

THE DESERET NEWS.

Richards F. D.
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TRUTH AND LIBERTY.

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Salt Lake City, Wednesday, June 5, 1878.

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THE DESERET EVENING NEWS.

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TERMS IN ADVANCE.

GEORGE Q. CANNON,
BRIGHAM YOUNG,
Editors and Publishers.

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Corrected daily by DESERET NATIONAL BANK.
SALT LAKE CITY, JUNE 4, 1878.
Buying at \$1.60; Selling at \$1.60 1/2.

Local and Other Matters.

FROM TUESDAY'S DAILY, MAY 28.

Drowned.—On Saturday evening, a little daughter of W. H. Williams, who resides in Ogden Cañon, was crossing the river on a plank bridge. She lost her balance, fell into the surging stream and was drowned. So we learn from the Junction.

"Uncle" Robert.—Mr. Robert Carter, the veteran news dealer, familiarly known as "Uncle Robert," called to-day and left his portrait at the office, photographed by Mr. C. W. Carter. The likeness is a good one, being worthy of the original.

Bad Accident.—At half past three this afternoon William McCaban, a laborer, while at work on the New Tabernacle, lost his balance, while on the scaffold. In descending he struck upon the timbers for the gallery, falling from there to the ground. His head was badly cut and his body much bruised and shaken. Dr. Richards, who was called to his aid, was of opinion that no bones were broken. The unfortunate man was insensible when we went to press. He is a resident of the First Ward.

Returned Missionary.—Elder F. F. Hintze, of Big Cottonwood, who has been absent on a mission to the States fifteen months, returned last evening. He left here Feb. 12, 1877, and during his absence, traveled principally in Iowa and Nebraska, holding about 140 public meetings, and, in connection with Elders Frantzen and Mortensen, baptizing 26 persons in the latter State. He also organized a conference at Omaha of three branches, numbering upwards of 40 members, 17 of whom have since moved to Utah. Elder Hintze reports the prospects for continued success in his late field of labor as favorable.

Brigham City.—This morning we met Brother H. E. Bowring, formerly of this city, but now a resident of Brigham City. He is much enamored with his new home.

He superintends the harness shop, in which he has six hands busily employed, turning out work that cannot be excelled in the country for quality or price. A good trade is being done in the harness line with the northern counties, and the goods are giving excellent satisfaction.

The main building of the new woollen factory is nearly finished. The upper floor was being laid on Saturday, when Brother Bowring left. The machinery which has been erected under the immediate supervision of Bishop Davis, of this city is nearly all in position and the carding machines will be in operation within ten days. The whole factory will be running within a month from date.

There is an extension from the main building, 58 ft. by 41 ft. That is also advancing, the first story being up.

The wool clip has been unusually large and fine this season. It is estimated that it will be sufficient to run the factory for a year, without it being necessary to obtain any from other sources.

The people are united, prosperous and happy; ready and willing to help to roll on the work of the Lord.

The Bountiful Land Claim.—The recent land case between James W. Burnham and Arthur E. Burnham, against Anson Call and others, of Bountiful, Davis County, has created considerable interest among various classes of the community. Believing that a correct version of the case in its entirety should be published, we have taken the trouble to obtain the facts, which we will place before the public as concisely as possible.

The quarter section which was in dispute was owned in severalty, by right of occupancy, continuous cultivation, etc., by John K. Crosby, Jos. B. Noble, P. G. Sessions, Anson Call, William Jones, Wm. R. Smith, James Kippin, Thomas Tingey, James Wall, David Stoker, Alma Stoker and Edward Thomas. The occupancy of these parties extended over a period of from 15 to 28 years, and they had made permanent improvements amounting to thousands of dollars.

As early as May, 1869, William Jones was selected, by common consent of the interested parties, to homestead the quarter section in question, and he did so on the 4th day of the same month, as the entry on the record of the S. L. City land office shows. In 1874, Jones made final payment, and in January, 1875, as required by the land office, he made final proof, supplying a copy of papers of citizenship and a non-mineral affidavit. After waiting for one year, in good faith, for the patent, Jones was, under date of March 20th, 1876, notified that his entry was held for cancellation, because he had not settled upon the quarter section until May 4th, 1869. This was false, as Jones settled upon the land April 14th, 1863, and had lived upon it continuously from that date. The error occurred at the land office in this city, purposely or otherwise.

The Secretary of the Interior was informed of the mistake, if such it can be called, and while his reply was being waited for, the Union Pacific Railroad Company claimed the quarter section, under the government grant to that corporation of unimproved lands. The railroad company, without any notice to the occupants of the land, sold it to the Burnham Brothers, on April 12th, 1876.

