

EVENING NEWS

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CHARLES W. PENROSE, EDITOR.

Wednesday, June 23, 1894.

POWERS OF WATER COMMISSIONERS.

MIDWAY, WASHCO COUNTY, June 20th, 1894.

Editor Deseret News:

As you always appear willing to impart information for the benefit of your subscribers, I venture to ask a few questions which I think will be of sufficient general interest to meet with your consideration.

My questions are in relation to a proposed project in "An Act" of our Territorial Legislature, "Providing for the construction of a water ditch, and for the water, and regulating their exercise," approved Feb. 23, 1894.

First—What parts, if any, of said act have been declared void by the courts?

Second—In Sec. 1 of the Water Commissioners are authorized to require to distribute the water to each person or corporation, etc. Now the question is, "What right have they to distribute water to each individual, or does their duty end after they have turned the water, in bulk, into the main ditch for the use of the community?"

Third—In what manner can the Commissioners and their agents get remuneration for their services?

Yours respectfully,

Q. RACE.

We will endeavor to answer the foregoing questions to the best of our ability.

First. The only adverse decision given by any of the Utah Courts upon the law of 1890 on Water Rights, was rendered in the first judicial district, to the effect that those portions of the law which confer power on the Water Commissioners to determine the rights of claimants to the use of water and pass upon their disputes as to such rights, is void on the ground that it bestows upon them judicial authority, and the Legislature has no power to extend such authority beyond the limits prescribed by the Organic Act.

This decision, however, has not affected the operations of the law, as several reasons are given in the opinion. Previous to its rendering, the Water Commissioners in the several counties had determined very large numbers of claims and had issued certificates which were generally satisfactory to the parties interested. These are not likely to be disturbed, and after they have remained in force for seven years will not be subject to litigation. And the decision, in our opinion and that of sound legal practitioners, is not founded on good reasons. The law does not interfere in any way with the right to take a disputed case of water rights into the courts. The findings, conclusions and certificate of the Water Commissioners do not amount to a judicial decision. They are merely made preliminary or necessary to the institution of a suit at law. The right to litigation is expressly reserved, in terms, in the law, and the authority of the courts to issue an injunction or restraining order is acknowledged and maintained. If the parties interested are satisfied with the decision of the Water Commissioners it stands, for all practical purposes, as a final decision, and can be taken to a court for a judicial decision, which will dispose of it. The power of the Water Commissioners is not judicial. There is no reason why the Water Commissioners should not go on and perform their duties under the law.

Second. We consider that when the Commissioners have divided the water from the natural sources of supply into the water ditches, or canals, of the various corporations and individuals having the right to the use of water, they have done all that the law requires of them in that respect. If the joint owners do not organize and make arrangements among themselves for the distribution of the water, the ditch jointly owned by them, that is their own fault. They are really in the relation of a company, even though they may not have organized and become a corporation. A careful reading of the law will show that this is the intent, although of course, like all laws, it is subject to another construction by capricious critics. It is not reasonable to think that it was the intent of the law to impose on the public for the Commissioners to divide the water—a duty and expense fully and clearly devolved upon individuals.

Third. The Water Commissioners have their office by virtue of being Selectmen. They obtain their remuneration for services rendered in the same way as Selectmen, namely, from the county treasury. They are entitled to the same per diem for their services in the capacity of Water Commissioners as for any other duty as Selectmen. The law does not say so, because there is no need to say so, for it follows as a matter of course.

We hope these replies will answer the purpose of our correspondent and friends who ask the above questions.

THE BRITISH POLITICAL POSITION.

It is thought that there will be an early collapse of the Gladstone administration. The Premier's Egyptian policy has placed him in an unpopular light before the country, and his policy of confidence and consequent appeal to the nation may cause at any time.

Had Mr. Gladstone been less personally popular than he is he would have been deposed long before now, and probably no other man could so long have retained his office at the head of the government in the face of an adverse general sentiment in relation to his foreign policy. The grand, solid, brilliant and capable old man has such a hold upon the hearts of the people, that they would not willingly tolerate in him what they would fiercely denounce in another. He ranks among the foremost minds of the century, and the people are fully conscious of the fact. They are proud of his many and noble qualities and they are proud of his name. Regarding what they esteem to be his mistakes.

