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CHARLES W. PENROSE, EDITOR.

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WATER FOR THE DRY LAND.

ONE of the most important questions to be considered at the present time by the City Council is the supply of water for the residents on the dry benches. No one denies or can deny their great need of water for culinary and irrigating purposes. The line of water supply is clearly marked. Below the ditches all is verdant and fertile, pleasant to the eye and inviting to the seeker after a home. Orchards, lawns, luxuriant vegetation, shade trees, fruits and flowers abound. Above there are houses and fences and little patches of garden, but the general appearance speaks of drouth and barrenness. And when the struggling settlers are seen packing water to drink, in buckets and barrels, sometimes in the great heat of the summer sun, sympathy is at once created and the question arises, why do not the City Fathers make provision for the crying wants of the people. To this question there are many replies.

It is claimed that water cannot be provided for that upper district without immense expense; that the settlers there went upon those dry benches understanding that there was no water supply and would not be; that the prior rights of the older settlers interfere with the claims of the newer, and must be paramount both in law and in equity; that the City is not under any obligation to make the demanded supply; that the residents on the dry places pay but little taxes, and the citizens of other parts would complain if so large an outlay as would be involved, were expended on those comparatively unproductive places. We will briefly consider these objections.

No doubt it will cost much money to bring an adequate water supply upon those parched and thirsty places, whose inhabitants are crying for help. But the cost is not a sufficient consideration in view of the needs of the citizens there. Their future prospects depend upon this supply. Their health is endangered, their lives, and particularly the lives of their little children, are in jeopardy from the lack of water. If that region were made tillable, the change would soon be so great that a return would come for the outlay. The expense of bringing down a very large quantity of water from the adjacent hills where springs may be utilized, is not so large but that a private company has expressed a willingness to do the work if control of the water is secured to it. This proposition has gone so far that a motion has been made and entertained in the City Council to allow that company the privilege. We do not think such a motion will prevail. It ought not to do so. It is the duty of the City Council to attend to this business, according to the powers vested in it by the City Charter. If a private corporation can afford to do it, the municipal corporation can. The City ought not to yield to private individuals or organizations, that which is a public right and a public duty. There should be no private control of waters that ought to belong to the public. We are not prepared to say whether or not the source of supply which it is proposed to place in private hands is adequate, or the most feasible means available; but we wish the point to be noted that if it will pay under private control, it will do so under public control, if properly managed.

To the statement that the people went on the dry benches knowing their lack of claim for water, we have nothing to say in rebuttal; but we do deny the observation that they never expected to obtain water rights. They certainly looked for a time when the resources of the city would be such that they would be able to acquire title to water as they had to the land. The conditions of many other places in the Territory have been signally changed with the rolling years, and why should not these dry benches become well watered gardens as others have? That such expectations were had, as was natural, is well known, and the City Council has recognized those expectations formally, and is under admitted obligations to satisfy them. When the question of giving power to the City Council to borrow money for the purpose of building the Jordan and Salt Lake City Canal was about to be put to the popular vote, the City Council issued an address to the voters, duly attested, from which we take the annexed paragraph:

"People have gone upon the high ground above the present ditches, built houses and made homes in the confident hope and expectation that water would some day be obtained for them. There are many hundreds of these citizens whose homes would be practically valueless if it were definitely known that no water would ever be gotten to them. While the rights to water of the older settlers may not be alienated, yet by mutual concessions and exchanges of water for the good of the whole, the proposed canal should, and doubtless will, make it possible for the long-distressed residents of the dry benches, as well as those on the lower lands, to have a supply of water equal to their needs. The residents of the benches may rest assured that the Council will do everything in its power to afford them a supply of water."

