

ECHOES OF
YESTERDAY

ECHOES OF YESTERDAY
SUMMIT COUNTY CENTENNIAL HISTORY

D.U.P.
Summit
County

Small Label, Inc.
**DEFENDANT'S
EXHIBIT**
137

JC 2352

1865

July 8 Special Term of County Court, met July 8th 1865
 according to adjournment
 Present Hon. George G. Snyder Judge
 Elias Roper Selectman
 Orrin S. Lee
 Henry S. Alexander Sheriff
 Clarence Jackson Clerk

} Court granted to William H. Kimball the right to collect
} Tolls on some Bridges made by him in Sarley's Park from all
} Drigheters - Wagon - Citizens of the County to pass free.
 The Petitions from the Citizens of Peor, and three miles
 Kanyon for a County road (and free Bridge) on the west side
 of Weber river - considered and granted.
 The Petition of W. H. Smith granted
 Court adjourned to 14th Monday in Sept. next
G. G. Snyder
 Probate Judge.

Sept. 4 Regular September Term of County Court for Summit Co
 Monday Sept 4 - 1865
 Present Hon. George G. Snyder - Judge
 Elias Roper
 Jacob Hoffmann } Selectman
 Orrin S. Lee }
 Clarence Jackson Clerk

} The Petition of F. K. Kuffman, S. S. Kuffman & Marshall and
} Jacob Kuffman to enter saw timber on Clark creek Kanyon
} considered and granted. The citizens shall have the privilege
} to haul logs to said mill and have them sawed on shares or
} one half.
} The Petition of W. H. Hooper for a renewal of the
} grant of a head ground on East Kanyon creek considered
} and granted.
} The Petition of Charles Crismon for a head ground
} in Deer Valley, south east of Round valley in Sarley's Park
} considered and granted.
} The Petition of Joseph Woodman and brother for a
} head on East Kanyon creek - renewed.

Sketch of the Life of
 Jacob Huffman
 A Utah Pioneer of 1861
 Prepared by his daughter Gertrude Bagnell
 January 25, 1936

Along with the well known farm products, crops and animals, He had an exceptionally good garden raising strawberries, red and black currants, gooseberries and apples and plumbs.

He was school trustee at Upton for years. While he had never had any educational oppertunities himself he was a great reader, reading every possible book and paper he could find. He alswys enjoyed reading and was well versed on many subjects.

He moved his saw mill from Echo Canyon to the East Fork of Chalk Creek. He operated this mill for many years, however, it was said of him that he gave more lumber away than he sold.

He was known far and wide for his generosity and hospital-ity. The stranger was always welcome within his gates and there was always room for an extra place at the table and a nights lodging for those who desired it.

He was always very charitable, giving always with a free heart in a quiet way to those in need. The reciever in many cases never knowing who their giver was.

He died Aug. 22, 1899. In the Deseret News, printed Aug. 23, 1899 the following article was written:

"Coalville, Utah Aug, 23, 1899.
 "Jacob Huffman, an old resident of this county and a man universally known and respected throughout the state died at Upton last night. He was born in Waterloo, Canada Aug. 28, 1823. He embraced the faith in Nauvoo in 1845. Jacob Huffman was the man who loaded the wagon load of flour for president Young at the time of the departure from Nauvoo which was made a present to him. History speaks of this event but does not give the name of the man who made the present. Mr. Huffman was the party. He came to Coalville in 1861 and was a member of the High Council; he has been very prominent in religious circles; he leaves 12 children 45 grandchildren and 15 greatgrandchildren."



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 DAUGHTERS OF UTAH PIONEERS

76	18-07-1869	
1869 June 7	<p>Judge Hendley presented a plan for a County and City Jail also Office for the Recorder and City.</p> <p>Stipulations to sell liquor are required to 50¢ a month or 100¢ a quarter.</p> <p>Adjourned to Saturday 19th June at 10 am.</p> <p style="text-align: right;"><i>W. Hendley</i> Probate Judge</p>	
June 19	<p>18-19-1869</p> <p>June 19, 1869</p> <p>County Court met at 10 am according to adjournment.</p> <p>Present: Wm. S. Hendley Ross H. Hooper Jesse S. Lee W. Hendley</p> <p>The judge remarked that the United States Surveyors are up Chalk Creek, and suggested the priority of a good man going along with them to make notes of the sections, and put down the oldest citizen's names on each one, to pre-empt the land and make rough plots of the sections each night.</p> <p>In regard to taking up Homesteads, the Railroad Company will walk every point, and jump claims, and go to land. It is better to pre-empt the land, and settle the local sites.</p> <p>The court voted that the judge settle with Thomas Colson according to his agreement, and not pay for his time or expenses as a witness to Salt Lake City.</p> <p>Adjourned sine die.</p> <p>The accounts laid over till to day, not being reported they were again laid over for correction.</p> <p style="text-align: right;"><i>W. Hendley</i> Probate Judge</p>	

DEFENDANT'S EXHIBIT
242

257 8007

4
3 *Ammonia*
Pr. 1/2 - 1/2

BOOK 115

31

FIELD NOTES

OF *A Part of*
THE SURVEY OF THE
North East *Quadrant*

Of Township *No 2 N* Range *No 1 E*

OF THE SALT LAKE MERIDIAN,
IN THE TERRITORY OF UTAH.