Jones, the homesteading party, through a pressure brought to bear upon him from the Burnham side, became weak-kneed and signed a paper presented to him, by which he relinquished his right in favor of the railroad company and the Burnhams. Subsequently the same vacillating person made an affidavit revoking such relinquishment. Nine months later, by order of the Secretary of the Interior, Jones was required to make proof as to settlement on the land on April 14th, 1863. This he did in January, 1877, and yet, after all the proofs were in, at the instance of the Burnhams, he signed, in his own house, a paper presented to him, the contents of which he subsequently stated he was ignorant of at the time. The document ratified his relinquishment of claim to the land in favor of the adverse parties.

The decision of the Secretary of the Interior, which was adverse to Jones and in favor of the Burnhams, only reached this city, we understand, about 10 days since.

On July 4th, 1876, pending the foregoing proceedings, the owners of the land, by right of their occupancy, mowed and hauled away from it a quantity of hay. In consequence of this the Burnhams entered suit against them for damages to the amount of \$2,000 on account of the hay cutting.

In their answer the defendants set up that they never at any time cut any hay, e. c., from any lands whatsoever belonging to the plaintiffs. On the trial, S. J. Jonassen appeared as counsel for the plaintiffs and J. G. Sutherland for the defendants.

The defendant's counsel asked

numerous questions, the purport of which was to ascertain if the plaintiffs were in possession of the premises when the facts of the case transpired; and whether the defendants were not then, as for a long time they had been, in the exclusive possession. These were objected to by plaintiff's counsel, and the court decided that the questions should not be answered, because he held that the answer admitted that the plaintiffs were in possession.

After these decisions, made on several such questions, the defendant's counsel made several formal offers of proof, as he said, to obtain a direct decision on the proof that the defendants were prepared to make as a whole. These offers were in brief, to show by evidence, that when the transaction took place which gave occasion for this suit, the defendants were in the actual possession of the land and had been in such possession for a long time; that the plaintiffs never had any possession until 1877, which was the year afterwards, and that the plaintiffs were not the owners of the hay and never had possession of it. The testimony so offered was objected to by the plaintiff's counsel, and the Court ruled it out.

It was conceded on both sides that possession of the land when the act of cutting the hay was done was necessary to give the plaintiff any right of action; the proof offered therefore tended directly to show that the plaintiff sued without having any case.

We have read the statements in the answer and if language, in a legal paper called an answer, is to be understood as when used elsewhere, the decision that the plaintiff's possession of the land is not denied, shows that the judge lacks either judgment or veracity.

In his final instructions to the jury he used this language, which we have copied from his handwriting on file:

In this case the pleadings admit that the plaintiffs were in possession of the land described, and that the defendant entered thereon and cut some grass and took it away without setting up any valid claim to the same. The plaintiffs, therefore have a right to a verdict against the defendants, and the material question for you to decide is the measure of damages."

The jury found for the plaintiffs in the sum of \$450.

FROM WEDNESDAY'S DAILY, MAY 29.

Not Found.—The body of the little daughter of W. H. Williams, drowned in the Ogden River, on Saturday, had not, according to the Junction, been found up to last evening. Diligent search had been made for it.

Continued.—We understand that, on Monday, in the First District Court, at Provo, the case of the People, &c., vs. O. P. Rockwell and S. Collett, indicted for murder, was continued for the term, by request of the United States District Attorney, who announced that he was not ready to proceed. The defense stated that they were ready for trial and desired that it should be proceeded with.

Died of his Injuries.—William McCaban, the man who accidentally fell from the scaffold in the New Tabernacle yesterday afternoon, died within about an hour after the occurrence. The body was conveyed to his late home, in the First Ward. The funeral was to take place this afternoon. Deceased bore a good character, having been a steady, respectable, and industrious man.

Home Cloths.—We have seen specimens of as fine looking cloth for summer wear as we have observed anywhere. It is an article that is a credit to the Territory. Nobody need wish to wear better or handsomer. It is the product of the Provo Woollen Mills. The goods can be seen at the commission establishment of Mr. John C. Cutler, Old Constitution Buildings.

Returned Home.—To-day we were pleased to meet with our old

friend Bishop O. N. Liljenquist, of Hyrum, Cache County, who reached Ogden on Sunday last, from Copenhagen. He left on a mission to Europe on May 6th, 1876, and, on reaching Denmark, took charge of the Scandinavian Mission, over which he presided until his late release, being succeeded by Bishop N. C. Flygare.

During the two years he labored in Scandinavia the work flourished and spread, 1,056 persons having been baptized into the Church during last year alone. Twenty-five persons were baptized in Finland within the two years of his mission. As before mentioned in the News, however, the Elders were recently sent out of that country by the Russian authorities. The missionaries who labored in Finland state that the people of that principality are kind hearted, honest and good. In their customs, however, they are somewhat behind the times. They receive the elders with great kindness, but the priests raise a great howl at their presence.

Elder Liljenquist speaks very hopefully of the prospects of the work in Scandinavia. He expresses the belief that, notwithstanding the many thousands that have already gathered out of that part of the world, the work has as yet barely commenced there. He feels certain that Israel in those lands are in hosts. If all the Elders now in the field in that part were in Aalborg Conference alone they would find plenty of work, the people turning out in large numbers to hear them.

