

GRANT ODELL & COMPANY

(INCORPORATED)

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AGENTS FOR UTAH AND IDAHO.

MITCHELL L.

Farm & Spring Wagons.

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Binders, Mowers and Reapers

Deere & Co.

PLOWS, CULTIVATORS, and HARROWS.

RUSSELL & Co.

THRESHERS, ENGINES and SAW-MILLS.

GILPIN SULKY PLOW

THE ONLY SINGLE LEVER SULKY PLOW MADE.

Gale Manufacturing Co.

CHILLED PLOWS and HORSE HAY RAKES.

In addition to the above goods, we sell the Peerless Reapers and Mowers, California Coated Harness, Buffalo Barbed Wire, also a great variety of Farm and Garden Hand Implements, consisting of Rakes, Forks, Hoers, Lawn-Mowers, etc., etc.

The Mitchell Farm and Spring Wagons and Road Carts are manufactured expressly for the Utah, Idaho and Montana trade, of the very best material that money can buy and under the superintendence of Henry Mitchell, a practical wagon manufacturer of over fifty years experience. We can guarantee that they are first class in all respects, and second to none in the market.

The Walter A. Wood's Harvesting Machines are absolutely unequalled for strength, durability, easy running and simplicity. Read the following record of machines made and sold by the Wood Company, Inc.: 1880-27, 63; 1881, 4,013; 1882, 11,226; 1883, 4,092; 1884, 48,416; nothing but the superiority of the machines could possibly cause such extensive and constantly increasing sales. The above figures speak louder words of praise than anything we could possibly say. They have enlarged their factory so as to be able to fill increased orders for 1885.

The John Deere Plows have a world-wide reputation for excellence. The fact that Deere & Co. have the finest steel plow manufacturing in the world is sufficient guaranty of the superiority of the goods they manufacture.

Russell & Co's Threshers, Engines and Saw Mills, are fast taking the lead, and in the near future will stand without a rival. A person that has ever used a Russell Thresher will never use any other. Every Machine we have sold has given the most perfect satisfaction.

The Gilpin Sulky Plow is the only single lever sulky plow made. The "ought" to-day standard, a rival for strength, lightness of draught, simplicity and quality of work. No person having any regard for horse flesh will purchase any other sulky plow after using the one-lever Gilpin.

The Gale Manufacturing Company spare no expense to make their Sulky Rake superior to any in the market. Call and examine their goods, and be convinced of the superiority of their Rakes also of their Chilled Plows.

GRANT, ODELL & CO.

THE PRODUCERS OF

CORTICELLI SPOOL SILK

MADE A RECORD OF

46 YEARS SUCCESSFUL BUSINESS.

Antedating and Excelling all Competitors.

REMEMBER THAT

FLORENCE KNITTING SILK

IS PERFECTION.

OUR ILLUSTRATED BOOK on Knitting (No. 5), will be sent on receipt of three 2-cent stamps.

SALESDROOMS FOR WEST AND SOUTH:

317 Broadway, St. Louis; 33 West Third Street, Cincinnati; 26 Camp Street, New Orleans; 200 South Main Street, St. Paul; 200 South Main Street, St. Paul; 200 South Main Street, St. Paul.

C. H. SAMPSON, Agent.

EVENING NEWS.

Saturday, July 11, 1885.

RULING OF THE ATTORNEY GENERAL ON TERRITORIAL OFFICES.

It is generally understood by the public of this Territory that there has been for years past a conflict of opinion as to whether certain of the Territorial officers who have been for almost thirty years elected by the people were properly elective or appointive. Governor Murray has claimed that the 7th Section of the Organic Act authorized him to appoint them, inasmuch as it says: "He shall nominate, and by and with the advice and consent of the Legislative Council, appoint and remove all officers not heretofore provided for," while others claimed that the Territorial statutes providing for the election of these officers by the people were valid. The Utah Commissioners who of course have no more authority in the matter than any private citizen) also ruled in favor of the Governor's views, and they having controlled the elections, the people were prevented from electing these officers as they had formerly done. The Governor presumed to appoint men to fill these offices, without, however, asking the advice or consent of the Legislative Council, but as the Legislature failed to ratify his nominations and the parties filling these offices, and who had been elected so to until their successors in office were elected and qualified, refused to give them up to the Governor's appointees, they remain as they were. It will be seen by what follows that three of the Utah Commissioners have now appearing through the Secretary of the Interior for a ruling on this question from the Department of Justice in Washington and that Attorney General Garland has decided that the offices of the Territorial Superintendent of District Schools, Auditor of Public Accounts, and Treasurer of the Territory should be filled by nomination of the Governor "by and with the advice and consent of the Legislative Council," as the Organic Act provides, and that the Territorial statutes providing for the election of these officers by the people are in conflict with it and, therefore, not valid.

