township one north of range Two, East of the district of lands subject to sale at the land office at Florence, and runs northwesterly for about

miles.

That said ditch was constructed by an association of persons desiring water for the purpose of irrigating their lands, sometime in the month of May 1871, and continued to be held and used by them until the 9th day of March 1878, at which time it passed into the possession of the Farmers Canal Co, a corporation, the members of which consisted of the original owners and locators of the ditch and has ever since been continually used and kept by them for the same purpose. That said ditch was constructed with a capacity, at some points of carrying ten thousand inches of water; but that, at, or near its head its capacity was twenty five hundred inches of water. That since its construction there has been continuously appropriated of the waters of Salt River from eight hundred to fifteen hundred inches of water by said company.

Second, that in the month of March 1869 the grantor

of the Griffin Ditch Company located the ditch now owned by that Company and did some work on the same, and that in the fall of 1871 the ditch was enlarged to a capacity of carrying fifteen hundred inches of water. That the owners of the ditch incorporated the same in 1877. That there had

been continuously appropriated by the Griffin Ditch Co. and their grantors, of the waters of Salt River since 1874, six hundred inches, for irrigating land watering of stock and other agricultural purposes. That the head of said ditch is situated on the north side of Salt River miles above the head of the Farmers Canal Co's ditch.

Third, That the Monterey Canal Co. ~~is~~ the owner of a certain ditch situated in Maricopa County, and taking water from the north side of Salt River at a point about five miles below

the Town of Phoenix, and was constructed by the grantors of the Monterey Ditch Company in the year and water has been continuously appropriated from the waters of Salt River by said Company since the year 1876, eight hundred inches of water each year, for agricultural purposes.

Fourth— That the date of the filing of the articles of incorporation of the Mesa Canal Company was March 2^d, 1878, and of the Grand Canal Company June 24, 1879,

Fifth— That since its construction said Grand Canal Company has appropriated from 1300 to 2,000 inches of water for agricultural purposes.

Sixth— That the Mesa Canal Company has appropriated from 800 to 1000 inches of water.

Seventh— That since the construction of Plaintiffs ditches there have been constructed the following ditches, diverting water from Salt River at points between

Plaintiffs' and Defendants' ditches, to wit (a) The Maricopa Ditch and the Niland Ditch; at points above the Defendants' Ditch, the Utah Ditch and the Grand Ditch, and prior to Plaintiffs' Ditches construction, and at points between their ditches and Defendants' the Salt River Valley ditch and the San Francisco ditch, all of which are diverting water from Salt River, the amount of which does not appear from the testimony.

Eight. - That none of these parties were made parties to this action.

Ninth. - The Court further finds that the dams of all the ditches are surface dams, constructed of brush, rocks, and sand, and that they do not extend down into the sand or ground in the bed of the channel.

Tenth. - That at all times there were considerable water passing through them that from the character of their construction

could not be stopped.

Eleventh - That the dam of Plaintiffs divides the river, where the same is divided, into three channels, and only extends over one of said channels, and at that point the bed of the river from bank to bank is near a mile in width.

Twelfth - That at the point where Plaintiffs' dam is constructed, the bed of the river contains vast quantities of sand, gravel and rock, nearly one mile in width, which extends up the river for nearly ten miles, and of the same average width except that at some points it is less than at this point in depth and at these points is found the greatest flow of water.

Thirteenth - The Court finds that the year 1879 was an unusually dry year.

Fourteenth - That the volume of surface water flowing in it

river was less than ever known since the construction of Plaintiffs' ditches and dams, and that during the months of March, April, May and June of that year, there was not sufficient surface water flowing down the channel of Salt River, where Plaintiffs dams were constructed, to supply Plaintiffs ditches, with the quantity of water that ^{they} had formerly derived from said River.

Fifteenth.— The court is unable to find as a matter of fact that the amount of water diverted by Defendants' Ditches was the occasion of the drought in Plaintiffs ditches during the months of April, May and June of that year.

And the Court is of the opinion, from the condition of the River for the ten miles between Plaintiffs and Defendants ditches and the unprecedented, drought, of that year, that if the water diverted by Defendants ditches had been allowed to flow past.

their dams and down the channel
that the amount was not of sufficient
quantity to have materially affected
the flow of water in Plaintiffs
ditches.

Conclusions of Law

No conclusions of law the
Court finds:

First - That the Griffin
Ditch Company is a corpora-
tion, duly incorporated, and that
they are the prior appropriator
of six hundred inches of water
for irrigating purposes.

Second - That the Furrows
Canal Company is a like cor-
poration, and that they have
appropriated, and are entitled to
the peaceful enjoyment of
One Thousand and fifty (1050,
inches of water, and second in
order of time and appropriation
by the three ~~defendants~~ ^{plaintiffs}.

Third - That the Monterey Can-
Company are entitled to the
peaceful enjoyment of eight.

2
3
- hundred (800) inches of water of Salt River, subject to the prior appropriation of the waters of said stream by the Griffin Ditch Company and the Furman Canal Company.

Fourth - That the Mass Canal Company have appropriated and are entitled to the undisturbed possession of

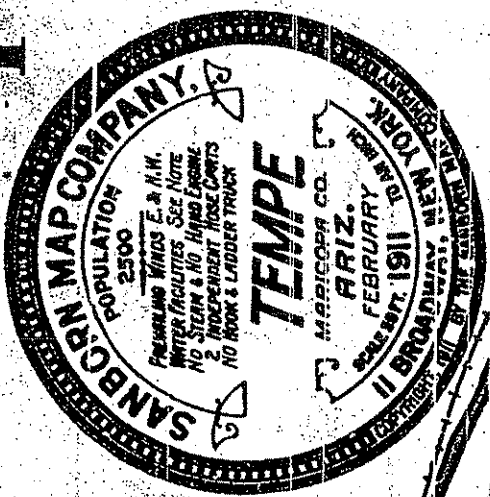
nine hundred inches of water

Fifth - That the Grand Canal Company is unincorporated, and are entitled to the peaceful enjoyment of seventeen hundred and fifty (1750) inches of water for agricultural purposes ^{subject to priority of plants and} _{wherever such company exists}

Sixth - The Court having failed to find that the diversion of water from Salt River by the Defendants' ditches, in the quantities shown by the evidence was so directed to the prejudice of the Plaintiff, the Court, therefore, finds that the Defendants should recover judgment for their costs in

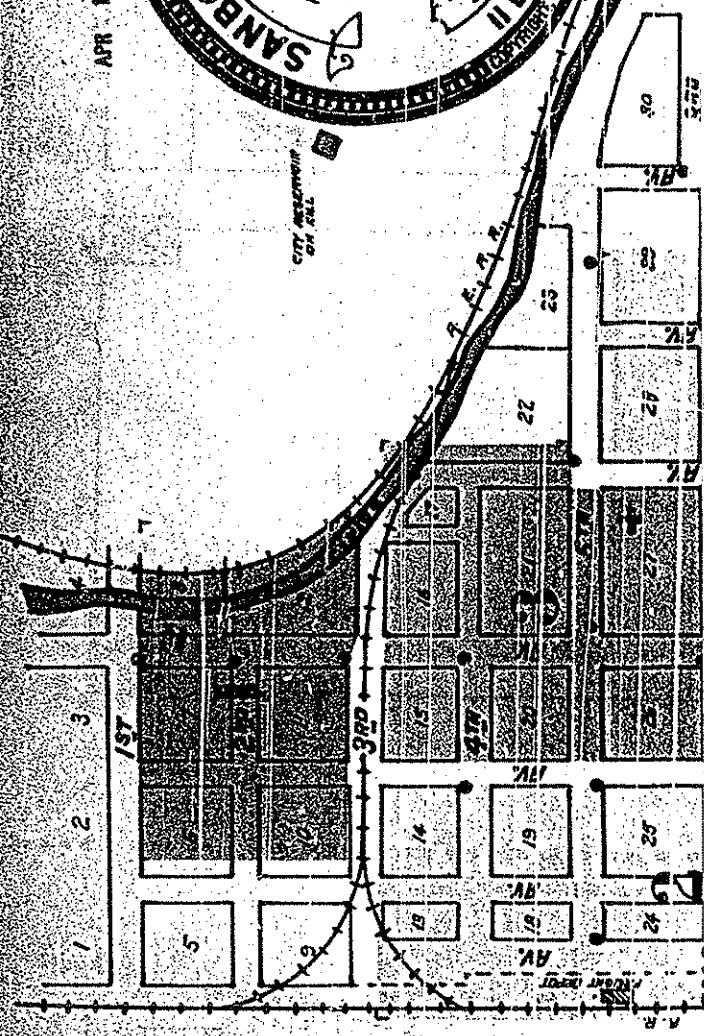
EXHIBIT 167

APR 17 1911



© C.F. 19185

CITY MEASUREMENT ON ALL



Water facilities - Water from 3,200 deep wells pumped by Gould triple power pump, capy. 350 gal. per min. - 3 centrif. ex. capy. 500 gal. per min. to 250,000 gal. stone reservoir, situated at White spot, 1540' N. of Florence Park, cor. 2d & Willow Av. & elev. 212' abv. Aguada's plane, giving a gravity press. on the main line. 52 lbs. - 2 city pumps run by elec. motor 9, & centrif. also direct with mains. Car run mains 3, 6, 4; water 9 years old. 48 dbl. rhyds.