Elder Liljenquist returns well in health and spirits, and he will be welcomed home by many friends by whom he is well known and respected. He speaks commendably of the energy and faithfulness of the Elders now laboring in the mission from which he has just come.

City Council.—The Council met last evening, Mayor Little presiding.

A petition was received from Edward Morgan, administrator of the estate of Francis Birch, deceased. It explained a transaction concerning a quarter section of land now owned by the heirs of said Birch, which being in the neighborhood of the asylum, the water of a certain spring that would have been used for agricultural purposes had been taken by the city for the use of the asylum, thereby rendering the quarter section partially valueless, and asking compensation for the improvements made thereon, amounting to about \$300. Referred to the committee on public grounds.

A petition from John Reese, asking the privilege of erecting a stand on First South Street on the corner of Kimball and Lawrence's store, for the purpose of selling notions, and promising to erect a good stand if the privilege be granted, was referred to the committee on streets and alleys.

A petition from Millen Attwood stated that he had paid \$14.40 on the 1st of April for a three-month's license for a meat market, that he had been in business only one month; he therefore asked for the refunding of the unexpired portion of the license, amounting to \$9.60. Referred to the committee on license.

A petition was received from John Becktol, asking a transfer of his license to Geo. Arbogast. Granted.

A petition was received from Joseph C. and Jos. T. Kingsbury asking the privilege of purchasing two lots owned by the city adjoining Dunford's farm, Sugar House Ward. Referred to the committee on public grounds.

The committee on ways and means, to whom was referred the petition of the Tenth Ward Brass Band, recommended an appropriation of \$100, for the purpose of assisting in procuring a uniform for the band. The report was received and adopted, and \$100 appropriated.

On motion, a committee of four was appointed for the purpose of conferring with the superintendent of public works and to assist him in purchasing machinery for the artesian well. The Mayor appointed Aldermen Dinwoodey and Sharp,

and Councilors Morris and Armstrong said committee.

The ordinance in relation to the inspection of buildings was taken up and passed.

Council adjourned till next Tuesday evening at 7 o'clock.

Robbery.—Yesterday we gave a history of the Bountiful land case. It was a plain, unvarnished narration of facts, carefully collected. No fair, unprejudiced person, making themselves familiar with the circumstances, can come to any other conclusion than that a number of industrious citizens, the original occupants and possessors of the land, have been ruthlessly robbed of property that belonged to them.

Those who have been parties to this unrighteous transaction, in addition to the Burnhams who have shown the utmost unscrupulousness, are the officers of the land office, of Salt Lake City, either by design or gross blunder. Most people believe it was by conspiracy. Patton and Silva were Register and Receiver at the time.

Another party involved in the transaction was the Union Pacific Railroad Company, who, without any notice to the parties in possession of the land, sold it over their heads to the Burnhams, under the government grant act to the company of unimproved lands.

The other party who aided the accomplishment of the land robbery was the person who was selected by the occupants to homestead the quarter section, who appears, judging by his actions in the matter, to be an individual woefully lacking in that manly element that causes people to stand by the right under all circumstances.

Finally, after those same industrious citizens had been deuded of their hard-earned farms, they were further mulcted of \$450 in a suit brought against them by the Burnhams for cutting hay from the land of which they were at the time the possessors, and of which the Burnhams had never been in possession, neither when the grass was cut or at any previous time. The defendants in their answer denied that the plaintiff's had ever been in possession, yet, in his instructions to the jury, Judge Schaeffer stated that the defendants admitted the possession of the plaintiffs when the hay was cut. Besides, the Judge, all through the trial, refused to allow the defendants to prove that they were in possession at the time.

The defenders, aiders and abettors of land jumpers and swindlers may express exultation at the result of such a case simply because the losers in the affair are "Mormons." In such expressions they manifest the same dishonest inclinations as actuate the actual perpetrators of such deeds. Had such a case occurred in any of the neighboring Territories instead of among a peace-loving community, who, as a rule, would rather suffer wrong than do wrong, we do not doubt that the chief actors would never have been permitted to consummate the transaction.

NEW YORK TRADE.

IMPORTANT NOTICE!

Readers and Heads of Families

CUT out this notice and send it to the Graefenberg Company, 56 Reade St., N. Y., together with TWENTY-FIVE cents, and you will receive by return mail, postage paid, a copy of their valuable family medical book, entitled

The Graefenberg MANUAL OF HEALTH.

It contains 300 pages, handsomely printed on fine paper, and is written in language plainly understood by every one.

ESTRAY NOTICE.

I HAVE in my possession:
One brown HORSE, 3 years old, no marks or brands.
If not claimed by the 4th of June, 1878, will be sold to the highest bidder at 5 p. m., at the Fillmore City Estay Pound.
JOHN ASHMAN,
District Poundkeeper.
Fillmore City, May 27, 1877. dsw