We consider that a complete answer to several of the objections mentioned above. The expectations of the dry bench people are admitted, the rights of the old settlers are considered, the City pledges itself to do everything possible to supply the dry benches with water. On this promise and obligation, the people referred to voted for the loan and have paid their proportion of revenue from which the debt is to be liberated. If the amount is small, whose fault is it? Not theirs. With an adequate water supply, the value of their property will increase and their taxes will increase accordingly. The common revenue is for the common good. The rich tax-payers cannot lawfully claim all the benefit of the public funds. And if they grumble at a large expenditure on a district that pays a small amount of taxes, have not the residents of the latter cause to complain when they gain no benefits at all from the revenue to which they contribute their lawful part? How much has been expected in any public improvements on the dry benches? How much for roads, lights, police force or anything else? The artesian well may be pointed to. That gives the whole question away. If the city was right in boring for water for the benefit of the dry benches—an enterprise with excellent motives but with no present result—will it not be right in bringing down the water from the hills for the same purpose and persons?

We do not think any argument can be made, strong enough to hold a drop of water, against the lawful claims and just pleadings of the people in the upper regions of this city for water enough to drink, cook with and give life to their gardens. Humanity, equity, duty, the growth of the municipality, the pledged faith of the City and sound public polity, unite in urging upon the City Fathers to take immediate steps in behalf of the sufferers; and we hope that this important matter will not be too frequently "laid upon the table." The want is imperative, the supply should be forthcoming, or at least the promise thereof should illuminate the future with bright rays of precious hope.

THE EMINENT JURIST NOW DECEASED.

THE following summary of the leading events in the life of Judge Jeremiah S. Black appears in the San Francisco *Chronicle*, a paper opposed to the political views and many of the acts of the great lawyer whose loss is felt by the nation, but which has the manliness to give credit to the deceased for his eminent abilities, rectitude of character and to place him in a true light before the country. Those who through spite and the bitterness which flows from a small and crabbed soul, berate the grand old man because he had the boldness to defend the unpopular "Mormons," cannot comprehend his bravery and devotion to constitutional principles. They can only judge him by their own mercenary spirit and actions. But from the following account it will be seen that he was just as fearless when he disagreed with his Chief in the Executive Cabinet as when he espoused the cause of a despised people whose rights were in danger. His object in either case was not gain, but the maintenance of the right:

"Jeremiah S. Black was an eminent public character. The best years of his life were devoted to the service of his country. Judge Black was of Scotch-Irish descent. He was born on January 10, 1810, in Somerset County, Pennsylvania, and his early years were passed upon the farm of his sire, where he acquired a liking for rural life, which was never wholly destroyed by the experiences of later years. But habits of study soon acquired induced in him an ardent desire for learning, rendering him too impatient and ambitious to long follow the plow. At the time when most lads were puzzling their heads over the text-books commonly used in the schools, Jere's brain was wrestling with the "Conduct of the Understanding," by Locke, and with "Drew on the Soul." His literary tastes seemed to be about equally divided between the classical and metaphysical. He soon became imbued with the doctrines of Christianity, which he afterwards vigorously defended against the assaults of such liberalists as Robert G. Ingersoll. At the age of 23 years he joined the Cambellite Church. The educational advantages which he enjoyed were not of the best, even in those primitive times. Like the poet Burns, he received his rudimentary lessons behind the plow and in the common schools in his district. He concluded his schooling at a private academy in Fayette County. In his leisure hours he read great authors and during the eighteen months which he passed upon the farm after leaving school and prior to beginning his law studies he translated very many of the classics into English. Self-culture with him did not cease with his school days, but increased with his years and continued through nearly all his life.