BY *John G. Purnell*

DEPUTY SURVEYOR UNDER JOINT CON-
TRACT OF

Pailey & Purnell

No. *61* Dated *June 10th 1875*

Survey Commenced *July 3rd 1875*

Survey Completed *July 31st 1875*

JC 2187

DEFENDANT'S
EXHIBIT
191

BOCK 115

Comptroler General

7/6

101

FIELD NOTES

OF

THE SURVEY OF THE

Subdivisions

Of Township No 3 N Range No 4 E

OF THE SALT LAKE MERIDIAN,
IN THE TERRITORY OF UTAH

BY

Orville W. Durrill

DEPUTY SURVEYOR UNDER *Contract*
CONTRACT

No. 67, Dated, *June 10th 1876*

Survey Commenced July 11th 1876

Survey Completed July 22nd 1876

JC 2199

DEFENDANT'S
EXHIBIT
102

RECEIVER'S RECEIPT, No. 12080

APPLICATION, No. 12080

HOMESTEAD.

Receiver's Office, San Schultz ttat

February 17, 1896

Received of Leonard W. Randall the sum
of Twenty-one dollars 69 cents;

being the amount of fee and compensation of Register and Receiver for the

entry of

Lots 3 & 4 of Sec 18

of Section 18 in

Township 2 N. of Range 8 E., under

Section No. 2290, Revised Statutes of the United States. 155.84 acres

Frank Harris
Receiver.

\$ 21.69

See note in red ink, which Registers and Receivers will read and EXPLAIN THOROUGHLY to persons inquiring about the land where the affidavit is made before either of them.

NOTE.—It is required of the homestead settler that he shall reside upon and cultivate the land embraced in his homestead entry for a period of five years from the time of filing the affidavit, being also the date of entry. An abandonment of the said five years he must file proof of his actual settlement and cultivation, failing to do which, his entry will be canceled. If the settler does not wish to remain five years on his tract, he can, at any time after fourteen months, pay affidavit to the time of payment.

This receipt is not valid unless countersigned by the Register, and unless the entry has been recorded in the Register's Office, and unless the fee and compensation of the Register and Receiver has been paid in full to the Receiver. This receipt is not valid unless countersigned by the Receiver, and unless the entry has been recorded in the Register's Office, and unless the fee and compensation of the Register and Receiver has been paid in full to the Receiver.



RECEIVER'S RECEIPT, No. 11992

APPLICATION, No. 11992

HOMESTEAD.

Receiver's Office Salt Lake City Utah

Dec 26th 1895

Received of William H. Staley the sum of Twenty one dollars and 67 cents; being the amount of fee and compensation of Register and Receiver for the entry of E. A. H. +; Lot 142

of Section 18 in Township 2 N. of Range 8 E. under

Section No. 2290, Revised Statutes of the United States - 155.52

Frank Harris Receiver.

\$ 21.67

REPRODUCED BY THE NATIONAL ARCHIVES
See note on red tick which Register and Receivers will read and EXPLAIN THOROUGHLY to settler in lands where the affidavit is made before either of them.

NOTE.—It is required of the homestead settler that he shall reside upon and cultivate the land embraced in his homestead entry for a period of five years from the time of filing the affidavit, being also the date of entry. An abandonment of the land for more than six months works a forfeiture of the claim. Further, within two years from the expiration of the said five years he must file proof of his actual settlement and cultivation, failing to do which, his entry will be cancelled. If the settler does not wish to remain five years on his tract, he can, at any time after fourteen months, pay for it with cash or land warrants, upon making proof of settlement and of residence and cultivation from date of filing affidavit to the time of payment.

DEFENDANT'S EXHIBIT 119

DIPHTHERIA AT EPION.

UPTON, Summit County,
August 24, 1888.

Editor, Deseret News.

The family of M. T. Staley has been called upon to mourn the death of two children, aged three and five years, a son and daughter, by the dread disease diphteria. We chronicled in your columns a few days ago the death of three children of Brother Wm. Staley; thus five children have been taken away by this disease in the short space of two weeks, causing a cloud of sorrow to come over the entire settlement. Great care is being taken to check the spread of the disease.