Fire Dept. - 2 vol. hose companies; 17 members m. 2 hose carts; 600 good rubber lined hose m. Special eq. 4. F.R. Bell on hose ho.

INDEX.

SPECIALS.

	SHEET
Andre Block	6
Arizona Eastern R. R. Freight House	2
State Normal School	6
A	
Blinn, L. W., Lumber Yard	1
B	
C	
Casa Loma Hotel	8

EXHIBIT 168

Douglas E. Kupel
City of Phoenix Law Department
251 West Washington, Suite 800
Phoenix, Arizona 85003
(602) 495-5853

EDUCATION

Ph.D. candidate (ABD), Arizona State University, Phoenix (Fall, 1989 to present)

M.A. History, University of Arizona, Tucson (May, 1986)

Certificate Degree, Public Service Archaeology, University of South Carolina, Columbia. Full scholarship funded by the Federal Highway Administration (June, 1981)

B.A. History, University of Oregon, Eugene (March, 1979)

EXPERIENCE

City of Phoenix Law Department, Phoenix, Arizona. Historian for City Attorney's Office, Civil Division. Conduct historical research for litigation regarding City water and wastewater department. Main project is compiling historic information for the Gila River Stream Adjudication, a large water rights litigation case involving thousands of claimants. Organize and maintain archive of City water records. (4-11-88 to present)

Arizona State Historic Preservation Office, Phoenix, Arizona. Historian for state agency, a division of Arizona State Parks. Coordinated National Register program. Reviewed, edited, and wrote National Register nominations. Reviewed Federal and state projects for compliance with applicable historic preservation legislation. Monitored historic preservation fund grant projects. (1-27-86 to 4-8-88)

Cultural and Environmental Systems, Tucson, Arizona. Historical Archaeologist for a private consulting firm. Analyzed historic artifacts collected during an archaeological survey of 18,000 acres on the San Xavier Indian Reservation. Prepared a written report describing the artifacts collected and the historic archaeological sites on the Reservation. (1-10-85 to 3-15-85; 9-1-85 to 1-25-86)

Linda Laird and Associates, Tucson, Arizona. Architectural Historian for a private consulting firm. Described architectural styles of residential and commercial buildings for a historic architectural inventory of Safford, Arizona. (9-15-85 to 9-28-85)

National Park Service, Washington, D.C. Historian for the Historic American Buildings Survey and the Historic American Engineering Record. Conducted an architectural and historical inventory of buildings, industrial plants, and engineering structures within the boundaries of the 96-mile long Illinois and Michigan Canal National Heritage Corridor. (6-10-85 to 8-30-85)

Acuna-Coffeen Landscape Architects, Tucson, Arizona. Historian and Archaeologist working as a consultant to a landscape architecture firm. Completed an evaluation of historic architectural and prehistoric archaeological resources for the Fort Lowell Park Master Plan. Supervised a team of archaeologists and historians who conducted research for the project. Prepared a written report describing cultural resources in the Park, including recommendations for future plans involving improvements and proposed development (3-1-85 to 6-10-85)

University of Arizona, Tucson. Research Assistant for the Department of History. Duties consisted of conducting library research for professors, ordering books and journals for the Department, assisting with teaching undergraduate classes and registration of students. (8-25-84 to 5-29-85)

Arizona Historical Society, Tucson. Museum intern at the Arizona Heritage Center. Worked with the Registrar to catalog artifacts for exhibition. Researched artifacts acquired by the museum for inclusion in the permanent collections. Assisted in the preparation of exhibits (8-25-84 to 12-15-84)

State of California Department of Transportation, San Diego, California. Began working for Caltrans as an Archaeological Specialist in June 1981 and advanced to the position of Archaeological Project Leader. Duties consisted of conducting archaeological, architectural, and historical research for local, state, and federal transportation projects throughout California. Major projects completed include a historical and archaeological evaluation of the Plank Road National Register District, a historical and architectural study of the Metropolitan Transit Development Board's east urban transit corridor, and a cultural resource inventory of ten square blocks in the Old Town San Diego State Historic Park and National Register District. Worked on many other smaller projects for the California Department of Transportation. (6-1-81 to 2-1-82; 2-15-83 to 8-1-83; 6-1-84 to 8-15-84)

Roth and Associates, San Diego, California. Architectural Historian for a private consulting firm. Conducted an architectural and historical evaluation of building #7 on the U.S. Naval Station, San Diego. Prepared a report describing the history of the building and its construction in order to determine its potential eligibility for inclusion on the National Register of Historic Places. (6-15-84 to 7-29-84)

Wirth Environmental Services, San Diego, California. Started working for Wirth as a private consultant in February 1982 and progressed to field supervisor for a major portion of archaeological studies on the Southwest Powerlink project near Yuma, Arizona. Worked on several aspects of cultural resource surveys for this electrical transmission corridor from Phoenix, Arizona, to San Diego, California. Authored several reports and proposals to Wirth. (2-1-82 to 8-1-83; 11-15-83 to 1-31-84)

TerraMar International Services, Tucson, Arizona. Worked as an Archaeologist for TerraMar during a survey of the San Xavier Indian Reservation. Supervised crews locating and mapping a complex series of Hohokam archaeological sites along the Santa Cruz River. Conducted evaluations and wrote descriptions of the archaeological sites for inclusion in an environmental impact statement. Completed research on historic period water control features on the Reservation and produced a written report describing the findings. Authored several proposals for TerraMar. (8-1-83 to 11-15-83; 2-1-84 to 6-1-84)

State of California Department of Parks and Recreation, San Diego, California. Worked as an Archaeological Project Leader for this state agency during the excavation of several historic archaeological sites in the Old Town San Diego State Historic Park and National Register District. (9-1-82 to 10-1-82)

Larry Seeman Associates, Newport Beach, California. Archaeological excavation for a portion of the Miguel-Tijuana electrical transmission corridor environmental impact study. (3-15-82 to 4-1-82)

Columbia Museum of Art, Columbia, South Carolina. Museum Technician working with classical artifacts and works of art. Researched, designed, and built display areas for exhibits. (1-20-81 to 5-20-81)

Carolina Archaeological Services, Columbia, South Carolina. Field Archaeologist and Historian; conducted survey and site inventory in Darlington County, South Carolina. Prepared maps showing locations of archaeological sites. (10-1-80 to 5-15-81)

Heritage Environmental Services, San Diego, California. Field Archaeologist; conducted a survey and site inventory near Borrego Springs, Imperial County, California. (8-15-80 to 9-1-80)

State of Nevada Department of Transportation, Carson City, Nevada. Worked as an Archaeological Technician during an excavation near Pine Valley, Elko County. Conducted archaeological surveys and site inventories throughout the State of Nevada. (6-1-80 to 8-15-80)

Regional Environmental Consultants, San Diego, California. Worked on a tremendous variety of projects for his private environmental firm. Conducted archaeological surveys and excavations, historical research, cartography, and prepared reports. (5-1-79 to 5-1-80)

Archaeological Planning Collaborative, San Diego, California. Field Historian and Archaeologist for a survey of Otay Mesa, California. (4-15-80 to 5-1-80)

Paul G. Chase and Associates, Escondido, California. Conducted an inventory of archaeological and historical sites on Rancho San Miguel. (2-15-80 to 3-1-80)

Multi-Systems Associates, San Diego, California. Conducted archaeological test excavations near Alpine, California. (4-1-80 to 4-15-80)

San Diego County Archaeological Society, California. Librarian; managed the book and manuscript collection for the Society. (11-1-79 to 6-1-80)

San Diego Historical Society, California. Photographed artifacts in the collections at the Serra Museum, Villa Montezuma Museum, and Balboa Park. (2-1-80 to 6-1-80)

San Diego Museum of Man, California. Lab Assistant; prepared maps and skeletal material for conservation. (3-1-80 to 4-1-80)

PROFESSIONAL AFFILIATIONS

Arizona Preservation Foundation (Board member, former President)
Society of Professional Archaeologists (certified archaeologist)
Arizona Archaeological and Historical Society
Arizona Archaeological Society
Arizona Historical Society
National Trust for Historic Preservation
National Council on Public History
Coordinating Committee for History in Arizona

PAPERS AND REPORTS

Prepared for Private Consulting Firms:

- 1988 National Register Nomination for City-County Building, Phoenix, Maricopa County. Gerald A. Doyle and Associates, Phoenix.
- 1985 Historical and Archaeological Character, Fort Lowell Park Master Plan. Acuna-Coffeen Landscape Architects, Tucson.
- 1985 San Xavier Historic Artifact Analysis. Cultural and Environmental Systems, Tucson.
- 1984 Diversity Through Adversity: Water Control at San Xavier. TerraMar International Services, San Diego.
- 1983 Plank Road Research. Wirth Environmental Services, San Diego.
- 1983 Picacho Basin Historic Research. Wirth Environmental Services, San Diego.
- 1983 Miguel Substation Historic Research. Wirth Associates, San Diego.
- 1980 Final Report of the Rincon, et al., Cultural Resource Survey; Jamul. Regional Environmental Consultants, San Diego (with Paige Talley).
- 1980 Final Report of the Rincon, et al., Cultural Resource Survey; La Jolla. Regional Environmental Consultants, San Diego (with Paige Talley).
- 1980 Final Report of the Rincon; et al., Cultural Resource Survey; Pala. Regional Environmental Consultants, San Diego (with Paige Talley).
- 1979 Cultural Resource Study of a Proposed Electrical Transmission Line from Jade to the Sand Hills, Imperial County, California. Regional Environmental Consultants, San Diego (with Carol Walker).

