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SALT LAKE CITY, - MARCH 7, 1902.

A MOST IMPORTANT APPEAL.

A petition has been filed in the Supreme court of Utah, for a rehearing of the case in which a majority of the court rendered a decision, in favor of the Electric Power Company and against Salt Lake City and the several canal companies interested in the suit. The Deseret News pointed out some features of the majority opinion which appeared contrary to certain fundamental principles, generally recognized as governing the control as well as beneficial use of a source of supply, appropriated by a public corporation for public purposes. We also contended that the decision gave to the Electric Power Company certain rights which, even if they could be legally exercised after a completed secondary appropriation, ought not to be conferred until such appropriation had been perfected.

It was argued on the other hand in support of the majority opinion, that the city could be in no way injured by it, because the Electric Power Company was required to return the water which it was permitted to divert for mechanical purposes, into the city's canal undiminished in quality and quantity. That the city might be seriously injured in consequence of the decision we pointed out distinctly, and also put the question what remedy would the city have if the water was not so returned, seeing that the Electric Company was in the hands of a receiver and considered practically insolvent. This was not replied to but only evaded.

There are very important interests involved in the case which has been in litigation. The legal points relating to the case are clearly presented in the petition for a rehearing, the full text of which will be found in this issue of the Deseret News. We commend it to all parties concerned. This includes many more people than the companies engaged in the controversy. It is a matter of public moment.

If one company, figuring as a quasi-public corporation, but which is operating for private profit, can interfere with the rights of a municipal corporation to the free flow of water into its canal for public uses, and also use the city's canal for the discharge of the water thus diverted, without having acquired the right by condemnation or a perfected appropriation, other similar companies may proceed in the same fashion. And this might be of far-reaching application, and interfere with rights and water systems in many parts of the State, resulting in injury and loss and all, as it seems, in violation of long established usages and principles.

There are some features of the decision which appear to have been formed, without a perfect view of underlying facts and recognized rulings in similar cases. The appellants, it would seem, ought to have the opportunity of presenting them to the further consideration of the court, because of the importance of the issues thereof. The decision has occasioned much disturbance and strong feeling among the people dependent upon the water supply from the Jordan river, and this has extended to other parts of the State which may possibly be similarly affected thereby.

The court appears to have overlooked the principle of a prior appropriator's right, not only to the use of the water appropriated after it has passed through his headgates and into his canal, but to the unobstructed flow of that water into his headgates and canal. That becomes a vested right as an essential part of the appropriation. It must not be interfered with by a subsequent appropriator, and certainly not by a mere intending appropriator. Taking into consideration the fact that the city held the right to that unimpeded flow for public uses, its prior rights appear to be very clear and positive, and these are infringed by the terms of the decision.

The petition enters into these and other points that require further investigation, and respectfully but forcibly shows error in the opinion of the majority of the court, in assuming that the Electric Power Company had completed an appropriation for secondary use by forcibly seizing upon the city's canal, and insists that no rights, whether to the use of water or otherwise, can be acquired by trespass on the rights of others.

The higher courts of our country are, properly, hedged about with a dignity and authority which should command the respect of law-abiding citizens. Their decisions are entitled to the regard and reasonable submission of all parties involved. They define the meaning of statutes and judgments. They are the law until superseded. They are to be recognized as the unbiased conclusions of the judges, after thorough investigation of all sides of the questions submitted. But courts are fallible and every citizen has the right to

dissent from their opinions. Also to appeal from the lower courts to the higher, and to move for a rehearing if errors appear in the court's reasoning or citations.

Appellate courts frequently reverse the rulings of the lower courts, and also their own decisions when further light is thrown upon them. The Supreme court of the United States has done this in several important instances. It is therefore no impeachment of the dignity and power of the Supreme court of Utah, to request the reopening of the important cause now seeking for the attention of that body.

If it is more mainly and honorably in an individual to acknowledge an error than to persist in it, the same rule will apply to judicial and other bodies, and no loss of prestige will occur from a willingness to hear, and a disposition to decide, questions that may cause a change in their own opinion. We hope that the court of last resort in our State will see the way to permit a rehearing of the cause which now appeals for further consideration.