Our grain crop is light. It is very good. The late rains have revived the crops. Should the frost keep off we may anticipate a good harvest.

Believe me, Sir,
Yours truly,
J. H. CLARK.

Interesting Communication from
one of the Brethren in Prison at
Detroit.

DETROIT HOUSE OF CORRECTION,
Michigan, July 21, 1888.

Editor, Deseret News.

Many of my friends asked me when I left my home in Idaho to write to them. But a rule here only permits me to write once a month. I therefore request you to publish this letter, requesting my friends to be satisfied with this mode of filling my promised duty to them.

On May 20th, 1888, we arrived about sundown at Detroit railroad station, from which we were transported in a wagon (11 English and two German) to the prison and ushered into the presence of a registrar to whom we gave our religion and our occupation. After our pockets were relieved of their contents we were weighed. Next we were taken to the barber shop and shorn of hair and beard and washed clean from dust. We then donned a dark gray suit of clothes and a round cap was placed on our now newly shorn heads. By courtesy of the officers we were permitted to use our own

own washings held service in the Prison Church (to which we are marched) inside of the room and I suppose families in two galleries, which, however, is excluded. There is plenty of reading matter furnished to prisoners for Sunday perusal. I have my Church books always in my cell. A privilege I appreciate. My heart swelled with joy when I read about the good time enjoyed by my brethren in the Utah Pen on the 4th of July.

Time passes slowly 2,000 miles from friends and home, but through the mercy of God bearing my prayers. I rejoice in the Gospel of Jesus, and say to my family and friends: be humble and true. God reigns over nations and directs the destiny of Zion, which all do not have in their hearts, and we have not always been as humble as we ought to be.

Your brother in the Gospel,

NELSON CHATAM.

Did you, Sup-

pose Mustang Liniment only good
for horses? It is for inflammation
of all flesh.

LOST.

A LARGE, LIGHT BAY MARE, 6 YEARS
old, with a very long body, a large
head, slightly rump over, small star on
forehead, branded on the left shoulder.

The mare strayed from farm just South
Point, with halter on, and was last heard
from going north through Sandy, likely
making for old range in York County.

Any person giving information concern-
ing said animal will be suitably rewarded.

JC 2479

MY LIFE STORY

by Edward Powell

as told to his son, Robert Powell, in 1958



Photo taken about 1958

Grandfather and Grandmother Powell were converted to the Church in England and immigrated to Zion. They traveled by ox team from Omaha to Coalville. They built their first home in Coalville at the place where Taylor Carmichael now lives. *(Taylor Carmichael has long since passed on, but his home was about a mile South of the Coalville city center on the main highway out of town.)* From Coalville, they moved to Huff Creek. Their son, Henry, was killed there by lightning. *(this happened when he was on Porcupine Mountain looking for cattle).*

Grandfather Powell was short, heavy set, and wore a beard. He had an even-tempered disposition. He was 75 years old when he died in the little house on Huff Creek. Grandmother Powell was slightly heavy-set, but not overly fleshy. She had more of a fiery disposition. She always took care of the house, but did little outside work. She died at 80 in the little white house by the road that's located where Allen Jones now lives. *(located about 4 miles North of the Upton Church)* Merrit Staiey owned it then. She passed away while I was in the mission field.

They were always strict about having prayers every morning. They spent their life farming in Huff Creek. They willed the farm to Uncle Joe. It was then taken over by Wilbur Powell who still owns it. *(Wilbur had it rented out at the time Dad told this, but it was later sold. However, Edward Moore, a grandson of his Uncle Joe, still lives on part of the original homestead)* Grandmother and Grandfather Anderson came from Oslo, Norway. They lived in Coalville in their early days, first settling in a home at the point of the mountain going into Springhollow close to where the mink farmer, Mr. Vernon, now lives. *(The mink farm is no longer there)* From Coalville they moved to Ogden, first on 28th Street then on Wilson Lane.

Father was about sixteen years old when he came to this country from England with his parents. During his early days, he helped build the railroad down Weber Canyon. He worked on the tunnels in that area. Brigham Young had the contract with the railroad company for building the road at that time. The settlers used to deliver the worker's hay for \$100 a ton.

In 1875, Father was called by Brigham Young to settle in Arizona. He drove an ox team down and carried tobacco along to smoke the peace pipe with the Indians who were hostile at the time. He was gone about two years, but had some disagreement with the Church authorities about carrying tobacco, so he left and came back. He married Rachel Anderson in 1879 in the old Endowment House in Salt Lake. They first lived in Coalville.