Prepared for the California Department of Transportation:

- 1984 A Proposal to Construct a Plank Road Exhibit at the Proposed Imperial Safety Roadside Rest.
- 1984 Historic Property Survey Report, Proposed Sand Hills Interchange.
- 1984 Request for Determination of Effect, Plank Road.

- 1984 First Addendum Archaeological Survey Report, Proposed Sand Hills Interchange.
- 1983 Historic Property Survey Report, Proposed MTDB East Urban Transit Corridor.
- 1983 Architectural Survey Report, Proposed MTDB East Urban Transit Corridor.
- 1983 Request for Determination of Eligibility, La Mesa Depot (with John W. Snyder).
- 1982 The Calhoun Street Parking Lot: A Historical and Archaeological Investigation of Block 408, Old Town San Diego.
- 1982 Archaeological Survey of the Old Town Maintenance Station, Blocks 363, 364, 378, 396, 397, Old Town San Diego.
- 1982 Archaeological Survey Report of the Old Town Excess Parcel Sale, Blocks 379, 380 and 395, Old Town San Diego.
- 1982 Archaeological Survey Report of the Calhoun Street Parking Lot, Block 408, Old Town San Diego.
- 1981 Proposed Archaeological Phase II Excavation at SDi 8873H (with Joan M. DeCosta).
- 1981 Historical and Archaeological Investigation of a Proposed Old Town Excess Parcel Sale, Blocks 379, 380, and 395. Old San Diego.
- 1981 Historical Evaluation of the Sunset Street Property, Lot 1, Block 394, Old San Diego.

Academic Papers and Reports:

- 1992 Book review of Water Politics: Continuity and Change, by Helen Ingram, published in the Journal of Arizona History 33:1 (Spring, 1992: 110-112.
- 1992 Convenience or Necessity? The Phoenix Sewer System, 1870-1912. Paper Presented before the Arizona Historical Society Convention, April 30, 1992.
- 1991 Book review of Beyond the Wasatch: The History of Irrigation in the Uinta Basin and Upper Provo River Area of Utah, edited by Gregory D. Kendrick, published in The Public Historian 13:1 (Winter, 1991): 92-94.
- 1991 Historical Research and Litigation in the Municipal Environment. Paper Presented at the 13th Annual Conference of the National Council of Public History, May 4, 1991.

- 1990 Search for Documentation: The Tucson Groundwater Experience. Paper Presented to the Water in the 20th Century West Symposium, March 31, 1990.
- 1989 The Drive for Municipal Ownership: Phoenix Water Works, 1898-1907. Paper Presented before the Arizona Historical Society Convention, March 21, 1989.
- 1987 Arizona Water History Archives Project. Prepared for University of Arizona Library, December 3, 1987.
- 1987 Persistent Perceptions: Ideology of Modern Water Use. Paper Presented before the Arizona Historical Society Convention, April 4, 1987.
- 1986 Diversity Through Adversity: Tucson Basin Water Control Since 1854. Master's Thesis, University of Arizona, Tucson.
- 1986 Mythology and Technology in Western Water Development. Paper Presented before the Phi Alpha Theta History Honor Society Regional Meeting, May 5, 1986.
- 1985 University of Arizona Architectural Development. Paper Presented before the Arizona Historical Convention, May 3, 1985.
- 1985 University of Arizona National Register District Nomination Form (with Robert C. Giebner, David Blackburn, and Adelaide Elm).
- 1983 Plank Road Discontiguous District Nomination form (with Pat Welch and Lisa Capper).
- 1981 A Modern Material Culture study: South Carolina's Migrant Farmworkers. Institute of Archaeology and Anthropology, University of South Carolina, Columbia.
- 1981 Historic Preservation and Mass Transit Planning. American Society for Conservation Archaeology Report 8: (3):8-19 (with Dale E. Hicks).
- 1980 Conservation Management Strategies: State Departments of Transportation. Department of Anthropology, University of South Carolina, Columbia.
- 1979 Spaniards in Early Oregon. Paper presented to the Gran Quivera Conference.

0074w

EXHIBIT 169

BACKGROUND INFORMATION ON JOHN K. GRAHAM

1966 - B.S. degree from Indiana University, School of Business

1968 - J.D. degree from Indiana University, School of Law
(Bloomington)

Admitted to Arizona State Bar on April 12, 1969

Member Maricopa County Bar Association, American Bar Association

Employment Information:

1968 - Transamerica Title Insurance Company of Arizona,
Trust Administrator

1969 - Maricopa County Legal Aid Society, Staff Attorney

1969 - Transamerica Title Insurance Company, Associate Counsel

1971 - Firm of Behrens, MacLean and Jacques, Associate

1975 - Emphasis on the practice of real estate, as well as
title insurance company defense work

December, 1975 to June 1, 1976 - Continental Service Corporation,
now known as Chase Bank Service Corporation, Trust Officer

June 1, 1976 - Present First American Title Insurance Company

10 mos. manager of Account Servicing Department

April 1977 to December 31, 1981 - Associate counsel
administering claims and advising employees of company on
legal problems concerning escrows, title, etc.

January, 1982 - Present Chief counsel

I am Vice President and Regional Counsel of First American Title
Insurance Company

Taught real estate law at Scottsdale Community College for nine
years from approximately 1972 through 1981.

EXHIBIT 170

CURRICULUM VITAE

Stanley M. Hordes
1375 Santa Rosa Drive
Santa Fe, NM 87501

Current Position:

President, HMS Associates, Inc., Historical Research and Consulting
Visiting Scholar, Department of History, University of New Mexico;
Latin American Institute, University of New Mexico

Education:

1967-1971 University of Maryland, College Park, MD, Bachelor of Arts with Honors in History
1971-1973 University of New Mexico, Albuquerque, NM, Master of Arts in History
1973-1980 Tulane University, New Orleans, LA, Doctor of Philosophy in History. Dissertation title: "The Crypto-Jewish Community of New Spain, 1620-1649; A Collective Biography" under the direction of Richard E. Greenleaf

Previous Employment:

1977-1980 Curator of Colonial Archives, Louisiana Historical Center, Louisiana State Museum, New Orleans, LA
1980-1981 Historian, National Park Service, Southwest Regional Office, Albuquerque, NM
1981-1985 State Historian, New Mexico Records Center and Archives, Santa Fe, NM

Teaching Experience:

1974 Tulane University, Modern Latin America
1977 Tulane University, U.S. History Since 1865
1982 University of New Mexico, History of New Mexico
1983-1985 University of New Mexico, Introduction to Applied and Public History
1985 University of New Mexico, Archaeology and History of Colonial New Mexico (with Dr. Frances Levine)

1987-1988 Southern Methodist University, School of Continuing Education, Southwestern Cultures That Shaped America (summer seminar)

Other Professional Experience:

1975-1976 Dissertation Research in Archives of Mexico and Spain

1976 Participant, Seminar in Historical Problems of the Spanish Inquisition, Universidad Internacional Menéndez Pelayo, Santander, Spain

1977 Fellow, Summer Institute in Quantitative Methodology, The Newberry Library Family and Community History Center, Chicago, IL

1983-1984 Project Director, Outreach Workshop Series in Local History, funded by New Mexico Humanities Council

1983 Participant, National Endowment for the Humanities Conference on the Columbian Quincentenary, Santa Fe, NM

1984, 1986 Participant, National Endowment for the Humanities Review Panel, Youth Programs, Washington, DC

1986 Co-Project Director, "Images of New Mexico: A Film Event", funded by New Mexico Humanities Council, Albuquerque, NM

1986-1987 Humanities Consultant, "New Spain: The Frontiers of Faith," a travelling exhibit directed by the Texas Humanities Resource Center and funded by the National Endowment for the Humanities

1987-1989 Project Director, "Santa Fe Summerscene Sunset Lecture Series", sponsored by the City of Santa Fe and funded by the New Mexico Endowment for the Humanities

1992 Co-Project Director, "The Sephardic Experience in Spain, Mexico and New Mexico: A Quincentennial Conference," sponsored by the New Mexico Jewish Historical Society and funded by the New Mexico Endowment for the Humanities and the Jewish Community Council of Northern New Mexico

Historical Contracting Experience:

1985 Historical research for New Mexico State Land Office for civil proceeding, Pueblo of Acoma v. New Mexico Arizona Land and Cattle Company, et. al., with Dr. Frank Wozniak and Dr. Frances Levine