Mr. Gladstone's second administration began April 28th, 1890, and has therefore lasted over four years. This period is longer than the average tenure of office of any British Prime Minister for six years and four months; Sir Robert Peel, four years and six months; Lord Russell, five years; Lord Derby, ten months; Lord Aberdeen, three years; Lord Dufferin, one year and three months; Lord Palmerston, six years and four months; Lord Russell, eight months; Lord Derby, a third time, two years; Disraeli, nine months; Gladstone, five years; Disraeli, a second time, six years.

This was followed by Mr. Gladstone's second administration. In the event of an appeal to the country it is thought that the Conservatives are likely to be victorious.

THE ROCK RAILROAD AGAIN.

Wrote by the manager of the City Council, on the 10th inst., the following questions to the company, which was known as the Rock Railroad Company, is again being asked, and that the present application is now referred to the Committee on Cemetery with the Mayor and City Council again. This we understand is because the new line projected is intended to run along Ninth Street, and would cut through a portion of the cemetery grounds lately commenced to be enclosed. It would take it about twelve rods north of the artesian well. We do not think this will strike the public much more favorably than the old application, which met with no success.

The cemetery lands, including the new portion, are all absolutely necessary for the purposes for which they were designed, and it appears to us that the people will not want a railroad through the grounds dedicated to the memory of the dead.

The committee, the wisdom of proceeding in this matter carefully and without undue haste. The company are very anxious to build the road, no doubt, and we do not wish to interfere with their right to do so. But at the same time the public ought to be consulted, and their interests and feelings considered. Don't be in a rush.

OUR CHICAGO LETTER.

OUR REGULAR CORRESPONDENT PROBES PUBLIC MEN AND MEASURES WITH A "BLAME BOMB."

CHICAGO, June 20, 1894.

Editor Deseret News:

The agnostic poet, Shelley, said: "There needs not the intellect to claim to punish those who err." This is the rather strange admission of a man professing nothingness, or chance, or whatever may be the peculiar profession of the atheist, the agnostic or materialist. Like Mr. Ingersoll's profession of hope over the grave of a father, it places in the mind of man, whether the savage of the forest, the cannibal of the Pacific, or the lecher of the clouds where lecherous clouds of Jupiter are said to be, that the dead are being prepared for perpetual torments; whether scientific evolutionists or not, they are out of their deity philosophy, all this only shows more plainly the irrepressible conflict of the human mind, the natural man to look to something.

BEYOND THE MERE PRESENT.

temporal concerns of earthly existence. And there are naturally implanted in the mind of man, of good and evil, with their relative accompaniments, no matter in what form of existence they may be manifested. It may be the cause and effect of the scientist, the destructibility of the atom, the indestructibility of the spirit, the immortality of the soul, the chance of the fortuitous. Traced to its source through any inquiry and its end through any investigation, the scientist, omnipotent Providence as revealed by Christ and His Apostles.

This great law is manifested every day and in every clime, and in every place of religious, political or social activity. Evil, crime and immorality in any department of social life are followed certain and sure by their retributive avengers. It is an alleged Christian missionary, and instructor to the heathen, who is the cause of the trouble. This teaching has his point, for we find him in the East, and he is the cause of the trouble. This teaching has his point, for we find him in the East, and he is the cause of the trouble.

Such a law is also

OVERLOOKING OUR RIGHTS.

And whether dealing justice before the border or abiding by the charity of the border, the result is the same. Great law will have them. External Justice rules, but she is very patient, the distribution of the water for the ditch jointly owned by them, that is their own fault. They are really in the relation of a company, even though they may not have organized and become a corporation. A careful reading of the law will show that this is the intent, although of course, like all laws, it is subject to another construction by capricious critics. It is not reasonable to think that it was the intent of the law to impose on the public for the Commissioners to divide the water—a duty and expense fully and clearly devolved upon individuals.

