

MRS. DUDLER WINS IN WATER SUIT.

Judge Hiles Decides the Parley's
Creek Controversy.

GOES AGAINST THE CITY.

**Defendant Gets Damages for Injury to
Crops—Decision in Building and
Loan Association Cases.**

Judge Hiles rendered a decision today in the case of Salt Lake City vs Susan Dudler, finding in favor of the defendant and assessing her damages at \$350, for the forcible interruption of her water rights in the years 1897 and 1898, and the consequent injury to her growing crops during those years.

It will be remembered that a dispute arose some time ago between the city and Mrs. Dudler over a certain quantity of water flowing from Parley's creek. After considerable skirmishing on the part of the city's agents and a number of men employed by Mrs. Dudler to gain possession of the water the city commenced proceedings against the defendant to restrain her from further diverting the waters which, it was alleged, belonged to Salt Lake City.

The case was tried a few weeks ago before Judge Hiles and taken under advisement.

The court finds from the evidence submitted at the trial that Joseph Dudler, husband of the defendant, in the year 1865, appropriated sufficient water from Parley's creek to irrigate three and a half acres of farming land situated in Parley's canyon as well as for culinary and domestic purposes in the Dudler home. Mr. Dudler, the court finds, constructed a ditch by means of which he conveyed the water from the creek to his house and land. The court further finds that in 1878 Mr. Dudler permitted certain persons in Salt Lake county to construct what is known as the Pleasant View canal, for the purpose of using the surplus waters of Parley's creek during the high water season, or before the dry season had begun. The consideration agreed upon was that Dudler should be permitted to flow his water through this new ditch; also that he be allowed to fill a box during the light water season. The court also finds that the city has since 1889 been the owner of 32½ per cent of Parley's creek.

The questions for decision, the court finds, were:

First—The amount of damages Mrs. Dudler was entitled to.

Second—Whether upon the law and the evidence the city could change the place of diversion of the water to which Mrs. Dudler was entitled during the irrigation season without compensation, provided the city did not change the place of its use.

Third: How much water Mrs. Dudler ought to be adjudged to have during all seasons, particularly during the irrigating season.

Upon the first point the court assesses Mrs. Dudler's damages at \$350.

As to the second matter the court is of the opinion that the Dudler water can be changed from the present point of diversion in Parley's creek, during the irrigation season and returned to the present place of use without damage to Mrs. Dudler.

The third point the court found difficult to determine, on account of conflicting testimony respecting the amount of land heretofore irrigated by Mrs. Dudler. After reviewing the evidence of the expert witnesses examined at the trial, the court orders that Mrs. Dudler be allowed 56,200 gallons per 24 hours for the irrigating of the 3½ acres of land and an additional one-tenth of a cubic foot per second, or 64,600 gallons in continuous flow every 24 hours, for culinary purposes.

The court further decides that the city may, if it chooses, divert the water to Mrs. Dudler by means of the conduit and pipe, or by other appliances, without compensation therefor, so long as the city does not divert the water awarded Mrs. Dudler.