- 1985-1986 Environmental Assessment for proposed demolition and/or relocation of buildings in the National Historic Landmark District, Naval Air Station Pensacola Complex, Pensacola, FL, for Historic Property Associates, St. Augustine, FL
- 1985-1986 Historical research for catalogue of ceramics from Ácoma and Laguna Pueblos prepared by School of American Research under a grant from the National Endowment for the Arts
- 1986 Historical research for Museum of New Mexico to complement archaeological investigations at the site of the Water Street Parking Garage in Santa Fe, NM
- 1986 Historical research for Bureau of Reclamation into social history of construction camps of dams along the Salt, Agua Fria and Verde Rivers in Arizona, under subcontract to Dames and Moore, Phoenix, AZ
- 1986 Research on three historic structures in Santa Fe for Schepps/New Mexico Development Co., Santa Fe, NM
- 1986 Historical research for the Laboratory of Anthropology, Museum of New Mexico, on a sixteenth-century Spanish military campsite near Bernalillo, NM
- 1987 Research on historic log flumes in Northern New Mexico for the National Park Service, under subcontract to Quivira Research Associates, Albuquerque, NM
- 1987-1993 Historical research for Sommer, Udall and Hardwick, PA, and Kelleher and McLeod, PA, for lands rights litigation, U.S. v. Leland Thompson, et. al.
- 1987-1988 Historical research for the Research Division, Museum of New Mexico, on two eighteenth-century archaeological sites near Abiquiú, NM
- 1987-1989 Architectural, archaeological and historical overview of South-Central New Mexico for the New Mexico Historic Preservation Division, under subcontract to Christopher Wilson
- 1988-1990 Historical research for White, Koch, Kelly and McCarthy, P.A., for water rights litigation, U.S.A. v. Abousleman, et. al.
- 1988-1992 Historical research for New Mexico State Engineer Office, for water rights litigation, State ex rel. Reynolds v. Kerr-McGee Corp.
- 1988 Historical research for the City of Santa Fe relating to the architectural history of the Plaza

1988-1989 Historical research for Southwest Archaeological Consultants relating to the history of the area surrounding the Loretto Chapel in Santa Fe, NM

1988-1989 Historical research for Potter and Kelly, P.A., relating to the history of Chimayo, NM in Apodaca v. Chávez.

1989 Historical research for the Arizona Department of Water Resources relating to the boundaries of the San Carlos and Fort Apache Reservations in Arizona, In Re: The General Adjudication of All Rights to Use Water in the Gila River System and Source, W-1, W-2, W-3 and W-4

1989-1993 Historical research for New Mexico State Engineer Office, for water rights litigation, State of New Mexico ex. rel. Reynolds v. Abeyta

1988-1989 Historical research for the Research Division, Museum of New Mexico, on the Sandoval Parking Garage site, Santa Fe, NM

1989 Historical research for Southwest Archaeological Consultants relating to the history of the Bonal property in Santa Fe, NM

1990 Historical research for Trans Lux-Montezuma Corporation pertaining to the environmental history of a property in the Railroad District in Santa Fe, NM

1990 Historical research for Coppler and Aragón, P.A. relating to the history of a road northwest of Santa Fe, NM

1990 Historical research for the New Mexico Environmental Improvement Division pertaining to the environmental history of a mining property near Pecos, NM

1991 Historical research for Peter Shoenfeld, P.A. into history of the early urban growth of Santa Rosa, NM

1991 Preparation of radio scripts on the history of twenty communities in New Mexico for State Historic Preservation Office

1991-1993 Historical research for Río de Chama Acequia Association into water rights on the Chama River in New Mexico

1991 Historical research for Southwest Archaeological Consultants pertaining to the historical development of the Railroad Yard property in Santa Fe, NM

1991 Research pertaining to history of rural road in Santa Fe County to determine its public status

1991-1992 Historical research for the City of Las Vegas, NM into settlement and growth patterns of Las Vegas, and the applicability of Spanish laws in New Mexico

1992 Historical research for Law Environmental, Inc., pertaining to the environmental history of a property in Albuquerque, NM

1992 Historical research for State Employees Credit Union pertaining to the environmental history of a property in Santa Fe, NM

Appointments:

1980 United States Fifth Circuit Court of Appeals Archives-History Committee

1981-1982 Chair, New Mexico Committee for the Promotion of History

1981-1985 New Mexico Cultural Properties Review Committee (ex-officio)

1982-1987 Historical Affairs Committee, Western History Association

1983-1986 National Policy Board, National Coordinating Committee for the Promotion of History

1983-1985 Ethics Committee, National Council on Public History

1984-1988 Advisory Board, Santa Fe Historical Society

1985-1989 Board of Directors, National Council on Public History

1985-1988 Chair, Cultural Resources Management Committee, National Council on Public History

1986-1989 Board of Editors, New Mexico Historical Review

1986-1987 Contributing Editor, NCPH News (Quarterly Publication of the National Council on Public History)

1986-1987 Subcommittee to Develop Archaeological Ordinance, Historic Design Review Board, City of Santa Fe

1986-1990 New Mexico Historical Documents Advisory Board

1986-1993 Socio Correspondiente, Centro de Estudios Inquisitoriales, Madrid (Corresponding Member, Center for Inquisition Studies)

1987-1988	Chair, Governmental Affairs and Advocacy Committee, Western History Association
1988-1989	Treasurer, National Council on Public History
1989-1990	Chair, Outreach Committee, National Council on Public History
1990-1993	Board of Editors, <u>The Public Historian</u>

Language Skills:

Reading, paleographical and conversational ability in Spanish; reading ability in Portuguese

Personal References:

Dr. Richard E. Greenleaf
Director, Roger Thayer Stone Center for Latin American Studies
Tulane University
New Orleans, LA

Mr. Kurt Sommer, Esq.
Sommer, Udall and Hardwick
200 West Marcy Street
Santa Fe, NM

Dr. Michael C. Scardaville
Director, Department of Latin American Studies
University of South Carolina
Columbia, SC

Papers Presented at Professional Meetings:

1976	"Crypto-Jewish Merchants in the Mining Region of Northern New Spain, 1620-1642," International Congress of Americanists, Paris, France
1977	"The Crypto-Jewish Experience in New Spain, 1620-1642," Seventh World Congress of Jewish Studies Jerusalem, Israel
1979	"Toward a Theory of Inquisitorial Motivation: The Campaign of the Mexican Holy Office Against Crypto-Jews, 1642-1649," Southwest Social Science Conference, Fort Worth, TX
1979	"The Louisiana Historical Center and Colonial Archives: Past, Present and Future," Louisiana Historical Association, Natchitoches, LA

- 1980 "The Utilization of Local Eighteenth-Century Records to Reconstruct Social and Economic History: The Case of Louisiana," South Central Society for Eighteenth-Century Studies, Albuquerque, NM
- 1980 "Fuentes para la historia de los isleños de Luisiana y Tejas," Cuarto Coloquio de Historia Canario-Americana, Las Palmas, Islas Canarias, Spain
- 1981 "Crypto-Jews and Elite Groups in New Spain in the Mid-Seventeenth Century," Rocky Mountain Conference of Latin American Studies, Las Cruces, NM
- 1981 Chair and Comment, "Historical Archaeology in the Spanish Borderlands," American Historical Association, Los Angeles, CA
- 1983 "San José de las Huertas in the Spanish Colonial Period," Historical Society of New Mexico, Albuquerque, NM
- 1983 "Historiographical Problems in the Study of the Inquisition and Crypto-Jews in New Spain," Colloquium, Departments of History and Mexican Studies, University of California at Berkeley, Berkeley, CA
- 1983 Chair and Coordinator, "Does He Who Pays the Piper Really Call the Tune? Problems of Ethics and Conflict of Interest in Public History," National Conference for Public History, Waterloo, Ontario, Canada
- 1983 "Coordinating Committee Work: The View from New Mexico," Coordinating Committee for History in Arizona Conference-Workshop, Tempe, AZ
- 1983 Chair and Organizer, "Land Grants and the U.S. Constitution," part of series of symposia on the Bicentennial of the Constitution in New Mexico, Española, NM
- 1984 Panelist, "Ethics and the Historian," National Conference for Public History, Los Angeles, CA
- 1984 Chair and Organizer, "Ladies of the Night or Soiled Doves - Prostitution in New Mexico," Historical Society of New Mexico, Taos, NM
- 1984 "The Black Legend and New Mexico History," Colloquium, St. John's College, Santa Fe, NM
- 1984 Chair and Comment, "Spanish Conversos in the Sixteenth Century," Sixteenth-Century Studies Conference, St. Louis, MO

- 1985 Chair and Organizer, "Textile Traditions," Historical Society of New Mexico, Las Cruces, NM
- 1985 (With Charles Cutter) "The 'Spurious' Cruzate Land Grant Documents of 1689: A Closer Look," National Conference for Public History, Phoenix, AZ
- 1985 Panelist, "Professional Training: Present and Future Challenges," American Association for State and Local History, Topeka, KS
- 1985 "Crime and Punishment: The Case of the Crypto-Jews Before the Inquisition of Mexico in the Seventeenth Century," Newberry Library Center for Renaissance Studies - Northern Illinois University Renaissance Conference, "The Inquisition as Court and Bureaucracy: An International Symposium", Chicago, IL
- 1986 "La Leyenda Negra y el conflicto étnico en la historia del Nuevo México," lecture to Casa de Cultura de Michoacán, part of Sueños Norteños lecture series sponsored by Partners for the Americas and Conexiones, Morelia, Michoacán, Mexico
- 1986 Panelist, "A Code of Ethics for the Historical Profession," American Historical Association, Chicago, IL
- 1987 "A Sixteenth-Century Campsite in the Tiguex Province: An Historical Perspective," Southwestern Historical Association, Dallas, TX
- 1987 Comment, "Historical Variety in the National Park Service," National Council on Public History/Society for Historians in the Federal Government, Washington, DC
- 1987 Panelist, "The France V. Scholes Colonial New Mexico Symposium," National Park Service - Spanish Colonial Research Center, Albuquerque, NM
- 1987-1990 "The Adobe Wall of Separation: A History of Church/State Relations in New Mexico," lecture delivered to academic and community audiences as part of the New Mexico Endowment for the Humanities Constitution Bicentennial Speakers Bureau
- 1988 "The Inquisition and the Crypto-Jewish Community in Colonial New Spain," University of California at Los Angeles - University of Southern California Conference, "Cultural Encounters: The Impact of the Inquisition in Spain and the New World," Los Angeles, CA

