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GRAVEL BAR CASE DECIDED FOR CITY

Judge Galloway Concludes That Plaintiff Has Vested Rights in Minto Island

Judge Galloway this morning handed down his opinion in the case of the City of Salem vs. Minto Bros. The facts are stated in the opinion, which is as follows:

This is a suit in equity brought in this court by the City of Salem as plaintiff, against D. C. Minto, John W. Minto, John Minto and others as defendants, to enjoin the defendants from interfering in any manner with the alleged rights and privileges of the plaintiff to remove gravel from a certain gravel bar annexed to that island, situated in the Willamette river, in Marion county, Oregon, commonly known as "Minto's Island."

The complaint sets forth a written instrument entered into on the 13th day of March, 1899, between John Minto and M. A. Minto, his wife, as parties of the first part, and the City of Salem, as party of the second part, and asks the court for a perpetual injunction against the defendants, restraining them in any way from interfering with the rights of the plaintiff in removing gravel from said bar; also as a consideration among others, for the execution of said instrument by the defendants to the plaintiff certain acts done and performed by the plaintiff in and about the procuring of title by Minto to said gravel bar from the State of Oregon.

The answer after denying all the material allegations set forth in the complaint sets up, by way of new matter, mutual mistakes in the execution of said instrument; that the instrument so executed is a mere license and therefore revocable at the will of the defendants, and asks for a decree of reformation that said instrument be declared a mere license, revocable at the will of the defendants, and an order restraining the plaintiff from further exercising any rights in or upon said land.

The reply controverts the new matter set up in the answer. Under the pleadings thus set forth, in substance, and the evidence introduced, the following questions seem to be involved:

1st. Did the state hold title in the gravel bar at the time the complaint mentions the plaintiffs as seeking title?
2d. Under the pleadings and evidence introduced, should the instrument upon which the suit is based be reformed as asked for in the answer?
3d. What is the legal effect of the instrument executed by the Mintos, and is it revocable at the will of the defendants, or wholly irrevocable.

The first of these questions is disposed of by a decision of our supreme court (Minto vs. Delaney, 7 Or., 337) wherein it was definitely decided that the state of Oregon was not possessed of title in said gravel bar, but that the same was the property of Minto, by reason of accretion. This disposes of this point, and it will not be considered further.

The second question, as to whether or not this instrument should be reformed,

as prayed for in the further and separate answer of defendants, I think should be disposed of in much the same way as the first. It seems to be clearly established in all the cases I have examined that where there is a mistake in a written instrument, which is merely one of expression or in terms such as an inadvertence or omission of the scrivener, equity will act specifically in reforming the instrument by way of correction so as to place both parties in the position they would have occupied had the instrument been first correctly drawn. To warrant the remedy of reformation, however, the mistake must have been mutual and must, if not admitted, be clearly established by satisfactory proof, as well as the precise form and import of the instrument intended. In this instance the proof of mistake is wholly lacking, and therefore this matter may be considered out of the case.

This brings us to a consideration of the vital question in this case. That is whether the instrument executed by the Mintos to the City of Salem is a mere license, revocable at the will of the defendants, or whether it is so coupled with an interest in the gravel that it is thereby irrevocable. Preparatory to deciding the case I have examined a large number of authorities, the majority of which I have found collected in the notes to the case of Wood vs. Ledbetter, 13 Meeson & Welby's Reports, 846, 847, reported in the 16 English Ruling Cases at page 49, and the case of Piper vs. Brown, 49 Lawyers' reports annotated at page 497, and I must say that the authorities upon this branch of the law are very conflicting, and it would be with considerable hesitation that I would render the decision upon this point that I am about to announce, if it were not for the opinion of Judge Lord in the case of Bingham vs. Salene, reported in the 15th Oregon, at page 208, which I deem applicable to this question.

Therefore, the decision of the court will be that the plaintiff has a vested right in the gravel, and the right to remove the same from the premises described in the instrument set forth in the complaint and answer; that the injunction prayed for in plaintiff's complaint be and the same is hereby granted.

However, I think the conditions mentioned in the instrument, as to the manner and place of removal of the gravel should be strictly complied with, and, while the court thinks that the failure of the city to comply in not removing the gravel from the northeast end of the gravel bar is probably a proper subject for a law court, nevertheless, having taken jurisdiction for other reasons, the court thinks that there should be incorporated in the decree these restrictions on behalf of the defendants, and such will be the order of the court.

SOCIAL EVENTS

Luckey-McElroy Wedding.