It will now be seen whether the Governor will nominate such men to fill these offices as the Legislative Council can endorse, for should he fail to do so, the present incumbents will certainly continue to hold over.

Following is the correspondence referred to:

LETTER FROM THE COMMISSIONER

SALT LAKE CITY, May 14, 1885.

Sir:—For several years it has been a disputed question whether certain Territorial offices, Utah, were elective or appointive. The Governor, by and with the advice and consent of the Legislative Council, under the Organic Act of 1890, (Section 7), or to be chosen by the people at their general elections under certain acts of the Legislative Assembly.

The officers referred to are Territorial Superintendent of District Schools, Auditor of Public Accounts, Territorial Treasurer and Commissioner of the Land Office.

In preparing for the general election to be held in August of this year, it is important for us as well as the Territorial officers appointed by us under the Organic Act, to have this question authoritatively settled; and we therefore address you this communication with the request that the question may be referred to the Honorable Attorney General of the United States.

The Governor for the three years past has nominated these officers to the Legislative Council, and they refusing to receive his power of appointment, decline to give their assent, upon the alleged ground that such officers should be elected by the people at their general election, and the Territorial statutes.

Our attention having been more than once called to this question, we concluded (with considerable doubt and hesitation) that the said officers are to be appointed by the Governor.

In order to facilitate the examination by the Attorney General, we refer to the following statutes and authorities pro and con:

(1)

IN FAVOR OF ELECTION BY THE PEOPLE.

FILE.

Compiled Laws of Utah, Sec. 44, page 8.

Chapter 11, Sec. 4, Session L. of Utah, 1873, page 2.

Sec. 160, Compiled Laws of Utah, Sec. 602, page 387.

Chapter 19, Sec. 14, Session L. of Utah, 1881, page 10.

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"Otherwise provided for," direct conflict manifestly exists between the statutes of the Territorial Legislature and the Organic Act.

The Organic Law of a Territory takes the place of the Constitution as a fundamental law of the local government. It is obligatory on and binds the Territorial Legislature, and the County of Tunkin, in U. S. S. 129.) Any act of the Territorial Legislature inconsistent with the Organic Law is void, (Ferris vs. Higley, 20 Wall, 359.) Congress may, undoubtedly, make void acts of the Territorial Legislature, and a valid act void. (U. S. S. Supra.) But, for the exercise of this power, there must be a valid law, having that effect would be necessary. The Organic Law of a Territory is in favor of the validity of a Territorial statute which conflicts with an express provision of the Organic Law. The Territorial Legislature has not disapproved it. It is known that the Territorial Legislature, in so far as they require the Superintendent of District Schools, Auditor of Public Accounts, and Treasurer of the Territory to be elected, being contrary to the provision of the Organic Law, is void, and that those officers should be appointed in conformity to that provision. A similar conclusion was reached by the Supreme Court of that Territory in regard to the Territorial Marshal, who, by an act of the Legislature, the Territory was required to be elected by a popular vote. The Court held the act to be inconsistent with the provision of the Organic Law, and that the Legislature was void. (See *ex parte*, Duncan, etc., 1 Utah Rep. 81.)

In regard to the Commissioners, these officers are by the Territorial statutes required to be elected annually by the qualified voters at the general election. (Com. Laws of Utah, 1879, p. 241.)

The 23d section of the Act of Congress of February 21, 1885, chap. 117, a certain quantity of land was reserved for the establishment of a university, "to be selected under the direction of the legislature," etc. The legislature provided for the creation of a board of commissioners, to consist of three men, elected by and devolving upon such board the duty of selecting the land. I am of the opinion that the Territorial Legislature, by the said act, was invested with full power over the selection of the land, including the establishment of the university, which such selection was to be accomplished. It was at liberty to do so, and it is not necessary that it should be authorized by the appointment of persons for that purpose by such officers, or by the Governor, or otherwise provide the instrumentality for carrying it into effect.

The commissioners in question are the election of these officers by the people are in conflict with it and, therefore, not valid.

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