In 1880, he bought the Upton Ranch for 75 cents an acre from the railroad. He took out the rights to the Porcupine ditch the same year. In 1885, he had a lawsuit over it with his neighbor, Grand Demming, who hired a lawyer by the name of Carl Olson. Father, acting as his own lawyer, won the case.



1

JC 2567

Then I worked another year until I saved enough money to return to the Brigham Young Academy in 1906. I studied English and Commercial work that year. Also that year, I batched it with Pauley, Albert, and Charles. We were all attending school.

I had to quit school before I graduated because I had no money left. My last year was in 1907. I went back to cutting props, but in 1910 I bought a sawmill in the West Fork of the Bear River along with a company of other men, but they later all backed out as it wasn't paying for itself, so I bought them out. It left me with a large debt and I had to work hard to keep up the payments.

I met your mother in about 1909, and we were married on June 21, 1911. We moved up to the sawmill where we stayed for about four years. At one time I had seventeen men working for me. I used to haul big loads of lumber from the mill to Evanston, Wyoming, in the early fall and winter. It was cold and there were big snow drifts to go through, but I was strong then and could stand the work. Very often I would walk behind the load to keep warm. One time I was unloading some lumber off the sleigh during a blizzard when the wind caught a board I had hold of and whipped it around until it hit me on the upper lip. It knocked me out cold.



The Sawmill

I homesteaded a section of ground on Yellow Creek when I still had the mill. I fenced it and pastured one hundred head of cattle on it. I finally sold the mill at a loss and we moved into a little log house I built on Yellow Creek. The big cattle owners in that country didn't like people homesteading and fencing on their open range, so they made a lot of trouble for me by cutting my fences and letting the cattle out. I kept the homestead for five or six years then sold it to Mr. Lowham of Bear River.



The cabin at the Yellow Creek Homestead

Father died in his prime of life at 59 of a rupture, which left the farm to Mother. Charles took charge of running the farm and I used to come down from the mill and later the homestead to help him. During this time I build a house for Mother in Coalville so she could be nearer town. After I sold the homestead we returned to the farm to live.



The four brothers at BYU in about 1906 or 1907. Women unknown.

5

JC 2572

The
DESERET WEEKLY
PIONEER PUBLICATION
ESTABLISHED 1850
ROCKY MOUNTAIN REGION
TRUTH AND LIBERTY
JUNE 1850

NO. 15. SALT LAKE CITY, UTAH, SATURDAY, OCTOBER 4, 1890. VOL. XII.

TO A NIGHTINGALE.
Emulated notes, that with such strange de-
light
Wooed, the lonely hours in passionate
strain
Emulated the lutes where the clear re-
frain
Is borne upon the contorted breath of
night
With ecstasy thou surely dost invite
To some high joy, but sadly comes again
The long, low, plaintive note that speaks
of pain,
And hovers that break through sorrowful
side.
Voice of the valence! Still thy delicate
wing
Thy passion makes me weep, who listen
In grief
In thy full notes their tale of love-
dross
Too deep for human words, and so I grieve
The silent thoughts that all night wreathe
thy song.
In waves of melody beneath thy spell
L. M. H. DAYTON.

CELEBRATION AT EPHRAIM.
The third meeting was held on Monday, September 15th. The choir first sang: "H formed of Lammie Bond and his wife."
Prayer by Knud H. Bruun, the first man ordained to the priesthood in Denmark. The choir sang: "O Fader! lad mit Hjerte faa," etc.
Elder C. C. A. Christensen, one of the first native Elders who labored diligently in Denmark and Norway, related in contemplating the fruits that the preaching of the Gospel in the north countries had borne. He was baptized nearly forty years ago and has spent ten years of his life in the missionary field. He had experienced the hand of the Lord in many different ways and felt thankful that he possessed a strong testimony of the truth of the Latter-day work.
Elder Andrew Jensen, of Salt Lake City, spoke of the circum-
stances surrounding the Church in the mountains in the fall of 1849, when Erastus Snow and fellow missionaries were called to open the Gospel door in different coun-
tries, and how the hand of Provi-
dence in a most marvelous manner shielded them from the winds and

