

'AMERICAN' HOWL ON WATER RIGHTS

For the Second Time it is Shown Up in Its True Light.

RIGHTS FULLY ESTABLISHED.

Attorney F. S. Richards Told Committee What It Really Owns in Big Cottonwood Creek.

For the second time the howl raised by the "American" party administration, to the effect that the city has no title to the waters purchased from the Big Cottonwood farmers and that it could not divert one drop of water into the Big Cottonwood conduit, was shown up in its true light at the meeting of the waterworks committee of the city council last night and the falsity of the statements published in connection with that matter was more strongly established than ever before. Attorney F. S. Richards, who was special counsel for the committee during the past administration, appeared before the committee at the session last evening in response to an invitation and made an extensive talk in regard to what rights the city really owns in Big Cottonwood creek through the dealings of the past administration.

STATEMENTS CONCLUSIVE.

His statements were evidently very satisfactory and conclusive to the "Americans" present at the meeting, for hardly a question was asked him, and there was no attempt to dispute any facts set forth. To the contrary, chairman Mulvey thanked Mr. Richards for appearing before the committee and added that he had given the members of the council more information concerning the water proposition than they had ever before had. Neither city Attorney Hills nor his assistant, Mr. Dillmy, attempted to controvert any of the statements made, and neither had anything to say concerning the matter. In fact, they were perfectly nonplussed at the convincing arguments advanced by Mr. Richards. It was shown that the city has the undisputed right to 24.9 sixtieths of the flow of Big Cottonwood creek and a disputed right to 5.1 sixtieths. At the conclusion of Mr. Richards' talk he advised the committee to at once take some steps towards securing the Tanner ditch water, and when that is secured, all obstacles will be removed in relation to the water situation in Cottonwood.

HERE ARE THE FACTS.

The statement made by Mr. Richards follows in part: "An attempt was made to determine the respective rights of the water users from Big Cottonwood creek by arbitration in 1875. Joseph S. Rawlins, Reuben Miller and David B. Brinton were the arbitrators. For convenience they divided the creek into 60 shares, each share representing one-sixtieth of the water flowing in the said creek at the highest point therein where water is diverted by any of the ditches or canals mentioned in the agreement for arbitration. "An award was made in December, 1875, which was approved and confirmed by the Third district court of the Territory of Utah on the 24th of November, 1880, and is entered in minute book F, page 151. It shows the rights to be as follows:

Table with 2 columns: Shares, Second Half-year. Rows list various ditches and their share counts.

AGREEMENT OF SUBMISSION.

"The agreement of submission to arbitration and the other papers constituting the files in the case are lost. The record shows that some persons objected to the award, but they are comparatively few in number and the inference therefrom is that nearly all of the water users signed the agreement of submission to arbitration.

"From this state of facts it was assumed that the respective rights in the Big ditch, the Lower canal and the Hill ditch in 1880 were substantially as stated in the award. It was important, however, to know whether these rights had been preserved by use, or whether they had been forfeited or abandoned by non-use.

DID NOT LOSE RIGHTS.

"Investigation disclosed the fact that

The Autobiography of an Elderly Woman

In Everybody's for May, a dear old lady, with a gentle and kindly pen, tells how her grown-up children, with the best intentions in the world, are making her life miserable by their over-devotion.

The story of a rich life full of golden memories. Beautiful! But oh! if young people only knew how their old mothers and fathers loved to share both the joys and sorrows of their life of today!

Everybody's Magazine

15 cents a copy \$1.50 a year

DR. PRICE'S Cream Baking Powder

Good Health depends upon the food you eat.

Adds to the healthfulness of all risen flour-foods, while it makes the food lighter, sweeter, finer-flavored, more delicious.

Exercise care in purchasing baking powder to see that you get Dr. Price's, which makes the food more wholesome and at the same time more palatable.

Note—There are many mixtures, made in imitation of good baking powders, which the prudent will avoid. They may be known by their price, being sold for ten to twenty-five cents a pound, or a cent an ounce. They are made with alum, interfere with the healthfulness of the food.

TWENTY YEARS AGO TODAY

DO YOU REMEMBER!

There was much rioting and bloodshed in Chicago through labor troubles. August Spies was the principal agitator.

TEN YEARS AGO TODAY.

A tank of gasoline exploded at Cincinnati, O., demolishing a five-story building. Six people were killed and many injured.

FIVE YEARS AGO TODAY.

The first public recital was given on the reconstructed Tabernacle organ.

A fire at Jacksonville, Fla., rendered homeless 10,000 people. One hundred and forty-eight blocks were consumed.

At Des Moines, Ia., Mrs. George Rankin brained her 13-year-old daughter with a hatchet.