MEANING OF THE VISIT.

Prince Henry has about completed his tour of the country. He has traveled thousands of miles, seen some of the most magnificent centers of commerce of the world, and met hundreds of influential men and women. He has been confirmed in the opinion that "the friendship of this country is worth having," and undoubtedly that "the friendship of this country is worth having," and undoubtedly that "the friendship of this country is worth having."

One peculiarity of his visit to this country is noteworthy. He has been the guest of the people, and he has proved himself imbued with a truly democratic spirit. He has therefore won popularity here as few visitors of so-called rank have. And this was, evidently, what was intended. The emperor sent him to the people well knowing that the people here are the real rulers, the moulders of American policy.

No intimation has been given at any time of any hidden motive in the visit. But from the fact that he made it a special point to meet prominent business men, the conclusion is drawn that its chief object is to pave the way for more favorable business relations between this country and Germany. And if this object shall be gained, the benefit will be mutual. American trade with Germany is capable of expansion, provided a quid pro quo is obtained. Germany needs grain, meat and other foodstuffs so abundant here, and would gladly exchange products on terms favorable to both countries. To emphasize this fact, and to prepare both nations for future trade arrangements, may have been the real object of the somewhat extraordinary mission.

Whether this object will be attained, or not, belongs to the future. Certain it is that the prince came, in time to dispel the notion that Germany had any designs on the Monroe doctrine. It has strengthened the friendship and regard this country entertains for a great nation, from which so many of our enterprising citizens have come. Prince Henry will return the bearer of messages of good will from the United States to Germany, in response to the expressions of friendship which he here delivered in behalf of his country and its great rulers.

WRECK OF THE WAESLAND.

Quite a few Utah people who have been abroad, will regret the fate that overtook the American line steamer Waesland, which during a fog, was struck by a British steamship and went to the bottom of the sea. Some of our readers have undoubtedly crossed the ocean in that vessel. It was a slow-going craft, compared to more modern racers across the deep. But it was comfortable, and equipped with all modern improvements as regards life-saving apparatus, contrivances for signals, etc. And its officers and crew were all veterans of the sea, and were well acquainted with the dangers of the coast.

It speaks well for the efficiency of the officers and the discipline among the men, that although the disaster came so suddenly, only two lives were lost. In less than thirty minutes after the collision, all the passengers, except two, had been transferred from the sinking ship to the other vessel. There had been no confusion, but everything was done with as much order as possible. There were no such horrible scenes as those enacted on the ill-fated French vessel that was lost a few years ago.

The disaster happened in a fog, as is generally the case. Navigation has by degrees been rendered a good deal safer than railroad travel, but fogs are as dangerous as ever. Reliance is placed on the fog horn that is sounded at regular intervals, but it is not always easy to determine precisely from what direction the signals come, or what is the distance between the signalling vessels. Human iniquity should be able to devise some efficient means, to aid the vigilance of navigators in conducting their charge through the fogs, that are often encountered in places where skill and vigilance are very much needed.

DISCUSSING THE REPUBLIC.

Some time ago the United States Investor, speaking of the evils which are supposed to be growing out of the rapid concentration of the country's industries in a few hands, took occasion to say:

"The exigencies of our industrial situation appear to be forcing upon the attention of our country the fact that we are really a nation, and not a mere agglomeration of states. In fact, the time may not be far distant when the good sense of the people of the United States will see the wisdom of discarding the feudalism of local self-government, and of frankly adopting a policy of centralization."

"Personally," the paper added, "we are of the opinion that the sooner every question that could remotely affect the welfare of the people as a whole is committed to the national government, the better."

These startling views have excited some comment. The Charleston, N. C. Observer says:

"This goes a low-shot beyond anything that anybody has yet had the nerve to put in print, and the writer goes on to argue at some length, badly

and unblushingly, that because all the great business interests of the country are rapidly falling into a few hands, the large fish destroying the small—a process of which the United States Investor evidently approves—the general government should follow suit and absorb the local governments. The radical, aggressively radical proposition of this financial paper would be surprising except that we have learned not to be surprised at anything."