storms while crowning the moun-
tains and plains almost in the dead
of winter. Arriving in England,
the Apostles and co-laborers pro-
ceeded to their respective fields of
labor. Erastus Snow going to a
country then comparatively un-
known to the Elders. But the Lord
opened up the way and prospered
the labors of the Elders in the
North; for of all the missions
opened about the same time, no one
has furnished more material for the
Kingdom of God than the Scandi-
navian Mission, and no civilized
country in the world has given up
so large a percentage of its sons
and daughters to the cause
of Christ as Denmark, Sweden
and Norway. Since the introduc-
tion of the fulness of the Gospel
into Scandinavia 40,185 souls have
been added to the Church there by
baptism, of which number 21,663
and 4813 in Norway. Out of the
total number 20,358 have emigrated
to Zion, to which may be added
about one-third more by reckoning
the unchristianized children who have
accompanied or been parts of the
diffusion, emigrants at companies, thus
making a grand total of nearly
30,000 souls who have emigrated to
Utah from Scandinavia—17,000
from Denmark, 10,000 from Sweden
and 3000 from Norway. This rank
is most creditable indeed to the
apostles to those who were the in-
struments in the hands of the Lord
to lay the foundation of the work.
The attendance on the present occa-
sion of so many veterans and faithful
members, of both sexes, who have
borne the burden of the day during
the past forty years, and their
strong and powerful testimonies,
especially to those who were the in-
struments in the hands of the Lord
to lay the foundation of the work,
is most creditable indeed to the
apostles to those who were the in-
struments in the hands of the Lord
to lay the foundation of the work.

the literal fulfillment of a prediction
made by Apostle Paul when the
company left their native land. It
was to the effect that if they all
would obey counsel and keep the
commandments of God, not one of
them should lose his life on the
journey. Although cholera raged
terribly in the companies they
traveled with and scores of other
emigrants died, not one of the
company, consisting of 23 souls,
from Denmark, perished by the
way.
Elder H. O. Magleby, of Monroe,
who at an early day labored as a
missionary in Norway, where he
was imprisoned several times for the
Gospel's sake, related some of his
experience in an interesting and
spirited manner. He had suffered
many hardships and passed through
considerable persecution. But felt
thankful that the Lord had pro-
served him in the faith through all.
Elder C. A. Christensen, of Salt Lake
City, who had spent some time in
the ministry in Mexico previous to
emigrating, expressed his desire to
devote the remainder of his life
to doing God's service. He bore
testimony to the fresh impulses given
to the work of God in Sweden by
the publishing of the Book of Mono-
nism in the Swedish language sev-
eral years ago.
Elder Martin Christoffersen, of
Salt Lake County, related how the
Lord had blessed and preserved him
while laboring as a missionary in
Norway, where he, through the
mercy of God, had initiated about
one hundred persons into the
Church by baptism, and spent many
happy days in spreading the Gospel.
Elder Christian Andersen, of
Ogden, lately returned from a mis-
sion to Norway, related in brief
outline of the fruits of the Gospel from
that land, and how a powerful test-
imony in the truth of "Mormonism,"
which he had embraced many years
ago, and never since lost it with his
winds heart.
A purse of 2502—means donated
by the Saints in different parts of
the Territory—was there formally
presented by President Furber to
Elder F. O. Hansen, who is poor
and feeble in health. Elder Han-
sen expressed his gratitude in an
appropriate little speech.
The choir sang, "Amen, raise
me on a Tongue, etc."



JC 2480

A Man Lost.

We are advised by letter from Mr. P. C. Brown of Upton, Summit County, that Joseph Ceas, a sheep herder, who was herding what is known as the Church sheep, and was camped near Bishop Clark's shearing corral on Mill Fork of Chalk Creek, is lost. He was last seen on Saturday, the 20th. The range has been thoroughly searched by a posse of men, but he cannot be found. He is supposed to be de-
ranged, as he left his horse and clothing. He is about six feet high, of dark complexion, has a black beard of about six weeks' growth, a black moustache, and is about thirty-five years of age; is slow of speech. When last seen he had on blue overalls, check jumper and a white broad brim hat. He formerly held for Butterfield & Brown. Anyone seeing or hearing of him is requested to inform Bishop Clark, of Upton, who is having the range thoroughly hunted over for the missing man.

Proposed Boycott.

The following extraordinary document has been handed in with a request to publish:

Sept. 25, 1890.

To the Deseret News:

At a regular meeting, held at their hall, Local Union No. 19, United Association of Journeymen Plumbers, Gas-fitters, Steam-fitters and Steam-fitters' Helpers, U. S. and Canada, the following resolutions were adopted:

Resolved, That it is the sense of this union that we withdraw all patronage from the Salt Lake City Railway Co., until such time as they may see fit to recognize the street car men's union and agree to arbitrate the difference that now ex-

It probably would be a benefit to the whole community as well as to themselves. Yours truly,
A CITIZEN

HUNTINGTON, Utah, Sept. 19, 1890.

The Tailors' Strike.

