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SALT LAKE CITY, MAY 28, 1900.

THE TERRIBLE TRAGEDY.

The tragedy at Hill Creek, near Thompson's, Utah, on Saturday, particularly of which are given in another part of this paper, has aroused deep feelings of sorrow and indignation among the people of this State.

The killing of Messrs. Tyler and Jenkins by outlaws, appears to be nothing less than deliberate and cold-blooded murder. If the officers and his companions had been slain in a battle in which the outlaws were retreating, it would have been murder in the eyes of the law. But there would have been some palliating for the crime in the popular view. In this case it appears that the victims were in the back of the bullets tearing their way out through breast and body, while the officers were on the way to their horses.

The atrocity with which pursuit of the assassins has been set in motion, is creditable to the officers who have the chase in hand. Sheriffs Preece, Alfred and Howells, backed by Governor Wells, may be depended upon to do all that is possible to capture the bandits. But the murders have the start of the officers and the chase of a hideous, which give them great advantage. The pursuers have to search for the trail, to hurry with all speed, to take no time for rest, and if they succeed in tracking them to their lair, to besiege them with great odds in favor of the robbers, who will doubtless hide in an almost inaccessible spot.

One thing appears very clear. Utah will have rid herself of the rustlers and rustlers who have infested the eastern and southwestern parts of the State and who are in league with others in Wyoming and Colorado. The cost may be great, but the work must be done. Funds will have to be furnished the Executive department by act of the Legislature, living or dead the robbers must be brought in, until the gangs are exterminated, and settlers are freed from the depredations of the cattle-stealers and border rustlers. We hope to hear good news from the posse now in pursuit, but we fear they are at present on a very doubtful errand.

THE POPULAR TOPIC.

A communication will be found in another part of the "News" on the bicycle and sidewalk question. This is now a popular topic of discussion. The position taken by the Deseret News concerning it has received great general approbation. It is only a very few of the wheelmen themselves who do not endorse it.

Our correspondent does not shed much light on the difficulty. He spends too much time and space in wrathful attacks on people who do not agree with him. The rub of the matter is, that the public want the removal of something that has grown to be a nuisance and a menace to the safety of many citizens. It is especially dangerous to ladies and children.

It is true that this agitation has been precipitated by the "scooters." But there are others who make things uncomfortable for pedestrians. The ordinary wheelman in a hurry startles people by the tapping of his bell, and while it may be fun for him to see a person jump to the right or left, it is far from humorous to a nervous person. It does not better the situation to claim that it is only elderly people who are alarmed. If that were true, old folks have as much right to the sidewalk as young folks have, and all have equal claims to public protection.

The bicycle is a vehicle. The sidewalks are for pedestrians. The wheelmen need not be banished to the "middle of the road." A strip next to the sidewalk on each side of the road can be smoothed for them and the wide thing can be nicely arranged without a fuss. If the sensible bicyclists will unite with other folks to settle it, one thing may as well be understood right now, that is the bikes must go off the sidewalks, and the majority must rule.

THE HERRMAN WATER CASE.

A very important irrigation case has been on trial before Judge Rolapp in this city for three weeks past. The history of this case is of general interest. As early as 1852 some of the pioneers settled up what is known as Fort Herriman, in the southwest part of this county, built houses, broke up land and cultivated farms. For irrigation they used the waters flowing from Rose Creek and Butterfield Creek. In Butterfield Creek were quite a number of springs. On the north side of the canal there were about thirteen. These springs flowed uninterruptedly from 1852 until 1880, and in about the same quantity during the entire year.

Commencing in the year 1880, the Butterfield Mining company, a French corporation, located a great many contiguous claims along the slope of the mountain north of Butterfield Creek, and commenced to drive a tunnel running northwesterly, going far below the

level of the mountain. When in about twenty-six hundred feet, they tapped water, and two or three of the lower springs commenced to dry up. As they got further into the hill, and at a distance of about six thousand feet, they struck large quantities of water, and other springs began to dry up. Proceeding further, they struck more water and springs kept drying up, until finally thirteen of the number ceased running and have not flowed since. Large quantities of water continued to run from the tunnel into Butterfield Creek. George W. Keel and his associates then entered upon some land in the valley below, under the desert, and took what water came out of the tunnel into the ditch and conveyed it upon their lands and raised crops.

