

GEORGE Q. CANNON,
BIGHAM YOUNG,
ROBERTSON AND PETERSON.

Tuesday April 2, 1913.

MORE JUDICIAL JOUGLERY.

The Hon. Michael Schaeffer, Chief Justice of Utah, has a mind that appears to be fearfully and wonderfully constituted. His decisions have the merit of being remarkable, and of striking lawyers with amazement, if not of legal soundness, single justice or good common sense. We make no reference now to his "combustion" of a sequentia without bonds, a singular creation that might be worshipped without violating the Scripture injunction, not being in "the likeness of anything in the heavens above or the earth beneath," nor of his expounding the Clinton suit against Marshal Nelson without, that, of his turning loose the hand of a little girl eleven years old without hearing testimony in the case, nor his finding only guilty for arresting and imprisoning a man convicted of assault and battery; nor any of those feats of judicial jugglery that have made food for fun among the members of the bar, but to a recent flight of authority fifty not likely to be attempted outside of a territorial district court.

He has issued an injunction against Robert Skelton, William H. Lee, John Pickett and six other residents of Tooele County, restraining them from diverting in any way what he calls "the surplus waters" of Settlement Canon Creek in that county, which he decides amounts to one-third of the whole of that stream, during the months of November, December, January, February, March and April, of each year, and in any way preventing one Lawrence A. Brown from taking and controlling the said one-third of all the waters of said creek during said months, from the point of intersection of Brown's principal ditch with the main channel of Settlement Canon Creek.

It is well known that farming in Utah has been made possible by the system of irrigation introduced by the "Mormons," when they settled this then desert waste. The little streams fed by the melting snows on the mountain tops have been conducted by ditches and canals, made at great expense, upon the dry and thirsty soil. The farmers who use the waters of Settlement Canon Creek have acquired a right to them by the construction of channels, and possession thereof for twenty-five years. During the winter it happens that through ice and other obstructions a portion of the water overflows. This running into a pond, a ditch has been constructed from it called the Kelley Pond ditch. The defendants in this case, old settlers who have helped make the place, use this water and have done so for ten years. Now comes this plaintiff, who previously never had a foot of land in that vicinity or ever did anything to improve the country, takes advantage of the Desert Land Act and enters 640 acres, and in order to comply with the letter of the law requiring water to be conducted upon it within three years, takes water owned by the settlers, conducted through their made channels, and when those who own the water remove his name he sues them for damages, and the author of the "sequentia without bonds" issues an injunction against them to prevent them from defending their own rights. Here is an extract from the document:

"It has been further ordered that the plaintiff may have said surplus waters of the said settlement Canon Creek, amounting to one-third of the whole waters of the said creek, for and during the said months of each year, commencing with the date of the order directed from the main channel of the said Settlement Canon Creek, into, along, and through the Kelley Pond Ditch, and into the waste water ditch intersecting the said Kelley Pond Ditch below and west of Coleman Street in said Tooele County, and along and through the same, to and into the plaintiff's said principal ditch," etc.

When it is understood that this plaintiff has never done a stroke of work or laid out a dollar in the construction of these ditches, except those immediately leading to his "desert" section, the peremptory order of this wonderful judge seems the more outrageous and astounding.

It may be argued that the water is not needed much during the months above named. But if it is of any benefit or value to the plaintiff it is to the defendants, who have prior rights by usage, and who have not taken up land for speculation, but are bona fide tillers of the soil, which is irrigated by the water now forcibly taken from them and arbitrarily given to this person, who has nothing to support his cause but the order of a judge who appears to be the personification of stupidity, to put the most charitable construction upon his conduct.

The trial for damages will be commenced by a writ of *habeas corpus*. It is not supposed that twelve men can be found as disinterested as the judge, therefore there is no danger that the defendants will be called upon to pay for an infringement upon their rights, in addition to being enjoined from exercising them.

It is to be hoped that the next incumbent of the bench in the Third District Court will be at least a lawyer and a man of reason. But while the salary of the office is so pitifully low, it cannot be expected that any very able gentleman can be obtained to fill it, unless he anticipates heavy "perquisites." However, Utah's territorial vassalage will not always continue, and meanwhile we must hope, wait and contend for our rights as a constituent part of the great American Republic. Speed the day when justice shall prevail!

FORTY-EIGHTH

ANNUAL CONFERENCE.

AFTERNOON.

April 2, 2 p.m.

Choir sang:

Mark the song of Jubilee.

Look as mighty thunders roar.

Prayer by Elder D. H. Wells.