A Virginia paper takes the question up in a somewhat similar vein, as follows:

"The Investor may go a low-shot beyond others now, but there will be plenty of others taking the same kind of doctrine, if 'Centralized interests in the realm of finance and business' continue to have their way. Those interests have absolutely nothing for American institutions or the principles upon which they are founded."

"There isn't one American multi-millionaire in 50 that would not be glad to have American liberties overthrown and an emperor in Washington City; and we assure that the same thing is true of the rest of the country. There are honorable, patriotic exceptions, of course, but they are exceptions. The majority of the multi-millionaires and William Waldorf Astor, who expatriated themselves to seek a title, are by no means so solitary as might be supposed."

"You cannot centralize a country's substance without centralizing its power."

The Investor now reverts to the subject again. It says:

"We are still a republic in name, but so far as practical ends are concerned, the republic is a delusion. We are governed by bosses and by the lobby, who sell their power to the highest bidder. The multi-millionaires can effect anything they please. In indirect ways their political power is becoming centralized at a pace which excites alarm in thoughtful minds. Whether they may ever care to directly assume control of the government is a matter of minor importance. The important consideration is, that they already practically dominate the policy of this nation."

That paper further argues:

"A new feudalism is springing up in this country, far more odious than that of the middle ages; namely, the feudalism of excessive wealth. This feudalism is bound to encroach on the rights of the people, and the people, if they are wise, will lose no time in so simplifying and classifying their government as to be able to make a good fight for their ancient privileges. Just why a highly centralized form of government should be considered hostile to true liberty, we are unable to perceive. Certainly it is worth remembering that among the first and most far-reaching results of the French revolution was the most manifesting assertion in the whole history of the human race of the equal rights of mankind—was the complete abolition of the old provincial form of government, and the substitution of one of the most highly centralized systems ever put in operation in any nation, and one under which the French people are living today."

This strange discussion is useful, principally because it calls attention to the direction in which we may find ourselves drifting, unless the proper means are found for staying the course according to the design of the founders of the republic. Both sides of the controversy seem to be agreed on the main point. Both hold that the centralization of the country's substance necessarily means the centralization of power. But one sees in this consummation a danger to the liberty of the individual, while the other does not.

The reference to the French revolution in this connection is ominous, rather than pleasing. That was the outbreak of a people in despair, maddened by the pangs of hunger, in the sight of the most extravagant luxury. But in the stampede that ensued, reason was dethroned and destruction ran unchecked. It was followed by a despotism that for a time threatened all Europe, and that cost the nations immense sacrifices in treasure and blood. If the French revolution teaches any principle bearing on the present discussion, it is this that one wrong is not remedied by another. Two wrongs do not make a right.

It has probably not yet become necessary in this country, to discuss whether "states-rights" must be limited by an imperial central government. But if there is any danger of such an eventuality, it is time for patriots to go back to first principles and study closer the first chapters of the history of the country. No mistake will be made in following closely the policy of the fathers, to whose excellent work the republic owes its existence. Possibly a time may come, when patriotism will be called upon to save the constitution and the government.

St. Louis officials continue to enjoy much needed rest.

Strange but true, Sheriff Naylor still expects to get Strange.

The smoke nuisance has become Chicago's most burning question.

Free rural delivery has come to stay, whether it shall be by contract or salary.

Having visited Boston, the Prince will henceforth always know beans when the bag is open.

They will think more of American doctors of laws in Germany now that Prince Henry has been made one.

The dowager-empress of China is said to be in fear of a Boxer. If this is so, what must the poor Boxer's feelings be?

With the end men, Billy Rice, Billy Emerson, Billy West and Neil Bryant the final end has come. They were a great galaxy.

If there is anybody in Salt Lake City who doesn't want a slice of Port Douglas, said person will please hold up the right hand.

The senatorial investigation into conditions in the Philippines at times is not unlike the game of cross questions and crooked answers.

So many noted railroads have recently passed to the great beyond that it should be an easy matter for them to organize a choir invisible.

Few men are satisfied with fair treatment by the press. What is generally wanted is taffy or suppression of not very complimentary facts.