In the spring of 1886, the Herriman Irrigation company commenced an action to restrain and enjoin the Butterfield Mining company and George W. Keel and his associates from diverting the water from the creek. The Butterfield Mining company and the other defendants answered, setting forth that they claimed the waters by virtue of their ownership of the mining claim, that the mine was preexisting waters and they were entitled to them. On the issue before Hon. Ogden Hills, after a long trial the judge found that some of the springs were dried up immediately after the tunnel was run, but that all the waters running into the tunnel were preexisting waters and belonged to the owners of the soil through which the water ran, according to the old rule of law that he who owns the land owns it to the center of the earth and up to the sky, that the waters percolating into the tunnel were part of the soil itself, and therefore gave all the waters flowing from the tunnel to the defendants.

From this decision, the plaintiff appealed to the Supreme court. The case was heard before Chief Justice G. W. Harris, Associate Justice R. N. Esch, and William M. McCarthy, district judge. After hearing the arguments, the Supreme court reversed the case and ordered a new trial. Judge Hills, who tried the case formerly, did not see fit to try it again, and at his request, Hon. Judge Bishop sat on the case. The important questions were: First, did the tunnel dry up the springs? Second, did the springs come from well defined underground channels? Third, if the tunnel dried up the springs, were the waters coming from the tunnels owned by the plaintiff or by the defendants?

Some of the springs were situated a mile and a half away from the tunnel. The difficulty of determining the cause of the drying up of the springs seemed to be great, and experts were examined on both sides of the question. For the plaintiffs, E. S. Hinckley, professor of geology in the Brigham Young Academy, Marcus E. Jones, a geologist of long standing, and James E. Talmage, professor of geology in the University of Utah, a geologist of international repute and well known throughout Utah, were called and testified at length. Witnesses deposed that in their opinion there was no doubt that the deep tunnel dried up the springs, and that the springs came from well defined underground channels. On the part of the defendants, Col. Stevenson, a well known geologist, A. E. Doremus, for a long time city engineer of Salt Lake City and a man well known throughout the State, and another civil engineer by the name of Hansen were called, and testified at length that in their opinion the tunnel did not dry up any springs, it was too far away and it would be impossible for it to do so.

Besides the experts, there were a great many witnesses as to the manner of flowing of the springs, and as to the amount of the water running in the creek, the testimony showing on the part of the plaintiff that its creek was not half so large as before the tunnel was driven. There were probably thirty witnesses who testified in the case.

To satisfy himself, Judge Rolapp endeavored to go out and look over the watershed and tunnels himself, and requested an attorney and an expert on each side, and a representative of the plaintiff and one of the defendants to accompany him. Accordingly, Messrs. Miller and Crane of Herriman, Attorney Barlow Ferguson, and Prof. Talmage on the part of the plaintiff, and Messrs. Keel and Doremus, and Attorney Geo. Sutherland on behalf of the defendants, went with the judge on Monday morning, the 21st of June, 1899, and spent two days in examining the watershed, tunnels, creek and ditch. This proved a very interesting trip, especially to the experts who examined the facts, fissures, angles, dips and strikes, bedding planes, springs, and places where springs were claimed to have dried up.

The plaintiff is contending in this case that the law ought to be in this State that the water appropriators are entitled to the watershed, and any person who digs, tunnels and taps the watershed will have to return the water to the original appropriators. The defendants deny this and state that a man has a right to use his own real estate in the manner he sees fit, and by so doing he taps the watershed, and prior appropriators are entitled to the waters unless he taps a well defined underground channel.

Thus it will be seen that the case is one of vast importance to the farmers throughout this State, and will be watched in its progress with keen interest.

METHODIST REFORM.

The Methodist Episcopal church has taken a long step forward, in harmony with the spirit of the times, in admitting women to their local and general conferences. This was done by changing the word "laymen" to "lay members." In the third article of their constitution, the amendment, together with others, was adopted, by a vote of 542 to 14, showing the general demand for reforms in that church. The constitution, as amended, will now be passed upon by the annual conference, and if a majority of these favor the change by a two-thirds vote, women will be admitted to the general conference of 1901. It is predicted that the change will be approved.

