

DESERET EVENING NEWS.

Wednesday, July 3, 1895.

NO SCHOOL TAXES

Can Be Collected in Cities of First and Second Classes.

SAY JUDGE H. W. SMITH, AT OGDEN.

In Deciding the Hamer case—Starting Question to Be Asked by Board of Education.

In the district court at Ogden yesterday, Judge Smith rendered a decision of startling importance to the school interests of the first and second classes, in which he holds that no taxes for school purposes can be collected in such cities. The case under consideration was that of Ogden City vs. Daniel Hamer, primarily involving the fees of Collector Hamer. The decision upholds the collector's fee in the amount of \$1 for each sale, and voids the tax levied by the city on account of the municipal tax levy, but maintains that the city and not the county must bid in the delinquent property. No allowance is made for sale of property under the school tax provision. That part of the decision regarding school taxes is given here. On that subject Judge Smith said:

Now passing to the question of school tax, it seems to me the county collector in this case is selling for the city taxes, who sold for the school tax that was levied by the city. That is, I think there is an independent school district—that would be the effect of it—within the organized cities of a certain class in this territory, and Ogden is one of those cities, and it levies a tax in a peculiar way. The law originally provided that the board of education should make an assessment of the amount of money they wanted, and then the city assessor and collector should make a levy upon the taxable property within the district, within the city, sufficient to meet this estimated expenditure, and he should extend the levy upon the city tax roll, and then he should collect it as other city taxes were collected.

This law was passed originally originally on the very day that the office of city collector was abolished, and without any regard to it whatever, and on the very day when the city tax roll was abolished, and there is no provision of law for any such thing. I think, however, that the board of education might hold that, being passed upon the same day, they were all to be read together, as clauses of the same law, and that it should be read instead of the city making this levy and extending these taxes, that the county collector should make it, but I am clear upon reflection that the law has no authority to do that. If taxes were sections of the same law, the office of city collector is equally abolished, city assessor and collector, that is clear in terms unmistakable and plain. It cannot be held that the collector's position, even if it is to be a subsequent section, do not know which was passed first, and have no advantage in that respect, and I do not think anybody knows, nor can it be so determined which was passed first, so it must be held they were passed together. If the legislature had meant to do in which they intended in one clause abolished an office which they did—and in another clause of the same law abolished the city assessor and collector, and then in another clause in the same law required of the city assessor and collector that he in certain things upon the assessment roll—which they already had abolished—it does seem to me that their entire act is void, at least, the latter provisions, because the first one is clear and explicit, and the effect of it would be manifestly absurd. It would only be claimed that the effect was to be rectified by implication in the second clause.

Among the statutes of 1892 there is the following: "The office of assessor for each incorporated city, town and village, and the office of collector is hereby abolished." There is not any question about that; that wipes it out, the terms, "abolishing the city tax roll" are not so expressive, but they provide for the city tax to be extended upon the county

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and as I say, while he might if he had collected it been compelled by the board to answer for it, or the person who had paid it, they paid it, never present, might compel him to return it then, still, as he has not got it, they have no claim upon him. I do not see how it can be any allowance made for the school tax.

Temple Notice. The Temple will close on the 10th of July, and open on the 27th of August.

At Ogden. The management of this popular and beautiful resort have made preparations to have everyone for their selves on the glorious Fourth. Trains run every hour.

Two Days Board Free. The Rio Grande Western Railway agents will, beginning on July 1st, and continuing thence to the 10th of July, and return via the Denver & Rio Grande Railroad, at \$10.00. These tickets will be good three days from date of sale, and will include two days board at the Hotel Colorado, and two nights in the famous Glenwood Springs. The Hotel Colorado, at Glenwood Springs, is the finest and best hotel in Colorado.

The Rio Grande Western agents will also sell excursion tickets to Glenwood Springs, via the Denver & Rio Grande Railroad, good thirty days for \$20.00, or sixty days for \$25.00.

Racing begins at 2 p. m. at Beck's Hot Springs Cycle Track, July 4th.

Special Excursion Notes. Between any two points on the line of the Rio Grande Western Railway on July 3rd and 4th, one single fare for round trip. Tickets good until July 5th. Extra trains leave Salt Lake City for Ogden at 10 a. m., 10 p. m., 11 p. m., and 11:45 p. m. Best service to Provo, Tropic and all intermediate points.

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Why do the people patronize Hatcher? Because his prices are the best in America. The price is so low that it is the best thing of the kind in the whole country.

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On Fourth of July, the Rio Grande Western Railway has made rate of \$1.00 Salt Lake to Ogden and return, also \$1.00 Ogden to Salt Lake City and return, and \$1.50 Ogden to Healdsburg and return. Five trains in each direction between Ogden and Salt Lake City.

The U. S. Gov't Reports show Royal Baking Powder superior to all others.

Des. Van, Dentist, 22 Wasatch Bldg. Read Dr. Hutchinson's advertisement in this issue.

Ask your grocer for Marmosky & Co's M. M. Tea.

Get your abstracts of title at the County Recorder's Office. They are made directly from the original records. W. Henry Christensen, Recorder.

Ogden and return \$1.00, on July 4th, via the Rio Grande Western Ry.

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THE MAJESTIC OIL COOKING STOVE. Cannot Explode, and does not increase the cost of your insurance.

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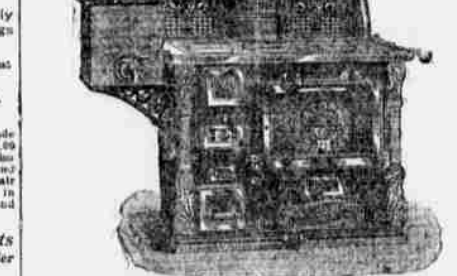
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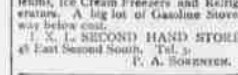
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