- 1988 "Crypto-Judaism in New Spain and New Mexico During the Colonial Period," University of New Mexico - Southwest Hispanic Research Center series of symposia, "Sephardim in New Mexico: Columbus' Hidden Legacy," Albuquerque, Las Cruces, Santa Fe and Las Vegas, NM
- 1989 "History of the Crypto-Jews of New Mexico," Western Social Science Association, Albuquerque, NM
- 1989 Comment, "Research Value of Cultural Resources Management/Historic Preservation Data: A Neglected Historical Resource," Organization of American Historians/National Council on Public History, St. Louis, MO
- 1990-1993 "The Sephardic Legacy in New Mexico: A History of the Crypto-Jews," lectures presented in Silver Spring, MD, Great Neck, NY, Adelphi University, Albuquerque, NM, Santa Fe, NM, Chicago, IL (American Sephardi Federation), Las Vegas, NM (New Mexico Jewish Historical Society), Phoenix, AZ, Denver, CO, Colorado Springs, CO, Amherst College, Brandeis University, University of Maryland, Los Alamos, NM, New Orleans, LA (International Congress of Americanists), Los Angeles, CA (Skirball Museum), Golden West College, Bernalillo, NM, Taos, NM, University of Illinois, Ocaté, NM, Kingston, Jamaica (Society of Historical Archaeology), Palm Springs, CA, Reed College, Teaneck, NJ, Penn State University, Wilmington, DE, Bayonne, NJ, San Francisco State University, University of California at Los Angeles, University of California at San Diego, University of Texas at El Paso, Roswell, NM, San Francisco State University, San Antonio Missions National Park, Santa Fe Community College, Wellesley College, Jersey City, NJ, Swarthmore College, San Gabriel Historical Society, Western New Mexico University, Peninsula Jewish Historical Society, Flint, MI, University of Michigan, Augustana College, Albuquerque Museum
- 1991 Comment, "Competition or Complement? The Relationship Between Historians and Archaeologists," Society for Historical Archaeology, Richmond, VA
- 1991 "The Inquisition and the Crypto-Jewish Community in Colonial New Spain and New Mexico," The International Conference on the Inquisition in the Americas and the Hidden Jews of the Southwest, Tucson, AZ
- Publications:**
- 1981 "The Crypto-Jewish Experience in New Spain, 1620-1642," in Proceedings of the Seventh World Congress of Jewish Studies (Jerusalem: World Congress of Jewish Studies)

- 1982 "The Inquisition as Economic and Political Agent: The Campaign of the Mexican Holy Office Against the Crypto-Jews in the Mid-Seventeenth Century," The Americas, Vol. 39, No. 1 (July 1982)
- 1982 "Historiographical Problems in the Study of the Inquisition and Crypto-Jews in Mexico," American Jewish Archives, Vol. 34, No. 2 (November 1982)
- 1984 (Editor and Compiler) New Mexico Directory of Historians and Historical Organizations. Santa Fe: New Mexico Records Center and Archives
- 1984 (With Carol Joiner, Co-Editor and Compiler) A Guide to Historical Markers in New Mexico. Santa Fe: Delgado Studios
- 1985 "Central American Research Materials in the Newberry Library," in Grieb, Kenneth, Research Guide to Central America and the Caribbean. Madison: University of Wisconsin Press
- 1986 "Does He Who Pays the Piper Call the Tune? Historians, Ethics and the Community," The Public Historian, Vol. 8, No. 1 (Winter 1986); republished in Federation Review; The Journal of the State Humanities Councils, Vol. 9, No. 5 (September/October 1986)
- 1986 (With William R. Adams, et. al.) Architectural and Historical Survey of the Naval Air Station, Pensacola. Charleston: U.S. Department of the Navy
- 1986 "La Inquisición en la vida económica de la Nueva España: la campaña contra los criptojudíos," in Bauer, Arnold J., La iglesia en la economía de América Latina, siglos XVI al XIX (Mexico City: Instituto Nacional de Antropología e Historia)
- 1987 (With Joan Pace) "Archival Study," in Archival and Archaeological Research at the Water Street Parking Lot [Santa Fe]. Santa Fe: Museum of New Mexico, Laboratory of Anthropology Notes, No. 388
- 1989 "The History of the History of Santa Fe," in Santa Fe: History of An Ancient City (Santa Fe: School of American Research)
- 1990 "Historical Context of LA 54147," in Bradley J. Vierra, A Sixteenth-Century Spanish Campsite in the Tiguex Province (Santa Fe: Museum of New Mexico Research Section, Laboratory of Anthropology Notes 475)

- 1991 "The Inquisition and the Crypto-Jewish Community in Colonial New Spain," in The Impact of the Inquisition in Spain and the New World (Los Angeles: Center for Medieval and Renaissance Studies, UCLA)
- 1992 "The Sephardic Legacy in New Mexico: The Story of the Crypto-Jews," 1992 Festival of American Folklife (Washington, DC: Smithsonian Institution)
- 1992 (Guest Editor) Imposing the Present on the Past: History, the Public and the Columbus Quincentenary, Special Edition of The Public Historian (Vol. 14, No. 4)

Honors Received:

- 1971 Graduated from the University of Maryland with Honors in History
- 1973-1974 Tulane University Graduate Fellowship
- 1974-1975 National Defense - Foreign Language Fellowship
- 1975-1976 Fulbright-Hays Dissertation Research Fellowship in Mexico and Spain
- 1977 National Endowment for the Humanities - Rockefeller Foundation Fellowship to attend Summer Institute in Quantitative Methodology, Newberry Library
- 1981 Tinker Foundation Fellowship to conduct research in Mexico City

EXHIBIT 171

MICHAEL E. ZELLER, P.E., P.H.
Principal of Firm,
Manager of the Tucson Division Office
Simons, Li & Associates, Inc.

EDUCATION

University of Arizona
B.S. in Physics, 1968

REGISTRATION

Registered Professional Civil Engineer in the State of Arizona (#12481)
Registered Professional Hydrologist, American Institute of Hydrology (#698)

TECHNICAL SOCIETIES

American Institute of Hydrology
American Society of Civil Engineers, Member
American Water Resources Association, Member
Arizona Floodplain Management Association, Member
National Society of Professional Engineers, Member
Southern Arizona Water Resources Association, Member

NATIONAL COMMITTEES

ASCE Bridge Scour Task Force, Control Member and Secretary of Committee
National Transportation Research Board, Hydrology/Hydraulics/Water
Quality Committee A2A03, Member

LOCAL COMMITTEES

City of Tucson Stormwater Technical Advisory Committee, Member
Pima County Flood Control District Advisory Committee, Member
Rincon Institute Science Advisory Panel, Member

SAMPLE PUBLICATIONS

Manual for the prediction of peak discharges from semi-arid watersheds entitled,
Hydrology Manual for Engineering Design and Floodplain Management Within Pima
County, Arizona.

A Theoretically-Derived Sediment Transport Equation For Sandbed Channels In Arid
Regions (with W. T. Fullerton).

Mr. Zeller is a Principal of the Firm, and the Manager responsible for office administration and all projects in the Tucson office. His principal fields of interest are arid and semi-arid hydrology, hydraulics, erosion and sedimentation, drainage, flood control, floodplain management, state-of-the-art technology transfer, flood-hazard studies, and water-resources development.

As a Principal of SLA, Mr. Zeller has served as project principal and/or project manager for literally hundreds of projects relating to hydrologic, hydraulic, erosion and sedimentation problems within areas in and around Tucson and Phoenix, Arizona. Principal projects have included a river-mechanics study for the Santa Cruz River, Tucson, Arizona; management of the Flood Control/Floodplain Management element of the Rillito Corridor Study, one of four principal elements of \$1.7 million dollar master-plan study for a 110-square-mile area in northern Tucson, Arizona; development of a detention/retention design manual for use by both Pima County and the City of Tucson; development of a floodplain and drainage standards manual for the City of Tucson; preparation of river-management plans for the Santa Cruz and Rillito Rivers, Tucson, Arizona; development of basin-management plans for the City of Tucson and Pima County; and preparation of a master surface-water plan for the City of Sierra Vista, Arizona.

Until joining Simons, Li & Associates, Inc., in 1981, Mr. Zeller was employed by the Pima County Flood Control District, located in Tucson, Arizona, for over eight years. His main responsibilities during that period, as Manager of the Floodplain Management Section, were the administration and enforcement of Pima County's Floodplain Management Ordinance and the review and approval of all hydrologic and hydraulic aspects of in-house and private-development drainage projects, including design input into the varied transportation and flood-control related projects ongoing within Pima County.

Mr. Zeller also completed work on and authored a method for the prediction of peak discharges from semi-arid watersheds in 1979, while employed with the Pima County Flood Control District. The publication, or its variations, is used by both Pima County and the City of Tucson as an engineering standard for regulatory purposes in establishing peak rates of runoff within their individual jurisdictional boundaries.