Graduating at the age of 17 years, Jere Black, who mentally and physically was then unusually well matured, soon after began the study of law with Chauncey Forward, of Somerset, and before he was of age was admitted to the bar, and became prosecuting attorney of Somerset County. He rose rapidly in his profession, for which he appeared to possess all the natural qualifications, and Mr. Forward having been elected to Congress, went to Washington and certified all of his clients cases to Jere Black, who was, in the second term after his admission, left with an extensive practice, including one side of every case on the calendar, in addition to his duties as Prosecuting Attorney. Referring to this period of his life, Judge Black was subsequently overheard to say: "I would have run away from such responsibilities if I could. I would rather have mauled rails. It would have been play by the side of the work I had to do." But there was a strong incentive—the desire to earn sufficient money to pay an indebtedness for his father, which incumbered the estate—that sustained the conrage of the young attorney and aided him in carrying his difficult professional duties to a successful completion. The unusual love that Jere had for his sire is illustrated by the following anecdote: The Democrats in 1841 had decided to nominate him (Black) for Congress and Joshua T. Cox had been agreed upon as the candidate of the Whigs. But when the Whigs met the action was reconsidered and instead of Cox, the nominee selected was Henry Black, for the purpose of preventing the nomination of his son (Jere) by the Democrats. The plan was a success. Jere, despite the solicitations of partisans, would not consent to run against his father, and so it resulted that Henry Black was sent to Congress, while his son remained at home. Henry Black died in 1842, while serving his first Congressional term. The episode above narrated placed Judge Black in an equivocal position with his party and was more deeply regretted by him than any other experience in his political career.

In 1838 Jere Black, then 28 years of age, was married to the daughter of his preceptor and patron, Miss Mary Forward, and four years later (1842) he was appointed by Governor Porter as President-Judge of the Court of Common Pleas for the circuit comprising the counties of Franklin, Somerset, Bedford, Blair and Fulton. He held the office for nearly ten years, during which time he won for himself an enviable reputation as a jurist. His decisions were marked by brevity and accuracy. But few were ever appealed and fewer still were reversed. In 1851 he became Chief-Justice of the Supreme Court of Pennsylvania, and in 1854 he was re-elected to the Supreme Bench by a large majority, although at that time the wave of Known-Nothingism swept the political deck clear of nearly all other Democrats who were upon it. After serving two of the fifteen years for which he had been re-elected to the office of Chief-Justice, Judge Black was called to the Cabinet of President Buchannan as attorney-General of the United States. For a long time he was the sincere friend and trusted adviser of President Buchanan, for whose legal ability he ever entertained the highest esteem. It was not until 1860, in the fourth year of Judge Black's official term, when the rising rebellion was nearing maturity, that he and the President began to drift apart and finally became openly antagonistic upon the vital political issues of the day. Buchanan believed in the policy of a temporizing delay, Black in the prompt and uncompromising enforcement of the laws. In November, 1860, the President asked the Attorney-General for a legal opinion on the rights of States under the Constitution and the power of the Executive in suppressing rebellion. The document prepared and presented by Judge Black contained the following pertinent paragraph:

The Union is necessarily perpetual. No State can lawfully withdraw or be expelled from it. The Federal Constitution is as much a part of the Constitution of every State as if it had been textually inserted therein. The Federal Government is sovereign within its own sphere and acts directly upon the individual citizens of every State. Within these limits its coercive power is ample to defend itself, its laws, and its property. It can suppress insurrection, fight battles, conquer armies, disperse hostile combinations, and punish any or all of its enemies. It can meet, repel and subdue all those who rise against it. But it cannot obliterate a single commonwealth from the map of the Union, or declare indiscriminate war against all the inhabitants of a section, confounding the innocent with the guilty.

President Buchanan declined to receive this opinion, which so illy accorded with his own sentiments, and desired in its stead a mere formal, legal answer to questions he had propounded, without any comments or arguments to show the mistakes of the incoming power or the follies of the Southern leaders. The result was a formal opinion of November 20, 1860, for which Judge Black was severely criticised. The next serious difference between the President and the Attorney-General arose over the annual message to Congress in the following December. Buchanan had written: "No power has been delegated to coerce into submission a State that is attempting to withdraw or has entirely withdrawn from the confederacy." Judge Black objected to the above expression and argued against its appearance in the message, but was overruled by the President. The gulf which had thus opened between the President and Judge Black grew wider with the lapse of time. When Floyd, then Secretary of War, proposed to surrender the Southern forts to the secessionists, there was a memorable Cabinet scene. In denouncing the suggestion Judge Black said:

There never was a period in the history of the English nation when any Minister could propose to give up to an enemy of his Government a military post which was capable of being defended without being brought to the block.

