

om here she had but thirty tons of coal.

an-

ing of off ply tity hat ver ere

and gin ll a ner ere the ere ove eck and ey ere

ere el, ter ef. ile oat es, ms ere ta- en ain and in at-

its in the ted an. in rra and ear o a sed es- ats

a

JUDGMENT BY DEFAULT
THAT CAUSES ANNOYANCE.

Superintendent of the Mint Not Free From
Thomas O'Brien's \$25,000
Demand.

When Thomas B. O'Brien, politician and man-about-town, obtained judgment by default for \$25,000 against Frank Leach, Superintendent of the United States Mint in this city, for alleged false imprisonment, it was generally supposed by Leach's friends that the judgment would be vacated as a matter of course on the first application of the defendant.

This idea proved erroneous, for Attorney Robert P. Troy, representing Mr. O'Brien, raised legal objections to the motion and it was denied by Judge Murasky. A second application to set aside the judgment was presented last week, and briefs in the matter were filed yesterday.

Mr. Leach took the position that a new trial ought to be granted on account of excusable neglect, as he supposed that he had thirty days in which to answer, as he resides in Alameda, and he did not inform his attorney that the summons was served on him in this county.

Mr. Troy cited the case of Garner against Erlanger, decided by the California Supreme Court, in which it was said:

An order denying or granting a motion to set aside a judgment by default, on the ground of mistake, inadvertence, surprise or excusable neglect of the defaulting party, rests in the sound discretion of the court, and except in a plain case of abuse of this discretion, will not be disturbed by this court on appeal. Where the defaulting party discloses the case presented by him for an order to set aside such a judgment, a degree of negligence, carelessness and lack of diligence not to be predicted of a prudent business man in a matter of material concern to him, this court will not, on appeal, disturb the order of the court below denying such application.

The attorneys for Mr. Leach are Denson & Schlessinger, Frank L. Coombs and Marshall Woodworth.

Mr. O'Brien complained that when he attempted to make a speech from the Mint steps to a meeting of Boer sympathizers he was arrested at Mr. Leach's direction and cast into jail, but was discharged without trial. Judge Murasky has taken the case under advisement.

Cut With a Razor

\$1
st
sc
w
bo
ty
21
H
th
C
13
C
er
40
40
sc
st
of
B
M
co
W
th
ir
co
th
ol
L
fi
oc
at
th
co
th
v
n
th
de
fi
or
b
fa
m
A
p
th
a
b
n
la