Mr. Zeller is currently serving as the Project Manager for development of the City of Tucson Stormwater Management Study, Phase II, Stormwater Master Plan. In this capacity, Mr. Zeller is responsible for supervising a multi-disciplined project team that will be developing a comprehensive, watershed-based master plan for managing both stormwater quantity and quality elements of the entire 160-square-mile stormwater system located within the incorporated limits of the City of Tucson, Arizona.

SLA PROJECT EXPERIENCE
of
MICHAEL E. ZELLER, P.E., P.H.
(Partial Listing)

Title: Principal-In-Charge, Arizona Region

Expertise: River Mechanics
Flood Control/Floodplain Management
Surface-Water Hydrology/Hydraulics
Sediment Transport

**Experience
with SLA:**

- Project Manager for a drainage needs study performed for the City of Tucson, Arizona. Project involvement included evaluation of flood-hazard/flood-damage potential, and development of a capital-improvement/drainage-improvement plan.
- Project Principal for a study to determine the long-term hydrologic relationship between four 5-acre infiltration basins at the Green Valley, Arizona, Wastewater Treatment Facility and the adjoining groundwater system.
- Project Manager for a basin-management plan for the Flecha Caida Area, Pima County, Arizona. The completed study involved analysis, management alternatives, and construction drawings with phased improvements. Project involvement included hydraulic analysis, floodplain delineation, evaluation of management-plan alternatives, and preparation of construction plans.
- Project Manager for the flood-control/floodplain management element of the two-year-long Pima County Rillito Corridor Study, Pima County, Arizona. Project involvement included the development of a long-range, master river-management plan that encompasses 35 miles of river system in the Tucson, Arizona, area. Project involvement included presentation of flood-control-related study results at public meetings and to citizen-advisory committees.
- Project Principal for participation in a state-of-the-art groundwater contamination study in the Tucson, Arizona, Basin. The work was accomplished under contract to Harding Lawson Associates, and was undertaken for Pima County, Arizona. Objectives of the study were to determine the extent to which two abandoned landfills may be contributing to volatile organic contamination of the alluvial valley aquifer.

- **Project Manager for the development of a comprehensive surface-water management plan for the City of Sierra Vista, Arizona. Project involvement included hydrologic and hydraulic analyses, evaluation and analysis of plan alternatives, development of drainage design standards, preparation of conceptual construction plans and a capital-improvement phasing plan, as well as the preparation of a surface-water appropriation plan.**
- **Project Manager for the preparation of a design manual for both the Pima County Flood Control District and the City of Tucson for use by Consulting Engineers in the analysis and design of stormwater detention/retention facilities. Project involvement included the research and evaluation of flood-routing models, methods of determining runoff hydrographs, and various types of detention/retention concepts suitable to the desert Southwest.**
- **Project Principal for the development of a basin-management plan for a twelve-square-mile watershed contributory to the West Branch of the Santa Cruz River, Tucson, Arizona. The plan included analysis and floodplain mapping of a two-mile reach of the West Branch, analysis of existing flood hazards, and development of alternate management plans for mitigating basin-wide flood hazards.**
- **Project Manager for a FEMA map amendment of the Silvercroft Wash and Tributaries under a City of Tucson contract, Tucson, Arizona. Project involvement included redefining floodplain and floodway boundary maps for multiple discharges.**
- **Project Principal for a river-mechanics study of the Santa Cruz River from St. Mary's Road to El Camino del Cerro, Pima County, Arizona. Project involvement included a river-mechanics study and master river plan for a six-mile reach of the Santa Cruz River.**
- **Project Manager for a hydrologic and hydraulic analysis for Hidden Hills Wash, between Broadway Boulevard and Speedway Boulevard, Tucson, Arizona. Project involvement included evaluating the existing flooding problems within the project reach, and then recommending alternate solutions for same. Each of the alternatives was analyzed in detail, and design recommendations were prepared and submitted to the City of Tucson in a report which outlined the methodologies, computations, available alternatives, cost estimates, and design recommendations for this project.**

- **Project Manager for a basin-management plan for the Campbell, Racetrack, and Via Entrada Washes, Pima County, Arizona. The completed study involved analysis, management alternatives, and construction drawings with phased improvements. Project involvement included hydraulic analysis, floodplain delineation, evaluation of management-plan alternatives, and preparation of construction plans.**
- **Project Manager for a basin-management plan for the Craycroft, Tanuri, and Ventana Canyon Washes, Pima County, Arizona. The completed study involved analysis, management alternatives, and construction drawings with phased improvements. Project involvement included hydraulic analysis, floodplain delineation, evaluation of management-plan alternatives, and preparation of construction plans.**
- **Project Manager/Engineer for the development of interim design procedures for detention/retention facilities within Pima County, Arizona. The procedures, which are very general in nature, provide a step-by-step approach to the development of detention/retention design parameters, and were intended to be the forerunner of a more detailed design manual which would address detention/retention design in much greater detail.**
- **Project Manager/Engineer for a simplified design procedure developed by SLA for estimating the impacts of river scour upon pipelines which cross and/or run parallel to alluvial drainage channels. Project involvement included developing methods for evaluating general scour, local scour, long-term degradation, lateral migration, and dynamic loadings upon pipe/support structures.**
- **Project Manager/Engineer for development of a Simplified Flood Peak Estimator Procedure for use by the City of Tucson. The methodology employed was a simplification of the more complex Pima County Hydrology Method developed by Mr. Zeller while employed by the Pima County Flood Control District.**
- **Project Manager for the development of a design manual for predicting the response of fluvial systems to natural and man-induced changes. Project involvement included the preparation of a manual to be used by the Arizona Department of Water Resources in applying the unique multi-level approach developed by Simons, Li & Associates, Inc., for analyzing water-resource projects located within the State of Arizona.**

- **Project Principal for a river-response analysis associated with the Rio Nuevo/Santa Cruz River Flood Control and Channelization Project, Tucson, Arizona. Project involvement included a three-level analysis to assess erosion and sedimentation problems, including qualitative-geomorphic, engineering-geomorphic, and physical-process-model analyses. In addition, several design alternatives for bank protection were developed.**
- **Project Principal for a sediment-transport and channel-stability analysis along approximately a two-mile-long reach of the Santa Cruz River, extending from Silverlake Road, to the south, to just beyond St. Mary's Road, to the north, in conjunction with the proposed development of the Rio Nuevo project, Tucson, Arizona. Project involvement included an analysis of potential aggradation/degradation on a reach-by-reach basis through the study area, as well as an investigation of the potential for lateral migration of the river during extreme flows. In addition, an assessment was made as to the adequacy of proposed bank-protection measures, as well as establishment of the size and number of grade-control structures needed to assure the vertical stability of the river bed under design flow conditions.**
- **Project Principal for a comprehensive river-management plan for approximately twenty-six miles of the Santa Cruz River located between Martinez Hill and Avra Valley Road, Pima County, Arizona. Project involvement included collection and review of historical river data; evaluation of the existing hydrology of the study reach; evaluation of adequacy of the existing channel and hydraulic structures; development of preliminary floodplain mapping along the study reach; evaluation of geomorphic responses expected within the river system; recommendation of appropriate structural and non-structural flood-control measures for the study reach; and preparation of a regulatory document that can serve as the basis for enforcing a consistent Santa Cruz River Management Plan along the study reach.**
- **Project Manager for a hydraulic and geomorphic analysis for design of erosion-control structures along Ocotillo Road in Cochise County, Arizona. Project involvement also included design of structures to control erosion and headcutting of channels which cross a rural county road in Cochise County, Arizona. Project involvement included an engineering and economic analysis, from which recommended alternative solutions were provided to Cochise County.**

- **Project Manager for a hydraulic and geomorphic evaluation of the proposed Tanque Verde Road Bridge and associated channel improvements along the Tanque Verde Creek, Pima County, Arizona. Project involvement included development and evaluation of alternative solutions for mitigating the overbank flow problem of this wash, and preparation of a bridge and channel design concept. As a result of this study, recommendations were made for implementing a bridge modification plan that would improve transportation conditions and insure the long-term stability of the structure, but would not provide all-weather access during larger floods.**
- **Project Principal for a river-mechanics study, including bank-protection and grade-control measures, along a one-mile reach of the Pantano Wash between Broadway Boulevard and 22nd Street, Tucson, Arizona. Project involvement included hydrologic, hydraulic, erosion, and sedimentation analyses of the study area.**
- **Project Principal for a hydraulic and geomorphic analysis on the Pantano Wash between 29th Street and the Stella Road alignment, Pima County, Arizona. Project involvement included determination of cross sections and alignments for channelization, and an evaluation of the long-term changes that would occur as a result of the proposed channelization.**
- **Project Manager for a qualitative and quantitative geomorphic analysis of the Rillito River in the immediate vicinity of Flowing Wells Road in Pima County, Arizona, for purposes of establishing the design profile for a sewer-line crossing of the river. Project involvement included determining the historical channel response to previous flood events of varying frequencies, as well as predicting channel response to future single-event floods, along with anticipating long-term response from a series of floods.**
- **Project Manager for a general scour and lateral migration/erosion analysis of five (5) river crossings for waterlines owned by the City of Tucson, Tucson, Arizona. Project involvement included analyzing the anticipated river response should a flood occur which is equal in magnitude to that which occurred in October, 1983. For comparison purposes, the analysis also considered historical response which occurred during previous flood events.**