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NOTES OF 15 DEMOCRATIC MEMBERS.

only ones who voted against the bill, are disgraced and to the party they represent. If the Democrats in the house fail in making the bill become a law, the bill will be lost to the country, and the Democrats will be disgraced and to the party they represent.

Every means is being adopted to make Mormonism a party issue, and that the miserable bill known as the Republican party may get a chance to enlarge itself on that one word, Mormonism. It is also the object of such measures. For the law-makers, the party who are in control of the legislation of the country, and why did they not see the danger of all this? Even the bill known as the Utah and Idaho bill, which is only the agents of these Buncombe agitators.

Though using the term, Republican as applied to a party, it is difficult to tell what it is or where it is. It is divided into two factions, one the Edmunds faction and the other the Blaine faction. The Edmunds faction is the one which is in control of the legislation of the country, and why did they not see the danger of all this? Even the bill known as the Utah and Idaho bill, which is only the agents of these Buncombe agitators.

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Supreme Court.

Proceedings in the Supreme Court of Utah Territory, Wednesday, June 20, 1894.

Charles C. Richards admitted to the bar of this court.

James King respondent, vs. Edgar Wiley, appellant, from First District; judgment of District Court affirmed, respondent to recover costs.

In the case of James M. Barlow appellant, vs. Alex. Russell et al., respondents, and in the case of Mary Ann, M. Pratt, James J. Murphy, Mildred E. Randall and Ellen C. Clawson against the said respondent, all from the Third District; the judgment of the District Court was affirmed, respondents to recover costs. Appeal to the U. S. Supreme Court allowed with bonds of \$500 in each case.

People, etc. respondents vs. Rudolph Smith; from Third District; judgment of District Court affirmed.

People, etc. respondents vs. David Fennell, etc.; appellant, from Second District; appeal dismissed.

Thomas Fenton respondents vs. Salt Lake County, etc.; appellants; Third District; judgment of District Court reversed and cause remanded with instructions to sustain demurrer to complaint; appellant to recover costs.

Samuel Levy respondent vs. Salt Lake City appellant, Third District; order of District Court granting new trial affirmed, respondent to recover costs.

Andrew Klopstein appellant vs. Isaac Woolf, respondent, Third District; judgment of District Court affirmed, respondent to recover costs.

Margaret Sanders appellant vs. Isaac Woolf, respondent, Third District; same order.

Wm. H. Bowers respondent vs. London Bank of Utah (L. B.) appellant, Third District; order of District Court affirmed, respondent to recover costs.

Account of E. T. Sprague, Clerk of the Court, from April 22nd, 1894, to present date inclusive, \$80, approved. Court adjourned till November 10, 1894, at 3 p.m.

SALT LAKE THEATRE.

A COMPLIMENTARY

BENEFIT CONCERT

TENDERED TO THE POPULAR

YOUNG VOCALIST,

Miss Agnes Olsen

— BY THE —

TABERNACLE CHOR & OTHERS,

WILL BE GIVEN ON

TUESDAY EVENING,

July 1st, 1894.

THE THEATRE ORCHESTRA,

Enlarged for the occasion, will accompany the vocalists.

See small bills for full programme.

Conductor, J. E. Beasley.

Concert to commence at eight o'clock.

Tickets on Sale at D. S. Caldwell's, Hay and Grain Office, and at Theatre Box Office.

PRICES:

Parquette \$1.00 & 25c; First Circle, 75c, etc.

NO EXTRA CHARGE FOR RESERVED SEATS.

A. GOLDWATER,

Union Block, Main St., Salt Lake City.

I have opened at the above place a

Merchant's Tailoring

ESTABLISHMENT.

With a New Line of the Finest Importations.

JOSEPH E. TAYLOR

PIONEER

UNDERTAKER OF UTAH.

No. 223 FIRST SOUTH STREET

TELEPHONE No. 70.

THIS IS TO GIVE NOTICE THAT I

have been chosen by my friends to

act as Undertaker for the

funeral of the late

JOHN A. TAYLOR

who died on the 19th inst.

and whose funeral will be

held on the 21st inst.

at 10 o'clock A.M.

at the residence of

his wife, Mrs. J. A. Taylor