Clergymen are noted for conservatism, and it is principally due to them that the agitation has been waged for a generation with but little prospect of a speedy termination. Clergymen have been too glad to accept the services of the ladies in all kinds of philanthropic and social work, but when it came to recognizing them in the conferences, they were loath to share their power, influence, and honor with them. But from now on, this will be changed.

It is instructive to notice that all reforms in the churches of the world must come through some agitation from below. The clergyman, as a rule, is blind and deaf and dead to the needs of humanity, and the signs of the times. They live in the past—in their dusty libraries—listening to the voices of the dead, instead of communicating with "Him who lives for ever and ever."

THE WAR AND AFTER.

The present outlook on the South African scene of war is that the end is speedily approaching. As near as can be judged from the dispatches, the Free states and the Transvaals are no longer operating together. The Transvaal burghers are disheartened, and many seem disposed to give up. The rapidly advancing hosts under Lord Roberts, by giving the Boers rest neither night nor day, are likely to persuade a great many of those who hesitate of the necessity of yielding to the greater power without further resistance.

And now the question becomes interesting, "After the war, what?" Edward Dicey, an English authority on political problems, in the Fortnightly Review, thinks the Boer states, after a period of military rule, will become part of a South African Confederation which will be under the clearly defined suzerainty of England. This confederation will closely resemble the Dominion of Canada in its relations to the British crown and generally speaking in its constitutional construction.

He thinks that arrangements will be accepted, because the Boers will be ready to acquiesce with resignation, in an accomplished fact. A vote would, according to Mr. Dicey, settle the question, for although the Boer population of the South African colonies, taking men, women and children, is larger than the non-Boer population, the estimate is that the non-Boer adult white males. According to the statistics on the basis of manhood suffrage the non-Boers of the Transvaal number 70,000 to 25,000 Boers. In the Orange Free State the non-Boers are to the Boers as 5,000 to 15,000.

Should this be correct, the South African republics, both by the right of conquest and the strength of a free vote—supposing the non-Boers would vote against independence—belong to the British empire.

Kruger and Steyn played a dangerous game with the republics as stakes. They lost. Undoubtedly, when the famous ultimatum was issued, by which the British government was asked to withdraw her forces from the borders of the republics, and to recall the reinforcements that were being pointed into South Africa, they expected a general rising through the colonies. This did not take place. The Dutch people in British Africa were evidently content. Their friends and relatives in the two republics will also, being long, be content with British suzerainty.

Another question that is just now of much interest is what the Boer government will do with the Johannesburg mines. It is expected that President Kruger will respect that property, although he seems to have made every necessary preparation for a grand display, should it be deemed safe, or expedient, to finish the war that way.

The Springfield Republican quotes an English authority, W. E. Hall, in favor of the right of the Boers to destroy the mines. It says:

"Above all the more or less shaded belligerent rights to confiscate or destroy the property of enemy and neutral subjects, however, the right of self-preservation. This right comes into play when a state is fighting for its national existence, and it applies, if ever it did, to the case of the Transvaal today, which has been told by Mr. Chamberlain that the British program is to reduce it to a crown colony under the British flag. As defined by Hall, the right of self-preservation works by suspending the obligation to act in obedience to other principles. That is to say, the established limitations of international law applying to belligerents are swept away in the case of states fighting to preserve their very life. Hall admits that established principles must occasionally give way, even for purposes of simple self-protection, and on this ground, he strongly defends England's action in 1897. In attacking and destroying the fleet of little Denmark in a time of profound peace with that country, The Transvaal's freedom of action in war, under international law, his therefore, become practically complete, according to this English authority's definition of the right of self-preservation."

The mines, themselves, can, of course, not be destroyed, but the improvements may be damaged to the value of many millions of dollars. This would be serious to Great Britain, for that country claims sovereignty, the stockholders would naturally claim damages from the British government. That consideration alone would be a temptation to an enemy of Abdon, to set fire to the powder in the mines. If the Boers desire, they deserve an inscription of praise on the pages of history, but if they yield to passion and end the war with a grand finale, no blame should be attached to them. Almost every great nation has done worse than that in a time of war and defeat.

WHO ARE THE "BOXERS"?