- **Project Manager, as a part of Phase I and II of the City of Tucson Aviation Corridor Project, for a hydrologic and hydraulic analysis of the Tucson Arroyo, Tucson, Arizona. Project involvement included evaluation of alternatives for mitigating flood-damage potential to State Route 210, with special emphasis on floodwater detention measures.**
- **Project Manager for a drainage relief study to evaluate alternatives for mitigating flood-damage potential along the El Rio Wash, Tucson, Arizona.**
- **Project Manager for analysis and design concept of Kinnison Lake and Lakeside Dam reconstruction, Tucson, Arizona. Project involvement included hydraulic analysis for a new spillway and its appurtenances, which were constructed entirely of soil cement; and realignment of Kinnison Wash, which involves 2000+ feet of channelization and a sixteen-foot-high, baffled-chute drop structure. A recreational master plan for the entire park was also being developed during this study effort.**
- **Project Manager for an analysis of the hydraulic performance of a proposed 2400-foot-long box culvert system designed in conjunction with the development of the Williams Centre Commercial Property, Tucson, Arizona. Project involvement included a thorough evaluation of the complex hydraulic features of the proposed structure, for both pressure and open-channel-flow conditions, which in part involved evaluating the existing system via the use of the "standard step backwater technique" to determine the hydraulic and energy gradelines for flow through the structure.**
- **Project Manager for a hydraulic and geomorphic analysis of the Rillito River near the Prince Road alignment, Tucson, Arizona, for the purpose of defining the optimum alignment and profile for a major effluent pipeline crossing proposed for this reach of the river.**
- **Project Manager for a floodplain encroachment analysis of the Rillito River for property located south of the Rillito River and west of Cactus Boulevard, Tucson, Arizona. This project also included performing all tasks necessary to secure a floodplain map amendment from the Federal Emergency Management Agency (FEMA).**
- **Project Manager for a general-scour and lateral-migration/erosion analysis of Arcadia Wash, Tucson, Arizona, as it impacts the proposed Tucson Medical Offices to be located adjacent to the wash.**

- **Project Manager/Engineer for the design of soil-cement grade-control structures at the Magee Road Bridge over the Cañada del Oro Wash, Pima County, Arizona. Project involvement included development of alternatives for a baffled-apron drop structure and a series of soil-cement drop structures.**
- **Project Manager for the review of hydraulic design factors for three proposed drop-structure alternatives in the vicinity of the Magee Road crossing of the Cañada del Oro Wash, Pima County, Arizona. Project involvement included reviewing the three proposed alternatives (reinforced-concrete drops, soil-cement drops, and a continuous rollcrete chute) and presenting Pima County with a recommended alternative.**
- **Project Principal for a river mechanics and bank-stabilization study on the Julian Wash, Pima County, Arizona, to determine river impacts upon the proposed Southeast Sanitary Sewer Interceptor.**
- **Project Manager/Engineer for a sediment-transport analysis of the Cañada del Oro Wash (CDO) from Big Wash to Interstate 10, Pima County, Arizona. Project responsibilities included a detailed water and sediment routing of a 100-year flood along this twelve-mile reach of the CDO.**
- **Project Manager/Engineer for a river-stability analysis of the Santa Cruz River from Irvington to Ajo Way, Tucson, Arizona. Project responsibilities included an onsite drainage investigation of property in the vicinity of Ajo Way and Valley Road, review of existing FIA maps, and mapping of floodprone areas, based upon the study results.**
- **Project Principal for a hydraulic and geomorphic analysis of the Alamo Wash, Tucson, Arizona. Project responsibilities included analyzing the short-term and long-term stability of the Alamo Wash, and development of channel-stabilization alternatives.**
- **Project Manager for a hydraulic analysis of three storm-drain systems in conjunction with the design of the Skyline Gateway, Tucson 1, and Villa Mesa Apartment Developments Projects, Tucson, Arizona. Project involvement included analysis of a hydraulically long, underground storm-drain system for each of the developments.**

- **Project Manager for a hydraulic analysis of a reach of the Rillito River between First Avenue and Campbell Avenue, Tucson, Arizona. Project involvement included a three-level geomorphic analysis, which was utilized in developing design parameters for bank-protection measures to protect the proposed development from flood and erosion hazards.**
- **Project Principal for a hydraulic and geomorphic analysis of proposed channel improvements along a reach of the Cañada del Oro Wash through the Tucson National Country Club, Pima County, Arizona. Project involvement included development of design parameters for channel stabilization measures, and recommendations for providing a means of transitioning the project improvements into a natural channel geometry at Hardy Road (the upstream end of the project).**
- **Project Principal for a hydraulic analysis of the Pantano Wash from 22nd Street to Houghton Road, Pima County, Arizona. Project involvement included an engineering-geomorphic analysis to assess the magnitude and direction of long-term changes in the channel geometry, from which design parameters for channel bed and bank protection were developed.**
- **Project Principal/Manager for a sediment-transport analysis of the Rillito River and tributaries for the Tucson Urban Study, Pima County/Tucson, Arizona. Project involvement included hydrologic, hydraulic and geomorphic analyses; and hydraulic and sediment-transport computer modeling of over forty river miles.**
- **Project Principal for an analysis for the extension of the Rio Nuevo Flood Control Project from Mission Lane to 29th Street, Tucson, Arizona. Project involvement included an engineering-geomorphic analysis to assess the magnitude and direction of long-term changes in the channel geometry, from which design parameters for channel bed and bank protection were developed.**
- **Project Principal for a HEC-2 analysis performed on a four-mile-long reach of the Cañada del Oro Wash, in Pima County, Arizona. Project responsibilities included delineating floodplain/floodways, and assisting Pima County in obtaining a floodplain map amendment.**
- **Project Principal for a hydraulic and geomorphic analysis of the Pantano Wash in Tucson, Arizona, for the purposes of developing design parameters for bank protection adjacent to Vincent Mullins Landfill.**

- **Project Manager for a river-mechanics study of the Pantano Wash in the vicinity of the Wilmot Road alignment, Pima County, Arizona. Project responsibilities included providing a conceptual channel design, including bank-protection measures and grade-control structures.**
- **Project Manager for the Cañada del Oro Flood Control Project, Pima County, Arizona. Project involvement included hydrologic and hydraulic analyses, floodplain mapping, development of flood-control alternatives, and cost-benefit evaluation.**
- **Project Principal/Manager for design review services in conjunction with flood-control improvements to the Cañada del Oro Wash, Pima County, Arizona, in order to provide flood protection for the proposed 80-Acre Garrett Corporation/AiResearch Manufacturing Site.**
- **Project Manager/Engineer for an analysis of the detention-reservoir, sediment-trap efficiencies at the proposed Rodeo Wash Detention site in Pima County, Arizona, to be developed in conjunction with the Pima County Kolb/Valencia Corridor Project.**
- **Project Manager for a river-mechanics study and hydraulic stability analysis for a 16-inch-diameter waterline crossing under the Santa Cruz River and a 48-inch waterline crossing under the Rillito River, Pima County, Arizona.**
- **Project Manager/Engineer for a feasibility analysis for bank protecting the North Rillito Interceptor, Pima County, Arizona. Project responsibilities included a detailed engineering-geomorphic analysis from which recommendations for soil-cement bank protection were developed.**
- **Project Manager for an analysis of alternative stabilization measures for a 60-inch-diameter irrigation district pipeline crossing of the Santa Cruz River upstream of Avra Valley Road, Pima County, Arizona. Project involvement included an economic and structural analysis of the stabilization measures which would prevent the pipeline from breaking during a flood similar to that which occurred in October, 1983.**
- **Project Manager to assess damage to a gasline crossing of the Santa Cruz River at Pima Mine Road, Pima County, Arizona, which resulted from the October, 1983 flood. Project responsibilities also included recommending short-term and long-term alternatives for modifying the profile of the gasline to prevent future failure during similar flood events.**

- **Project Principal for a conceptual analysis of interim and long-term flood-control solutions along major watercourses within Pima County, Arizona, necessitated by the October, 1983 flood.**
- **Project Principal for a channel-stability analysis of the Julian Wash from Kolb Road to Treat Avenue, Pima County, Arizona. Project involvement included both an engineering-geomorphic analysis, from which expected short-term and long-term channel stability was estimated, and the establishment of structural controls and estimated costs for channel stability.**
- **Project Manager for a design procedure for determining the burial depth and downstream toe-down for rigid grade-control structures. The end product was the development of an equation and/or graphical method to predict the maximum scour at the downstream toe of the grade-control structure. In particular, the impact of partially submerged flow upon the scour depth was analyzed. The approach to achieve this goal utilized a hydraulic physical model.**
- **Project Manager for a hydraulic and geomorphic analysis conducted to assess the impact of channelization and realignment of the Santa Cruz River between the Rillito River confluence and Cortaro Road, Pima County, Arizona. Also contained within the plan was a proposal to widen the Santa Cruz River at the confluence with the Cañada del Oro Wash for the purpose of inducing sediment deposition in order to provide a source of minable sand and gravel material.**
- **Project Principal for a hydraulic and geomorphic analysis conducted to assess the feasibility of developing a 200-acre site along a portion of the Pantano Wash, in Pima County, Arizona, as a sand and gravel mining operation for Blue Circle West, Inc. The development of alternative means of mitigating adverse impacts to the river system resulting from sand-and-gravel mining was evaluated to find solutions for controlling degradation in the Pantano Wash, due in part to the removal of sand-and-gravel materials from the river system.**
- **Project Manager for a hydraulic and geomorphic analysis conducted to assess the feasibility of realigning a one-mile-long section of the Pantano Wash, in Pima County, Arizona, to allow for the expansion of The Tanner Companies' sand-and-gravel mining pit. The recommended measures included construction of bank protection along the reach adjacent to the pit, and the establishment of adequate erosion buffers in areas which were not stabilized.**