Miss Lillian Patton-McElroy and Lester Alexander Luckey, of Eugene, were married at the home of the bride's aunt, Mrs. J. P. Frizzell, corner of Court and Summer streets, last evening at 8 o'clock.

The Frizzell home was beautifully decorated. The front parlor was a veritable bower of flowers and potted plants. The colors, white and green, were carried out with white china vases and palms. The back parlor was in red. Quantities of crimson dahlias were massed against a background of ferns and palms.

At 8 o'clock, Miss Alicia McElroy, sister of the bride, played Mendelssohn's wedding march, and little Agnes Marie McElroy, niece of the bride, entered bearing a basket of roses, which she strewed in the path of the bride party. Mrs. J. P. Frizzell was matron of honor, and Miss Myra Loveridge acted as maid of honor, while E. R. Travis supported the groom.

The ceremony was performed beneath a beautiful bridal bell of white sweet peas. Rev. David Errett, pastor of the First Christian Church pronounced the solemn and beautiful ring service, during which Miss McElroy played Rubenstein's Melody.

The bride was never so pretty as in her nuptial robe of white silk mulle over taffeta, and carried a shower bouquet of bride's roses.

Miss Grace Rineman caught the bride's bouquet. Little George McElroy received the guests at the door.

After the congratulations, a dainty wedding lunch was served in the dining room, which was in pink. The table was very pretty, a huge center piece of La France roses, about which were draped sprays of smilax, gave a very pleasing effect. Miss Rineman and Miss Cleaver assisted in the serving.

The bride is the eldest daughter of Mrs. E. B. McElroy and the late Hon. E. B. McElroy, and is a beautiful and accomplished young lady. Her home is in Eugene, and she is very popular in the society circles, and is well-known in this city. She is a sister of Prof. Willis McElroy, leader of the Salem Military Band.

Mr. Luckey is a prominent young business man, of Eugene, and a gentleman of sterling qualities.

Many friends from Eugene attended the wedding, together with a large circle of relatives and friends from this city.

The happy couple have gone on a wedding trip to the Puget Sound cities, after which they will return to Eugene, where they will make their future home. They have the best wishes of a large circle of friends.

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NOTIONS.	
Adamantine pins, per paper 1c	Standard pins, per paper 3c
Extra quality pins, per paper 4c	
THIMBLES.	
Thimbles, each 1c	Steel, each 2c
NEEDLES.	
Extra quality, per paper 4c	
SOAP.	
All 5c sellers, per box 4c	
Fancy Lubin, 25c boxes, per box 8c	
Extra Woodbine, 50c boxes, per box 15c	
Best Williams Shaving Soap, per bar 8c	
SUSPENDERS.	
15c grade, per pair 8c	Presidents, per pair 39c
SHIRTS.	
\$1.00 grade, white, each 50c	
\$1.50 grade, white, each 65c	
Extra fine unlaundered, worth \$1.00, each 31c	
Fancy colored, \$1.50 to \$2.00 grade, each 67c	
Fancy colored, 75c to \$1.00 grade, each 47c	
Fancy colored, 50c grade, each 35c	
NECKWEAR.	
75c grade, each 35c	20c bows, each 10c
50c grade, each 29c	15c bows, each 5c
25c grade, each 17c	10c bows, each 3c
	25c bows, each 15c
COLLARS.	
Sizes 11, 11½, 12, 12½, 13 and 13½, any in the house, 2 for 5c	
Sizes 14, 14½ (in good brands), each 4c	
Our whole stock of furnishing goods is marked down to less than two-thirds their value.	
IN LADIES' FANCY GOODS.	
Best Spanish black silk laces are marked down to half their values.	
Linen insertion, hand made, worth 15c to 30c per yard, goes for per yard 4c to 9c	
TRIMMINGS.	
Silk and wool passementerie, worth 40c to 75c per yard, sells for, per yard 7c to 12c	
Fancy jet trimming, worth 40c per yard 8c	
Fancy jet trimming, worth \$1.00 per yard 35c	
Silk and jet trimming, worth \$1.50 to \$3.00 per yard 50c	
Ladies' hair and hat ornaments and buckles and slides, worth from 25c to \$1.00 each, goes for, each 8c	
Ladies' kid gloves in sizes 5, 5½, 5¾, \$1.00 sellers, for 20c	
Ladies' \$1.50 gloves for 30c	
Ladies' \$2.00 gloves for 50c	
Ladies' silk gloves, worth 75c, for 40c	
Ladies' silk gloves, worth 50c, for 30c	
Ladies' silk gloves and mitts, worth 35c, for 18c	
LADIES' SILK GIRDLES AND TASSELS.	
Worth \$1.50, each 25c	Worth \$1.00 to \$1.25, each 20c
Worth 50c to 75c, each 15c	
SILK CORD.	
Worth 4c per yard, for 1c	Worth 6c to 8c, for 2c
Worth 10c to 15c per yard, for 4c	
BABY RIBBON.	
Black, bolt of 10 yards 4c	
Silk binding ribbon, any color, worth from 8c to 15c per yd, goes for 4c	
BUTTON MOULDS.	
Any size we have, per dozen 2c	
Ladies' tailor buttons, per dozen 2c	
All kinds of fancy dress buttons, worth from 10c to 25c per dozen, goes at, per dozen 5c	
Jet buttons, worth from 25c to 35c per dozen, for per dozen 5c	
Pearl buttons Half price	
SUITS.	
You will get a suit for \$6.50 well worth \$12.00	
You can get a good suit for \$8.00, well worth \$15.00	
A suit for which you pay us \$10 to \$12 you will pay elsewhere no less than \$20.00	
OVERCOATS.	
You should see our overcoats before buying. Anything that we have not mentioned in this ad. you will find that our prices on the same has been reduced no less than one-third of its value.	
Children's overcoats go at 60c on the \$1.00	
Children's suits marked down to 65c on the \$1.00	
See what a nice suit you can buy of us for \$4.50, it is worth \$8.00	
Then see what you can buy with \$5.50, a suit worth \$10.00	
CHILDREN'S GOODS.	
Boys' caps, worth 25c, for each 15c	
Boys' caps, worth 40c to 50c, for each 20c	
Boys' fancy hats, worth 50c, 75c and \$1.00, each 25c	
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Worth 25c, for each 15c	Worth 50c, for each 35c
MEN'S STIFF HATS.	
Gray and brown, worth \$3.00 to \$4.00 50c	
Black, regular price \$2.50, our price \$1.50	
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Eggs—Per dozen, 25c.
Hens—8c.
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Harritt & Lawrence.
Eggs—Per doz., 22c.