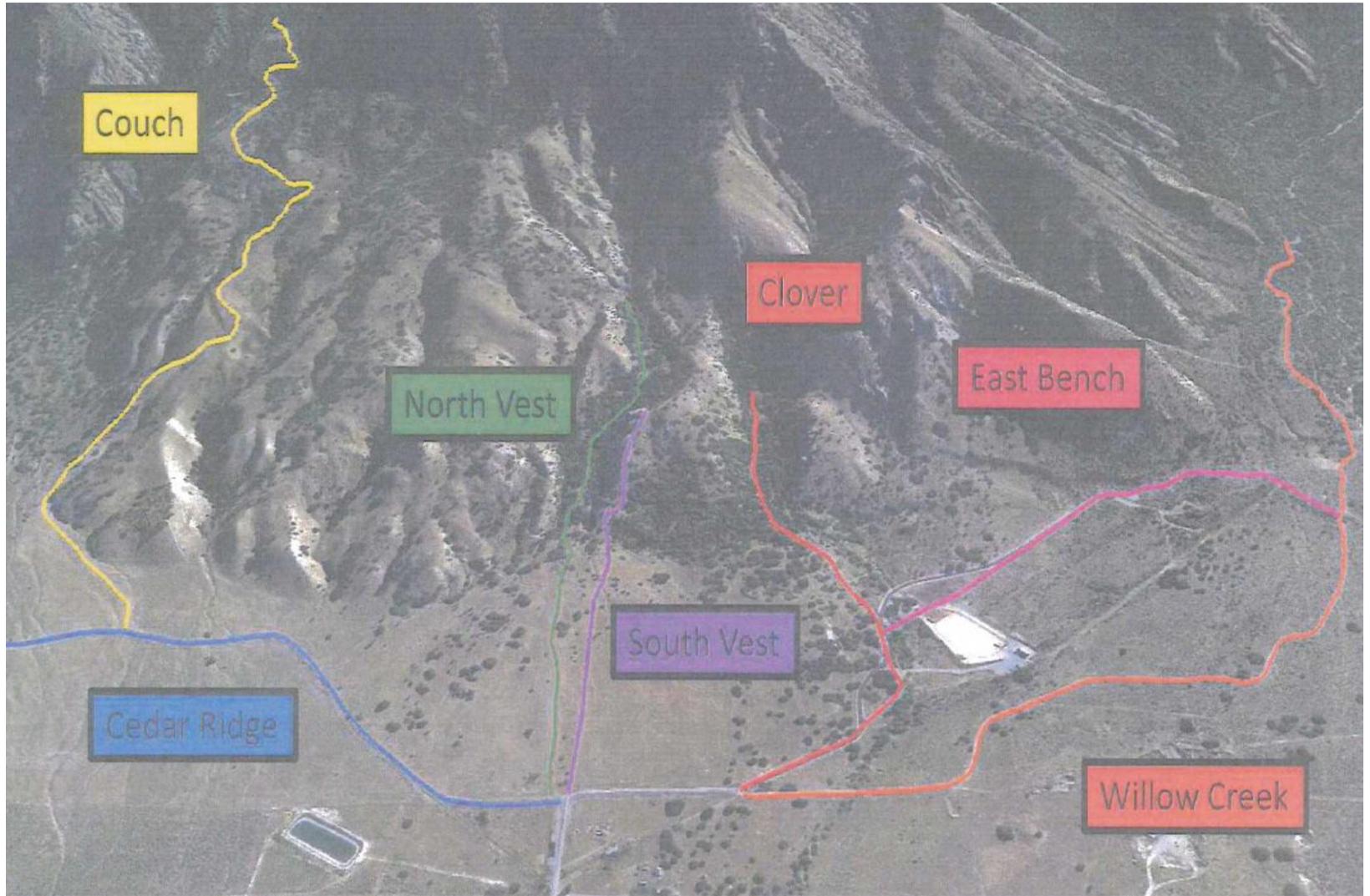
A number of striking tailors called at this office Sept. 23, and stated that the increase in pay demanded by them, as given in our issue of yesterday, was far greater than they asked. Those figures were given to a News reporter by a merchant tailor, but the strikers say that instead of asking an advance of from \$7 to \$10 per suit, they only ask from \$1 to \$3. They state that they also ask pay for extras, such as cuffs and coats, flat bindings, faced lapels, etc. Some-
times this extra work has been paid for by the bosses and sometimes it has not. The strikers ask that it be paid for uniformly, and according to a schedule, and say they do not think the bosses particularly object to this.