The suppression of the "boxers" in China is not likely to be a very violent proceeding. It is accomplished by the present ruling power of the empire, though it is possible for a state of extreme violence to be attained if they are not suppressed. "Boxers" is a nickname given to a powerful party in China which is promoting the agitation for the expulsion of foreigners from the empire. The oppressor-dynasty is understood to be in full sympathy with their purposes, though these are against the policy of the national government as instituted by Li Hong Chang, and sustained by most of the mandarins. There is an

other faction in China, known as the reform party, which upholds the national policy but is antagonistic to the queen, and consequently is under the official ban. The reformers are persecuted to the death by the "boxers," whenever opportunity offers, and have no protection. Of course the queen dower objects to proceedings against the "boxers," who are her own adherents, but the pressure of foreign demands has compelled her to send an imperial force to quell them, but this force was itself defeated. If the "boxers" are allowed full sway, no foreigner will be safe in China, or at least in the interior. Those Chinese who have accepted Christianity, which is looked on as a foreign innovation, are also under the ban, and are massacred by "boxers." For these reasons other nations demand that China shall suppress the society or party that, by its murderous methods, seeks to rid the country of all but the orthodox in Chinese affairs, both religious and political. The significance of the term "boxers" is claimed by some to be "exclusionists," who would box up their country against foreigners, though the aims of the party reach farther than this in some respects.

THE ECLIPSE.

Word comes from points all along the path of the eclipse, that conditions were very favorable for its observation. With the elaborate preparations made for it, and with the clear idea of the nature of the information sought, the harvest in the interest of science should be all that has been hoped for.

Among the noted American scientists engaged in the study of the phenomenon, are Professor Percival Lowell and Professor Todd, who some time ago left New York for Algeria. Owing to the fineness of the climate in Algeria, it is a particularly good locality to observe the eclipse. There is an observatory in Algeria, the director of which recently went to Paris to take measurements with M. Loewy in order to observe the eclipse.

A great many people in this city were seen in the early morning hour watching for the glorious orb as it rose from behind the Wasatch mountains. Those who were prepared with smoked glasses, and opera glasses, had a splendid view of the partial eclipse. There is something grand and awe-inspiring in the contemplation of the handiwork of the Creator, particularly at times when something out of the ordinary is presented to human view.

The "perquisites" of certain post-offices in Cuba seem to have been a bigger, if not a better, thing than the salaries.

Now that the fine weather has lasted over the sun's eclipse, the farmer may get his wish of a drenching rain-storm.

The Irish convicts, Fitzharris and Mullett, have been refused admission to the United States. As yet there appears to be no political reason to change the decision.

The Filipino rebels appear to be entering on the policy of yielding to the Americans, judging by the surrenders of men and arms reported today by Gen. MacArthur.

Where does the beef go to? Is a question that may well excite interest, when it is understood that up to May 26 over a million beef cattle had been marketed at the Chicago market alone.

The marriage of Miss Clark, daughter of Senator Clark, of Montana, to Dr. Morris, seems to have been very much of a silver wedding, judging by the nature of the long array of presents.

Sunday noon, Lord Roberts was fifty miles from Johannesburg, or about the distance from Salt Lake City to Provo. Monday brings a rumor that the British have entered the city. It is either make or break with the Boers soon.

There is considerable anxiety over the project of the Boers destroying the Rand mining machinery at Johannesburg. That course is just the one they may be expected to pursue in regular warfare. It is not war to allow valuable property to fall into an enemy's hands when it can be prevented.

The Chinese "boxers" who defeated the Imperial troops are said to be marching on Peking, being only twenty-nine miles distant. A serious effort on their part to peek into the Chinese capital would afford a fine opportunity for Russia to jump in and seize the larger part of the empire.

The Missouri train robber retains his grip, if policemen in that State have lost theirs. Today a lone highwayman held up and robbed a Missouri Pacific passenger train, doing the work in about ten minutes and getting away free. A chief item of his exploit was robbing the railway lawyer.

Thus far there seems to be a failure in the scheme of the San Francisco board of health to try a wholesale experiment of inoculation on the Mongolian residents of that city. The procedure is not likely to be pressed just now, since white men as well as others would have to be "dosed," and the antagonism would be too pronounced.