The claim was made by some of the parties living in the upper part of the district that some of the wet lands in the lower part had lost their right to water for irrigation, but this was denied by the owners of those lands, who claimed that they had always been irrigated, and that it was necessary.

FULL QUANTITY NOT RECEIVED.

"It was also claimed that some of the lands in the upper part of the district had acquired rights by adverse use, but this was disputed by the parties below, who insisted that the water had not been used upon these lands a sufficient length of time to give a prescriptive right to it.

"An investigation of the matter, including interviews with the water masters and others who were best informed on the subject, and an examination of the records showing the distribution of the water, so far as such records were attainable, showed that the water received by the Big ditch, the Lower canal and the Hill ditch had not been receiving the full quantity of water awarded to them by the arbitrators. The Big ditch receiving 17 shares, the lower canal 6 shares, and the Hill ditch 11 shares.

"While the owners of the water rights of these ditches claimed the full quantities stated in the award, the city made the exchange upon the basis of the quantities which they are now receiving. For example, the contract with the Big ditch provides that the city shall deliver to it 21-20ths of the water flowing in Big Cottonwood creek, which is practically the equivalent of 21.3 shares, the maximum quantity awarded to it, or 15 shares plus 25 cent shares, which was the basis of exchange. The same may be said of the Lower canal.

CITY ON SAFE SIDE.

"It must not be supposed that the exchange was made upon the basis of the minimum quantity claimed, because it appeared that the parties were not entitled to more, for the facts elicited did not justify that conclusion. But inasmuch as there was a dispute about whether the Big Ditch was entitled to 17 or 21-20ths of the water, it was deemed to keep the city on the safe side so that it would be sure to get all it paid for with a fair chance of getting the full quantity stated in the award.

"In this connection it should be remembered that the city agrees in the contracts of exchange to maintain all of the existing rights of the parties to the water, and, if it should be finally determined that these parties are entitled to the full quantity of water stated in the award the city will get the use of 21.3 shares from the Big ditch, which it has only paid for 17 shares—or at that rate.

"It was understood at the time that the full quantity of water to which these parties were entitled could not be utilized by the city in its conduit without injuring other parties, because some of the water comes into the creek between the conduit and the heads of the ditches where it is now used. This is due to the change in the place of diversion. But, while it cannot all be utilized as potable water, that which comes into the creek below can and will be utilized for irrigation and will form a part of the water which the city is required to furnish the farmers. So that no part of it will be lost and the city will get the full benefit of all that the parties are entitled to receive.

WOULD SETTLE THE MATTER.

"This question about changing the place of diversion is one of the principal reasons why the city authorities were anxious to get the waters of the Tanner ditch, which would have given the city nominally 43-60ths of the stream. It still considers it very important, so far as the city's interests are concerned, that these waters should be acquired, because that would practically settle the matter and probably avoid vexatious and expensive litigation.

of water rights when the interests of the city would be best observed thereby. The scheme was so elastic as to include all legal methods of acquiring such rights. "The water right is described in each contract as 'all the right of it, the party of the second part, to the use of all its portion of the water flowing in Big Cottonwood creek. This is the best description that could be given, because the exact extent of the right was unknown and could not be stated. Neither party was willing to describe it as set forth in the award, because the company was not willing to guarantee that quantity of water to the city, and the latter was unwilling to undertake to maintain the right to that quantity.

DESCRIPTION IS GOOD.

"The description is good because it is possible to ascertain just what the right is, and it is only in cases where it is impossible to determine what rights or property are intended to be conveyed that descriptions are held to be void for uncertainty. The fact that a judicial determination of these rights may be necessary to ascertain the exact extent and definition of them does not affect the matter or render the description invalid. "Under our law there is no public record of water rights as there is of land claims. They are acquired and held by use, and the failure to use the water for the period prescribed by the statute causes a forfeiture of the right. Most of the water rights in the state are undefined, and it would be impossible for their owners to give an accurate description of them. "This fact is so well understood and recognized that the Legislature at its last session appropriated \$25,000 for the express purpose of having water rights determined and defined. It having appropriated a like sum for that purpose at the previous session. And this was done by practical irrigators who knew the situation and realized the necessity for having these rights defined.

ACQUIRED ALL THE RIGHTS.

"The city has acquired all the rights of the Big Ditch company, the Big Cottonwood Lower Canal company and the water users from the Hill ditch to the use of the waters of Big Cottonwood creek. It is concerned by all parties that the right of the Big Ditch company consists of at least 17 shares or 60ths of the stream, while the company claims that it is entitled to 19.3 shares during the first half of the year, and to 21.3 shares during the second half of the year.

FOUND OUT

No one is in better position to know the value of food and drink than a trained nurse.