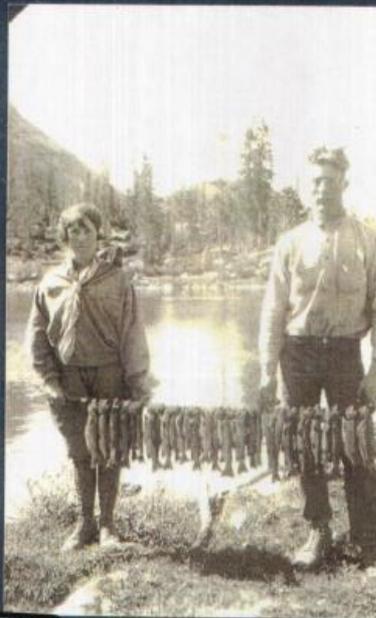
The strikers represent that they prepared a new "bill" or schedule of prices for all kinds of work, and submitted it to the bosses on Thursday, giving the latter one day to answer. The time to reply was extended to Monday, when all the bosses except W. A. Taylor, of west Second South Street, refused to accept it. The new "bill" provides for an average advance of about 12 per cent over the old one, so the men claim.

September 26, the boss tailors submitted to the strikers a "bill" or schedule of prices, designed to be a compromise between the old "bill" and the one which the union had offered the bosses. There was much uncertainty as to what the result will be.

JC 2481

Google Maps





U.S. DEPARTMENT OF JUSTICE
DEFENDANT'S
EXHIBIT
261

JC 221 E-14

COPY OF TRANSCRIPT

IN THE THIRD JUDICIAL DISTRICT COURT
SUMMIT COUNTY, STATE OF UTAH

HAYNES LAND & LIVESTOCK
COMPANY, a partnership,

Plaintiff,

vs.

JACOB FAMILY CHALK CREEK
LIMITED, a limited
partnership; CATHERINE B.
CHRISTENSEN, LLC, a limited
liability company; BRIAN
GARFF, an individual,

Defendants.

et al.

) Deposition of:

) Gwennola Blonquist

) Consolidating Case No.
) 00600299 and 980600244

) Judge Bruce C. Lubeck

January 30, 2006 * 1:00 p.m.

Location: 653 East Chalk Creek Road
Coalville, Utah

Reporter: Diana Kent, CSR, RPR, CRR
Notary Public in and for the State of Utah



CitiCourt, LLC
THE REPORTING GROUP

170 South Main Street, Suite 300
Salt Lake City, Utah 84101

801.532.3441

TOLL FREE 877.532.3441

FAX 801.532.3414

1 Q. Okay. Did you own any property around
2 Blue Lakes when you went up there?

3 A. Oh, no.

4 Q. No? Did you have permission to go up to
5 Blue Lakes?

6 A. I don't know whether my husband asked, but
7 I don't think so. I think we just went up there.

8 Q. Okay. Did you think that the road was a
9 public road leading up to the lakes?

10 A. Yeah. There was a lot of people that
11 traveled it.

12 Q. Let me back up just a minute. What road
13 did you use to go to Blue Lakes?

14 A. East Fork.

15 Q. East Fork Road?

16 A. Uh-huh (affirmative).

17 Q. When you said that there were a lot of
18 people who used the road, were you meaning East Fork
19 Road?

20 A. Yeah, to go up through there.

21 Q. Did you actually see other people using
22 the road?

23 A. Oh, I imagine. You'd be going up to the
24 sawmill.

25 Q. What sawmill are you referring to?

1 A. Jimmy O' Lavisson's sawmill.

2 Q. Did you ever see Jimmy O' Lavisson's
3 sawmill?

4 A. Oh, yeah. Stopped there and bought lumber
5 from him.

6 Q. Was that located by the road?

7 A. Just off the road.

8 Q. Okay. You said you went up there to get
9 lumber. Did other people go up to get lumber, as
10 well?

11 A. Oh, yes.

12 Q. Would they bring it back down or did they
13 deliver it?

14 A. No. They delivered their own.

15 Q. They delivered their own?

16 A. Uh-huh (affirmative).

17 Q. Okay. What was the condition of the road
18 when you were going up to Blue Lakes?

19 A. Oh, I don't think it was very smooth. It
20 was rough.

21 Q. What type of transportation did you use to
22 get up there?

23 A. We had a Ford that was a stake body.

24 Q. Okay. And you were able to travel on the
25 road with that Ford?



EXHIBIT

263



EXHIBIT
264

Selected Statutes

R.S. 2477:

“The right-of-way for the construction of highways over public lands, not reserved for public uses, is hereby granted.”

Mining Act of July 26, 1866, ch 262, § 14 Stat. 251, 253, codified at 43 U.S.C. § 932, repealed by Federal Land Policy and Management Act (FLPMA), Pub.L.No.94-479 §706(a), 90 Stat. 2743; *Lindsay Land and Livestock Co. v. Churnos*, 285 P. 646 (Utah 1929).