Nothing could be more accommodating to the astronomers than were the clouds during the sun's eclipse. During the entire period the sky was clear, heavy clouds coming up after the obscuration had ceased. Along the entire path of totality, 485 miles wide, from Norfolk, Va., to New Orleans, La., the view of the eclipse was unobstructed.

A century ago, the French language was spoken by 10,000,000 people more than spoke the English tongue. Today English speaks. The figures are given as follows: The English language is spoken by 115,000,000 of the world's inhabitants, Russian by 85,000,000, German by 80,000,000, French by 58,000,000, and Italian by 28,000,000.

Daniel Frohman, it is alleged, is going to try to induce the Oberammergau people to give the passion play in this country. Former efforts to get that company to take the road have failed. Several years ago they refused an offer of \$17,500 for two performances of their play in Vienna, only a few miles from home. In 1892 it was proposed to

bring them to Chicago for the World's Fair, but it could not be done. The passion play is, we believe, a religious ceremony, not a money-making scheme.

Some days ago Lionel Deale, who is conducting a Cape-to-Cairo expedition fitted out by the London Daily Telegraph, sent that paper the following: "The situation here is critical. The Germans have forcibly seized all the Congo Free State territory up to the Congo river, occupying 5,000 square miles of Congo territory with 1,000 soldiers, fifteen officers and cannons." Does this mean trouble between England and Germany? Sometimes clouds, small as a man's hand, develop into thunderstorms.

THE KENTUCKY CASE.

Springfield Republican.

In a State where the individual has been so generally accustomed to take the law into his own hands, where the carrying of concealed weapons is widespread, where bloody feuds are frequent and street duels and assassinations common, the shooting of Goebel and the crazy and high-handed attempt of Governor Taylor to adjourn the legislature to a remote town among the Republican mountaineers of eastern Kentucky would have been enough, everybody had feared, to precipitate civil war throughout the State. It is thus under all the circumstances vastly to the credit of the people of Kentucky that they should have been able to pass through the most threatening emergency and dispose of the trouble in the ways of peace.

Baltimore Sun.

"Governor" Taylor, in view of the Supreme Court decision, is now merely a private citizen of Kentucky, whose pretensions to official station must be abandoned. It is of little concern, except to himself, whether he adopts Chief Justice Fuller's suggestion and "appeals to the tribunal of the people." Such an appeal would scarcely result in his vindication, for his conduct in the days immediately following the assassination of Goebel was not that of a well-balanced man.

Spokane Spokesman Review.

Kentucky may be congratulated upon her narrow escape from civil war. In the quiet and constitutional settlement of her dangerous gubernatorial trouble, the country has conspicuous evidence of the adaptability of our republican institutions to every emergency, however grave. The keystone of our governmental structure is obedience to the mandate of the constitutional authority. It has saved Kentucky from disgraceful secessions.

Chicago Times-Herald.

The court does not dispute the fact that Taylor was elected governor of Kentucky, that he had a safe plurality on the basis of the returns, and that the Democratic state board of election commissioners, after a canvass of the returns, was compelled to award him the certificate of election. The question decided by the court was exclusively one of jurisdiction. It holds that the determination of cases of this character must necessarily be settled by the political branch of the government.

Boston Herald.

The United States Supreme court has just ruled on a confidence question that it would decline to interfere in the dispute over the Kentucky governorship. Chief Justice Fuller handed down the decision, which was sustained by a two-thirds majority on all points, and, as regards some of its features, had only a single dissenting vote, that of Justice Harlan, who, by the way, comes from Kentucky. There was no far from suggesting that his judgment was colored by the local connection.

Milwaukee Wisconsin.

In a bitter contest such as that through which Kentucky has just passed, the state is well served by legitimate and logical outgrowth of its own State politics. That being the case, it is proper that the citizens of Kentucky should be allowed to settle the question of ruling their own political household without recourse to the general government, thereby proving a local quarrel in the field of national politics. The Supreme court of the United States has, in effect, taken practically the same position as to the quarrelling factions in Kentucky. That the wise outsider takes in case a quarrel between his neighbor and the latter's wife. The outsider has nothing to gain, except perhaps a broken head and ill-will, by meddling in the affair.

Chicago News.

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