

CAR CASE TO BE TRIED

Supreme Court Sends Down Tax Proceeding.

A QUESTION FOR A JURY

Issue Between the State Board of Equalization and the County Board as to Whether the Former Had Complied with an Order of the Supreme Court, Held to be One of Fact—Assessment of Rolling Stock Involved—Rabbit's Foot Injunction Continued in Force.

In the case of Salt Lake county vs. R. C. Lund and the other members of the State Board of Equalization, the Supreme court made an order yesterday, the court holding that the answer raises an issue of fact essential to the determination of the motion for a writ of mandate and affecting the substantial rights of the parties, and upon the supposed truth of the allegations on which the writ is based, in pursuance of section 3646 of the Revised Statutes, ordered that the case be sent to the Third District court with instructions to try the issues of fact by a jury in Salt Lake county and certify the result to the Supreme court. The hearing in the Supreme court was continued until such certificate shall have been received.

The beginning of the proceedings was about a year ago when Salt Lake county brought an action to have all the rolling stock of the railroads with headquarters in this county assessed and made taxable in this county, the State Board of Equalization having apportioned the assessment among the various counties in which the roads operated, on a basis of mileage of main tracks. The Supreme court in passing upon the question on a petition for a writ of mandate, held that each county through which a railroad passes is entitled to a tax upon the average per cent of its rolling stock used within the county, although the railroad's principal place of business may be in another county. The court also held that it is the duty of the Board of Equalization to ascertain the ratio the quantity of rolling stock bears to the total operated in the State, on which basis the whole assessment should be apportioned to the various counties, and the court then ordered the board to proceed in accordance with that ruling.

In February last County Attorney Putnam, claiming on behalf of Salt Lake county that the equalizers had not carried out the orders of the Supreme court, applied to the court for a second writ to compel the board to proceed in accordance with the opinion. It was in response to this petition that the Supreme court yesterday decided that it was a question of fact for a jury to decide and ordered the District court to act in the matter.

Rabbit's Foot Injunction Continued.

In the Rabbit's Foot case of the Silver City Gold and Silver Mining company vs. Mark K. L. Lowry, appellant, the restraining order preventing the defendants from taking any ore from the Wheeler or Little Clarissa mining claims has been continued in force pending the appeal to the United States Supreme court.

Cases Argued.

The following cases were yesterday argued and taken under advisement by the Supreme court:

First National bank of Nephi, appellant, vs. W. I. Brown.

Isaac McKay vs. W. H. Ward et al., appeal of Joseph Belnap.

Supreme Court Orders.

Theodore Bossman vs. Heber G. Button et al., appellants; order heretofore made dismissing the appeal modified to read the appeal is dismissed without prejudice.

L. R. Butterfield, appellant, vs. C. S. Kinney; continued for the term.

Charles Lange, appellant, vs. Morris Sommer; dismissed for the reason that the Supreme court will not take jurisdiction of cases arising in Justice's court where constitutional points are not involved.