Choir sang:

Come we sing the Lord,

And at our joys be knowing.

The missionaries as published in the evening's News, were then presented to the Conference and Elder DAVID MCKENZIE then read full statistical reports from the various stakes of the Territory, also from Logan and Mantle Temples.

Materials, labor and cash, \$50,000;

and the Mantle Temple, in labor,

materials, tools and material, \$62,000.

It followed an exhibit of

business of the Perpetual Emigrating Fund.

Elder Geo. Q. Cannon announced

that Z. C. M. I. had declared a

dividend of 2 1/2 per cent. to the

members, which would be drawn

on the first of May. He

urged the necessity of sus-

taining this and all other home in-

vestments.

JOHN TAYLOR said it

was the duty of the Saints engaged

in mercantile business to sustain

and all other home industries.

He also should encourage

others in their efforts to become

self-sustaining communities.

The general authorities of the

Church were then presented before

the conference, and unanimously

affirmed, as follows:

John Taylor as President of the

Church of Jesus Christ of Latter-day Saints.

Members of the Quorum of

Twelve Apostles—Wilford

Woodruff, Orson Hyde, Orson

Pratt, Charles C. Rich, Lorenzo

Erastus Snow, Franklin D.

Young, Joseph F. Smith and

John W. Taylor.

Members of the Twelve Ap-

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hall for the purpose of calling the members to their places in the smaller one. This plan, however, was not adopted, simply as a temporary expedient.

Assistant Counsel.

PHILADELPHIA, 9.—The Secretary of the Navy, Hobson, has been taken into the Hunter murder case as an associate counsel for prisoner.

Resolutions Adopted at the Methodist Conference.

SPRINGVILLE, 9.—The New England Methodist conference, at Springfield, Mass., is in session, declaring it the duty of citizens, especially Christians, to prevent the elevation of bad men to civil office. Deploring the corruption and the prevalence of crime in communist and infidel sentiment, and declaring the course of government toward the African, Indian and Chinese to be full of injustice, bad faith and cruelty.

WESTERN.

The San Jose Election.

SAN FRANCISCO, 9.—At the city election in San Jose, yesterday the citizens' ticket was elected, except the chief of police which was carried by the workingmen.

FOREIGN.

WEST INDIES.

Restoration of Property.

HAVANA, 9.—The official Gazette has published a decree by the Captain General, directing that in conformity with the proclamation of the 23rd of March, restoration to its owners of all property embargoed for political offences shall begin immediately.

GREAT BRITAIN.

Eastern War Notes.

LONDON, 9.—A report is current in Vienna that Prince Gortchakoff has notified Austria that he has postponed this answer to her demands until England formulates her counter proposals so that he may be able to reply to Austria and England simultaneously.

The belief that Germany is abandoning her strictly passive attitude in rapidly gaining ground here. It is said that Prince Bismarck evidently intends to use his influence in favor of peace. It is supposed that negotiations for a congress will be recommenced on some new basis. No answer has yet been sent to Lord Salisbury's circular.

Official Journal says, the latest St. Petersburg news is considered to indicate that Russia expects a proposal for a conference from some quarter.

Despite the exasperating utterances of Russian semi-official journals, the presentation of the written statement of Austria's views, which followed Gen. Ignatieff's return to St. Petersburg, seems to have produced an unfavorable impression.

Earl Carnarvon said, Salisbury's dispatch, showed that England must, if she entered the congress, enter it with hand on sword.

The Duke of Argyll believed war could be avoided, but if it came the patriots would carry the country safely through.

In the House, Northcote said that the calling out of the reserve was not intended to alarm the country by indicating peril. He believed Russia would accede to England's views even now, but if she was denied a voice in the conference, it was her duty to see her interests protected.

Gathorne Hardy was not sure that England was isolated. He believed Salisbury's circular would win allies. England would not be dishonored by the best nation in the world.

Debate adjourned till to-morrow night.

The Squabble With Lord Derby.

Earl Derby's statement in the House of Lords, yesterday, showed that several differences arose between him and the other lords before his resignation. He was with difficulty persuaded to assent to the early submission of Parliament and to the six million vote.

He also stated in the event of war, all England could hope from Germany was bare and not benevolent neutrality.

The Marquis of Salisbury, in his speech, strongly objected to Derby's making these statements. He said he had no official information that Prince Gortchakoff denied the truth of Prince Gortchakoff's report of his conversation with the Russian minister at London. He thought more credible, Gortchakoff or Gortchakoff.

Stocks.

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