- **Project Principal for preparation of a Master Drainage Plan for the 160-acre Williams Centre commercial site, in Tucson, Arizona. The purpose of the Master Drainage Plan was to develop a stormwater detention/retention system which would provide assurance to the City of Tucson that post-development flood peaks generated by the 160-acre Williams Centre commercial site would be no greater than the magnitude of flood peaks generated prior to its development.**
- **Project Principal for a basin-management study of the approximately nine-square-mile Arroyo Chico Basin, in Tucson, Arizona. The goals and objectives of the study were to develop a comprehensive hydrologic and hydraulic data base for existing conditions; assess the drainage problems, both present and future, within the basin; recommend stormwater-management alternatives for mitigating such problems; and develop a stormwater master plan, for implementation by both public and private parties, that would result in the minimization of future flood-damage potential.**
- **Project Principal for the preparation of a Floodplain and Drainage Standards Manual for the City of Tucson, Arizona. A recommendations report was first prepared in order to present results of research efforts, and to provide recommendations to the City of Tucson with regard to drainage issues. The project then culminated in the development of a comprehensive drainage design manual which addressed the unique hydrologic, hydraulic, and erosion characteristics found in the semi-arid, Tucson environment.**
- **Project Principal for the First Avenue Storm Sewer Study, in Tucson, Arizona. The study included a hydrologic/hydraulic analysis of over a two-mile-long stretch of roadway for purposes of sizing a major storm drain to carry stormwater runoff to the Rillito River. In addition, concept design drawings were prepared for the purpose of establishing the feasibility of construction, and subsequently the associated construction costs.**
- **Project Principal for undertaking a hydrologic and hydraulic analysis, for Cottonwood Properties, Inc., of over 4500 acres of property located within and adjacent to the Tortolita Mountains, in Pima County, Arizona. The study included developing the hydrology for numerous watersheds ranging from a few acres to over 7.6 square miles in size. Additionally, HEC-2 modeling was performed for all watercourses where the 100-year peak discharge exceeds 100 cubic feet per second.**

- **Project Principal for the development of a master drainage concept plan for an 800-acre subdivision being developed by the Estes Company within an area located northwest of Tucson, in Pima County, Arizona. The plan required the capturing of multiple, braided streams in order to control "sheet flooding" for the purpose of directing stormwater runoff to controlled exit points established at appropriate downstream locations.**
- **Project Principal on a study performed for the L.A. District of the U.S. Army Corps of Engineers to evaluate the erosion and sedimentation impacts of a proposed bank stabilization and grade-control project along the entire 12.2-mile-long reach of the Rillito River. As a component of the study, a computer model was developed to simulate the effects of flows upon erosion and sedimentation within the Rillito River for "with-project" and "without-project" conditions.**
- **Project Principal for the preparation of a hydraulic design report of the Rillito River in the vicinity of Tucson, Arizona, for the L.A. District of the U.S. Army Corps of Engineers. The purpose of the hydraulic design report was to provide sufficient information for the COE to produce a general design memorandum which will be the basis for preparing final construction plans, cost estimates, and design specifications for 12.2 miles of soil-cement bank protection and attendant grade-control structures along the river.**
- **Project Principal on a research study performed for the Arizona Transportation Research Center to document and analyze information regarding the effects of in-stream mining of sand and gravel on channel stability and resulting bridge damage during major flood events. The ultimate purpose of the study was to develop a set of regulations governing in-stream mining.**
- **Project Principal for the analysis and design of soil-cement bank-stabilization measures along a 2-mile-long reach of the Santa Cruz River that contains the confluences of the Rillito River and Cañada del Oro Wash. The analysis portion of the project consisted of a river-mechanics study to develop design parameters, and the design portion included preparation of construction drawings.**
- **Project Manager for Phase III of a hydrologic analysis of the Tucson Arroyo, which involved basin-wide evaluation of the feasibility of flood-detention. Numerous sites were identified, and from the results of modeling and reservoir routing, a preferred system of flood-detention basins was proposed for the Tucson Arroyo system.**

- **Project Principal for the preparation, in cooperation with The Planning Center, of the Specific Plan for a 2000-acre master-planned community located within the Tortolita Mountain foothills. The natural drainage patterns of the area present some unusual problems for development, as much of the area exists on an alluvial fan. SLA conducted a hydrologic and hydraulic study of the area and developed a conceptual, regional drainage plan that not only solves the existing drainage problems, but also provides extensive recreational and open-space opportunities for future residents of this area.**

- **Project Principal on a project to analyze the hydrology of the Rincon Valley and develop reasonable floodplain limits for approximately 15 miles of watercourses in the study area. Hydrologic studies focused on those portions of Rincon Creek and its principal tributaries that affect a proposed large-scale commercial and residential development. Results of the analyses were incorporated into the "Rocking K Specific Plan."**

- **Project Principal on a City of Tucson project to assess the need for flood and erosion-control improvements along the Alamo Wash watershed. HEC-1 and HEC-2 models were developed to model hydrologic impacts on the watershed of various flood-control alternatives, to establish limits of flooding during various flow events, and to produce floodplain mapping along the watercourse. Detailed cost analyses were performed for each of the alternatives considered. The study involved significant public involvement, regular public meetings, and the establishment of a neighborhood advisory committee.**

- **Project Principal for the interim analysis of proposed sand and gravel mining operations along the Pantano Wash. Technical assessment consisted of determining peak-discharge values and constructing corresponding hydrographs. A detailed hydraulic study was then conducted to establish threshold values above which flow might impact the proposed pit site. Finally, an overbank flood hydrograph was constructed to evaluate the potential impacts at the site. Based on this analysis, a temporary floodplain use permit was requested until a more detailed river-mechanics study could be performed.**

- **Project Principal on a sediment-transport study for approximately 12 miles of the Pantano Wash. The study consisted of analyzing the watercourse response to the 2-year and 100-year design floods using a sediment-transport model developed by SLA. A "natural-watercourse" condition and an "in-stream, gravel-pits" condition were assumed for the analysis. A report prepared by Pima County on sediment transport in the Pantano Wash was also reviewed and related to the modeling results.**

- **Project Principal for a sand and gravel mining study of the Pantano Wash in the vicinity of Valencia Road. The study consisted of a thorough investigation of the impacts of an in-channel sand and gravel pit on the vertical and horizontal stability of the Pantano Wash during a single flood event, using SLA's computer model "CRISM". In addition, long-term system impacts to the Pantano Wash resulting from continued sand and gravel mining were also analyzed. Finally, a mining plan was then formulated which would allow for a sand and gravel operation at the site without causing unreasonable impacts within the Pantano Wash system.**

- **Project Principal for a comprehensive drainage and erosion mitigation study of the Calle del Pantera Area of Flecha Caida Estates, Pima County, Arizona. The project consisted of a commercial-development/roadway-improvement impact study, a regional-detention feasibility study, and a channelization/erosion-control impact study. Included were a multi-frequency hydrologic analysis of the Valley View Wash watershed, a detailed multi-level floodplain analysis of approximately two miles of the Valley View Wash, field surveys of the study area to establish finished-floor elevations of all developed floodprone lots, a cost/benefit analysis, a detailed hydrologic-routing analysis, a hydraulic-routing analysis, and preliminary design for both short-term and long-term erosion-control structures.**

- **Project Principal on an extensive floodplain-floodway encroachment analysis of the Santa Cruz River near Green Valley, Arizona. This analysis was performed for Franzoy-Corey Engineers on behalf of the Pima County Wastewater Management Department as part of the Green Valley Wastewater Treatment Plant Expansion Project. The analysis consisted of the delineation of the 100-year floodplain and floodway limits along approximately two miles of the Santa Cruz River in the immediate vicinity of the existing treatment facility and the proposed expansion area, and the development of alternative mitigation measures which would facilitate expansion of the current treatment process (i.e., percolation beds). Floodplain characteristics were defined for both the**

regulatory discharge and the design discharge. Mitigation alternatives and the need to obtain a 404 permit were evaluated.

- Project Principal on a study to evaluate the design requirements for the placement of a sewer main beneath the Pantano Wash near the Glenn Street alignment. The study consisted of a detailed hydraulic analysis of approximately one mile of the Pantano Wash to define the design parameters for the geomorphic analysis, which consisted of both a qualitative and quantitative assessment of the erosion hazards associated with the Pantano Wash during the 100-year flow event. The results of the analysis were then used to design the profile of the replacement sewer.

EXHIBIT 172

TO BE SUPPLIED

EXHIBIT 173

TO BE SUPPLIED

EXHIBIT 174

TO BE SUPPLIED