Trained Nurse vs Coffee

"Speaking of coffee a nurse of Wilkes Barre, Pa., writes: 'I used to drink strong coffee myself and suffered greatly from headaches and indigestion. While on a visit to my brother I had a good chance to try Postum Food Coffee, for they drank it altogether in place of ordinary coffee. In two weeks after using Postum, I found I was much benefited and finally my headaches disappeared and also the indigestion.

"Naturally I have since used Postum among my patients, and have noticed a marked benefit where coffee has been left off and Postum used. "I observe a curious fact about Postum used among mothers. It greatly helps the flow of milk in cases where coffee is inclined to dry it up, and where tea causes nervousness. "I find trouble in getting servants to make Postum properly. They must always serve it before it has been boiled long enough. It should be boiled 15 or 20 minutes and served with cream, when it is certainly a delicious beverage.

"There's a reason" for Postum.

year, and to 21.3 shares during the second half of the year. "It is conceded that the lower canal is entitled to 6 shares or 60ths of the stream, and that the Hill ditch is entitled to 1.9 shares, although the users from that ditch claim 2.8 shares. So, the city has acquired an undisputed right to 21.3 shares of Big Cottonwood creek and a disputed right to the remaining 5.1 shares."

SUPERIOR TO LEMONADE

HORSFORD'S ACID PHOSPHATE. A teaspoonful added to a glass of cold water, with sugar, makes a delicious summer tonic.

SCHOOL FOR NURSES.

Eleventh Annual Commencement at St. Mark's Held Last Evening.

The eleventh annual commencement of the St. Mark's Training School for Nurses was held last evening in the cathedral. The graduating class numbered 10, as follows: Misses Frae Kourous, Rose Kourous, Ruth Owens, Clara E. Beard, Marcela W. Lewis, Eva Hennaway, Nellie Kelly, Helen P. Black, Mabel O. Rattson, Lulu D. Barr. Bishop Spalding made the address on behalf of the hospital trustees, Dr. A. C. Ewing spoke in behalf of the medical staff, and afterwards there was an informal reception at the Ladies' Literary club with dancing and refreshments. The nurses took the Florence Nightingale pledge after being awarded their diplomas, as follows: "I solemnly pledge myself before God and in the presence of this assembly to pass my life in purity and to practise my profession faithfully. I will abstain from whatever is deleterious and mischievous, and will not take or knowingly administer any harmful drug. "I will do all in my power to maintain and elevate the standard of my profession, and will hold in confidence all personal matters committed to my keeping and all family affairs coming to my knowledge in the practice of my calling. "With loyalty will I endeavor to aid

the physician in his work and devote myself to the welfare of those committed to my care."

Class pins were presented to the nurses, and one of the pins was presented to the bishop by Supt. Hunting of the hospital in token of regard for the work he had done in the east in the raising of funds for the hospital.

Heavy, impure blood makes a muddy, pimply complexion, headaches, nausea, indigestion. Thin blood makes you weak, pale, sickly. Burdock Blood Bitters makes the blood rich, red, pure—restores perfect health.

CHINA SALE

Now are at 25 E. First St. Studio, room 26 Hooper Block.

EXCURSION TO OGDEN, \$1

Via D. & R. G. May 6th.

Trains leave Salt Lake 10:25 a. m. and 1:45 p. m. Returning leave Ogdon 7:00 p. m. Magnificent trip up Ogden Canyon by stage. The Hermitage is open and serving its famous dinners as usual.

Stops itching instantly. Cures piles, eczema, salt rheum, tetter, itch, herpes, scabies—Doan's Ointment. At any drug store.

Dance at Saltair.

T. of U. Saturday, May 5. Train, 8:15. 50c.

MOUNTS pork and beans with tomato sauce is more than a delightful delicacy, it is wholesome food.

ONLY \$43.00

To Los Angeles and Return.

Via San Francisco and the O. S. L. & F. P. Lines April 26th, to May 6th, inclusive. Tickets good for return to July 31st. See agents.

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Cohn's DRY GOODS STORE 222-224 MAIN ST.

SENSATIONAL SALE IN CLOAK DEP'T. Saturday Morning Only! FROM 9 TO 12. 49c 49c 49c 49c 49c. Wrappers, Dressing Sacques and Kimonos, Children's Dresses, Petticoats, Waists.

Up to \$2.00 All Over Laces 98 cents. Pure Linen Hdkfs. 5c. Soap Special. 3 Cakes in a Box 10c. Stationery Specials.

THE NEW TRI-CHROME SMITH PREMIER. THE SMITH PREMIER TYPEWRITER CO. Write in three colors with but one ribbon. No other typewriter does this.

GARDNER DAILY STORE NEWS. Take a few moments off today and see about that Spring Suit, for it is high time you were getting into one and if you really have your own interests at heart you will see that it is a Gardner Suit. Go as strong as you like—\$12, \$15 or any one of the dozen other prices between that and \$35.