72-5-104 Public use constituting dedication -- Scope.

(1) As used in this section, "highway," "street," or "road" does not include an area principally used as a parking lot.

(2)

(a) A highway is dedicated and abandoned to the use of the public when it has been continuously used as a public thoroughfare for a period of 10 years.

(b) Dedication to the use of the public under Subsection (2) does not require an act of dedication or implied dedication by the property owner.

(3) The requirement of continuous use under Subsection (2) is satisfied if the use is as frequent as the public finds convenient or necessary and may be seasonal or follow some other pattern.

- (4) Continuous use as a public thoroughfare under Subsection (2) is interrupted only when:
- (a) the regularly established pattern and frequency of public use for the given road has actually been interrupted for a period of no less than 24 hours to a degree that reasonably puts the traveling public on notice; or
 - (b) for interruptions by use of a barricade on or after May 10, 2011:
 - (i) if the person or entity interrupting the continuous use gives not less than 72 hours advance written notice of the interruption to the highway authority having jurisdiction of the highway, street, or road; and
 - (ii) the barricade is in place for at least 24 consecutive hours, then an interruption will be deemed to have occurred.
- (5) Installation of gates and posting of no trespassing signs are relevant forms of evidence but are solely determinative of whether an interruption has occurred.
- (6) If the highway authority having jurisdiction of the highway, street, or road demands that an interruption cease or that a barrier or barricade blocking public access be removed and the property owner accedes to the demand, the attempted interruption does not constitute an interruption under Subsection (4).
- (7)
- (a) The burden of proving dedication under Subsection (2) is on the party asserting the dedication.
 - (b) The burden of proving interruption under Subsection (4) is on the party asserting the interruption.

(8) The dedication and abandonment creates a right-of-way held by the state in accordance with Sections 72-3-102, 72-3-104, 72-3-105, and 72-5-103.

(9) The scope of the right-of-way is that which is reasonable and necessary to ensure safe travel according to the facts and circumstances.

(10)

(a) The provisions of this section apply to any claim under this section for which a court of competent jurisdiction has not issued a final unappealable judgment or order.

(b) The Legislature finds that the application of this section:

(i) does not enlarge, eliminate, or destroy vested rights; and

(ii) clarifies legislative intent in light of Utah Supreme Court rulings in *Wasatch County v. Okelberry*, 179 P.3d 768 (Utah 2008), *Town of Leeds v. Primbrey*, 179 P.3d 757 (Utah 2008), and *Utah County v. Butler*, 179 P.3d 775 (Utah 2008).

Amended by Chapter 107, 2014 General Session

72-5-108. Width of rights-of-way for public highways.

The width of rights-of-way for public highways shall be set as the highway authorities of the state, counties, or municipalities may determine for the highways under their respective jurisdiction.

72-7-104 Installations constructed in violation of rules -- Rights of highway authorities to remove or require removal.

(1) If any person, firm, or corporation installs, places, constructs, alters, repairs, or maintains any approach road, driveway, pole, pipeline, conduit, sewer, ditch, culvert, outdoor advertising sign, or any other structure or object of any kind or character within the right-of-way of any highway without complying with this title, the highway authority having jurisdiction over the right-of-way may:

- (a) remove the installation from the right-of-way or require the person, firm, or corporation to remove the installation; or
- (b) give written notice to the person, firm, or corporation to remove the installation from the right-of-way.

(2) Notice under Subsection (1)(b) may be served by:

- (a) personal service; or
- (b)
 - (i) mailing the notice to the person, firm, or corporation by certified mail; and
 - (ii) posting a copy on the installation for 10 days.

(3) If the installation is not removed within 10 days after the notice is complete, the highway authority may remove the installation at the expense of the person, firm, or corporation.

(4) A highway authority may recover:

- (a) the costs and expenses incurred in removing the installation, serving notice, and the costs of a lawsuit if any; and
- (b) \$10 for each day the installation remained within the right-of-way after notice was complete.

- (5)
- (a) If the person, firm, or corporation disputes or denies the existence, placement, construction, or maintenance of the installation, or refuses to remove or permit its removal, the highway authority may bring an action to abate the installation as a public nuisance.
 - (b) If the highway authority is granted a judgment, the highway authority may recover the costs of having the public nuisance abated as provided in Subsection (4).

(6) The department, its agents, or employees, if acting in good faith, incur no liability for causing removal of an installation within a right-of-way of a highway as provided in this section.

(7) The actions of the department under this section are not subject to the provisions of Title 63G,

Chapter 4, Administrative Procedures Act.

Amended by Chapter 382, 2008 General Session