Hop Market.
Eggs—Per dozen, 24c.

Potatoes, Vegetables, Etc.
Potatoes—1½c.
Onions—2½c.

Wood, Fence Posts, Etc.
Second growth—\$5.75.
A-PH—\$3.00 to \$2.75.
Grub oak—\$6.50.
Cedar posts—12½c.
Hides, Pelts and Furs.
Green Hides, No. 1—5c.
Green Hides, No. 2—4c.
Calf Skins—4½c.
Sheep—75c.
Goat Skins—25c to \$1.80.

Grain and Flour.
Oats—Buying, \$1.10 per cwt.
Barley—\$21 per ton.
Flour—Wholesale, 2.75.

Live Stock Market.
Steers—2@2½c.
Cows—1@1½c.
Sheep—\$1.50@2.00.
Dressed veal—4@5½c.
Fat hogs—5@5½c.

Hay, Feed, Etc.
Baled cheat—\$10@11.
Baled clover—\$10.
Bran—\$22.50.
Eggs—23c, cash.

Eggs, Butter and Cream.
By Commercial Cream Co.
Eggs—16c, cash.
Butter—25@27½.
Butter fat—22½c, at station.

PORTLAND MARKET.
Wheat—Walla Walla, 79c.
Valley—82c.
Flour—Portland, best grade, \$4.25@4.70; Graham, \$3.50@4.00.
Oats—Choice white, \$1.20@1.25.
Barley—Feed, \$20 per ton; rolled \$22.

Millstuff—Bran, \$19.00.
Hay—Timothy, \$14@15.
Potatoes—Fancy, \$1.25@1.40.
Eggs—Oregon ranch, 23@24c.
Poultry—Chickens, mixed, 9½@10½ per pound; turkeys, 14@16c.
Pork—Dressed, 6½@7c.
Beef—Dressed, 4@6c.

Veal—6@7c.
Mutton—Dressed, 4@5c.
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On June 1st the Southern Pacific Company will resume sale of excursion tickets to Newport and Yaquina Bay, both season and Saturday-to-Monday tickets will be sold. This popular resort is growing in favor each year, hotel rates are reasonable, and the opportunity for fishing, hunting and sea bathing are unequalled by any other resort on the Pacific coast.

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