

HE CHANGES HIS OPINION.

Boundaries of Water-Front Lots Change with the Water.

JUDGE BREWER'S DECISION.

East Omaha Land Company Wins in Its Celebrated Case Regarding Accretion Rights on Cut-Off Island—Etc.

Follows the Water.

Yesterday Judge Brewer handed down a most important decision in the case of the East Omaha land company vs. Thomas Jeffries, and one directly opposite his former decision on the same question. The land in dispute is part of Cut-Off island and the question was over the possession of territory formed by accretions since the official survey, years ago.

Thomas Jeffries had bought several acres of this land formed by alluvial deposits from a squatter thereon. The East Omaha land company had bought the original lot surveyed and claimed the accretions thereto to the river front. Both parties thus claimed the same land, but today's decision makes it the property of the East Omaha land company.

The point in dispute was whether fractional lots with water boundaries followed the shifting of the water front. The first question was whether the doctrine of accretion applied. The judge, in his former opinion, assumed that it did. While the allegation in the bill was that an imperceptible increase had taken place, yet the counsel for the defendant urged that the court was bound to take judicial notice of the character of the Missouri river, the soil through which it flowed and of the rapid changes in the banks which were constantly going on, also, that the extent of the increase, as disclosed by the bill was so great as to forbid the idea of that necessary imperceptible increase.

Judge Brewer says in his opinion: "I cannot assent to this. While it is true the increase is great, many acres having been added, yet the time during which this increase was made was nearly twenty years; and obviously, during that time, an increase might be going on, imperceptible from day to day and from week to week, which during the lapse of these many years would result in the addition of all the accretions which have taken place, and which is known of the character of the river and the soil through which it flows, no conclusions flowing therefrom can overthrow the plain averments of the bill."

"Passing now to the question on which I ruled in favor of the defendant, I am constrained to believe that I erred. It was held that a deed of lot four conveyed lot four only as it existed at the time of the survey, and that all accretions remained the property of the prior owner unless expressly named in the deed. The ruling was based principally upon the case of James v. Johnson, 18 Iowa, 129, and, singularly, it is the case which, after reargument and re-examination leads me to change my opinion.

"Section 2305 of the Iowa statutes provides that the boundary lines which have not been actually run and marked shall be ascertained by running straight lines from the established corners to the opposite corresponding corners, but in such corresponding corners have been or can be fixed the boundary lines shall be ascertained from the established corners due north and south or east and west lines, as the case may be, to the corresponding Canadian boundary line, or other natural boundary of such fractional townships.

"Obviously, then, in surveying land bordering on the Missouri river, the boundary lines are extended from these corners parallel with each other until they meet the water course, and that water course is any line that runs along it becomes the boundary.

"In other words, the supreme court seems to have laid down this proposition that where a water line is the boundary of a named lot, that line remains the boundary, no matter how it shifts, and that the number or name conveys the land up to that shifting line exactly as it does up to the fixed side line.

"The true rule is that, so long as the doctrine of accretion applies, the water line if named as the boundary continues to be the boundary, no matter how much it shifts, and the lot carried all to such line.

"This decision will affect adversely the interests of over two hundred property owners, many of them having their entire fortune invested there.

CITY PHYSICIAN.

Ralph's Place and How it is Sought by Others.

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Exploding a Bombshell.

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Polack then took Johnson to the rear of the store and gave him a check for \$500. At this point Judge Dundy interrupted the examination by stating that he proposed to inform the district court and the district attorney of this state of the facts. That Johnson's action was blackmail, and that he proposed to see that he was prosecuted; that when Johnson refused to take a check for \$500, the witness stood by and did not propose to let a grave offense go and was not a safe man to be employed.

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