This language was not relished by the President, who rebuked both Black and Stanton for a too free expression of their anti-secession sentiments. When President Buchanan appealed to Judge Black to take the office of Secretary of State, vice General Cass resigned, he declined to accept it except upon the condition that Edwin M. Stanton be appointed Attorney-General. The President hesitated, but at last assented, and thus was Judge Black successful in getting Stanton into the Cabinet to aid him in the struggle against secession.

At the expiration of his term as cabinet minister Judge Black retired to the seclusion of his home in Pennsylvania, near the town of York. Not having grown wealthy in public life, he here resumed the practice of law. Within the last twenty years he argued many notable cases before the supreme court of his native State. Perhaps his greatest case, pecuniarily, was that of the New Almaden Quicksilver Mining Company of California. The testimony in the case covered 3,000 printed pages, and the length of the opposing counsel's briefs was 1,700 pages. In this case Judge Black had to contend with such eminent lawyers as Reverdy Johnson, Charles O'Connor and Judah Benjamin, and on other occasions he has met with such distinguished advocates as Caleb Cushing and R. B. Curtis. His arguments in many cases involving the constitutionality of the Reconstruction Act are historical. In his great effort in the Milliken case, which secured a decision from the Supreme Court denying the right of a military commission to try a citizen for his life, Judge Black was associated with the late President Garfield. His services before the Electoral Commission, where he appeared as one of the Democratic counsel, are of too comparatively recent date to require any extended mention.

By reason of his winning gift of language, his oratorical power, his classical and legal learning, as well as for the strict rectitude of his character and his unswerving patriotism, is the name of Jeremiah S. Black entitled to honorable mention in the civil and political history of the United States.

THE RIGHTS OF OFFICERS.

A FEW days ago we had occasion to deprecate the language of Mr. Tripp, an attorney of this city, in a case before a Justice of the Peace, when that gentleman, referring to an arrest made by officer Crow, argued that the defendant would have been justified in shooting down the officer. This we denounced as encouraging lawlessness and prompting resistance to the authorized executors of the law.

We now learn that Mr. Tripp claims that his remarks were not directed to the circumstances of the arrest, but to the action of the officer before attempting the arrest and when he had no warrant of arrest. They were intended to apply to the course of the officer when serving an attachment on the parties, which gave him no right to possession of their premises, but simply to attach certain property. In taking forcible possession of the domicile of the defendants, the officer, he considered, exceeded his duty and in that act, the attorney showed, the defendants would have been justified under the laws of the Territory in even shooting the officer, who was, because of his excess of duty, not then to be viewed as an officer. In making the arrest, the lawyer admits that the officer was justified in using force if necessary when obstructed, and the defendants would not have been justified in making forcible resistance.

Officer Crow insists that the remarks were made in relation to the arrest, and in support of that view says the only matter before the Court at the time was the arrest of the defendants, the attachments being under consideration. If this is correct our surictures were exactly right.

We have no wish to do any one injustice. We do wish to see the public and the officers protected in their rights. If Mr. Tripp's remarks were intended as he says—and he ought to know better than any one else what he meant—whether they were made as clear to others as to himself or not, he was correct in the view that he took. It all depends on the point to which he was talking. No officer should exceed his duty. If he does he is liable to get into trouble. The law will not sustain him in his excess. It will, however, exculpate proper resistance to unlawful seizure or invasion. But when in the discharge of his duty, however disagreeable it may be to others—and perhaps to himself—he must not be assailed nor interfered with, and those who attempt resistance or obstruction, are liable to punishment as well as to such measures on the part of the officer as may be necessary for his own protection and the full discharge of his sworn duty.