Governor Taft admits that there is some friction between the military and civil authorities in the Philippines. But where is it? Ah, there's the rub.

Mayor Carter Harrison of Chicago, is seeking to get the requisite authority to reduce his salary. This is the first symptom he has given of mental derangement.

M. Jules Cambon says that a diplomat is an apostle of truth. Talleyrand, a compatriot, said he was a good man sent abroad to lie for the good of his country.

Governor-General Taft has gone to Cincinnati to undergo another operation. It can scarcely be more trying than the one he has recently undergone at Washington.

Great pressure is being brought to bear upon Harry S. New to accept the office of first assistant postmaster-general. This is something new in politics that pressure should be brought to bear upon any man to accept office.

The other day a Roman Catholic priest presented himself to the cashier of the Parker House, Boston, and handed him \$50, for which he asked a receipt. When asked to whose account the money should be credited, the priest replied that the money came from one of his flock, who had requested him to hand it to the Parker House cashier, and to have it credited to the conscience fund. This simply proves that hotels have conscience funds if not consciences.

THE BARCELONA RIOTS.

Pittsburg Gazette.

There is nothing new or strange in the senseless orgies which characterize the Spanish workman when on strike. Naturally impulsive and unreflective at best, in the hour of individual or national adversity he is quite as ungovernable and recalcitrant as an unruly child. Of course at first sign of disturbance the troops are called out, the mob, ignorant of what it believes to be the tyranny and collusion of capital and government, strikes its feeble blows, which are repulsed with merciless promptness. It shows to what lengths these misguided men may go when it is feared they are preparing to attack the factories in which they earn their bread. Spain is not a country which recognizes quickly from industrial depression, so that if the rioters should carry out their threats the outlook would be very serious indeed.

Cleveland Leader.

Barcelona is the most thrifty, progressive, and advanced of all the great cities of Spain. It is the chief town of Catalonia, the one important part of the Spanish kingdom where trade and industry develop after the fashion of the leading countries of the civilized world. In Barcelona there is an atmosphere of enterprise and progress far different from the sleepy, indolent appearance of many ancient cities of Spain. That is what makes the Catalonian metropolis so restless. Its people have modern ideas of short hours of labor, good wages, political freedom, and the importance of trade and industry.

THE AMERICAN ARMY.

Philadelphia Record.

If the nation were required to fight for its existence, it would be well enough to get ready and take our place among the war powers. But however desirable for some reasons, the creation of a general staff for the federal army—an official mechanism that shall be practically independent of any casual and accidental secretary of war—is of profound importance to the people who pay the cost of the military establishment. There is really no danger whatever to the republic from any foreign adversary. Yet in the offices of the War Department at Washington to assume that republican institutions may be best promoted by imperial methods; that the officers and the war office to make the general staff supreme in military affairs.

New York Mail and Express.

Under this plan, properly administered, there would be no such confusion as was exhibited at Tampa in 1898, in which the components of the individual nations which were to be put on the transport were to be sent to Cuba had to be hunted upon, perhaps, half a dozen different trains of freight cars scattered over all the sidings between Lakeland and Port Tampa. Secretary Root's plan is not only in accordance with the plainest dictates of common sense and business prudence, but in harmony with the experience of the European armies. As to fighting and field campaigning, we are probably now, and always have been, quite the equals at least of the European armies. In this respect they have probably more to learn from us than we have to learn from them. In the field organization of his operations and the subsistence and management of great armies, however, they are ahead of us, because they have had the thing to do, and for a long time we have not.

FOREIGN TRADE.

Cleveland Leader.

At last the United States stands at the head of the exporting nations of the world, its products sold abroad in the past calendar year having exceeded in value those of the United Kingdom by \$75,000,000. Ten years ago the exports of the United Kingdom were valued at about \$1,315,000,000. Last year they were valued at \$1,955,000,000 in round numbers. The increase in ten years had been so small as to be hardly worth considering. On the other hand, the exports of the United States have increased from \$252,000,000 in 1891 to \$1,438,746,533 in 1901, or more than half a billion dollars. Under the circumstances, it is not, perhaps, surprising that the people of the United States have enjoyed a period of prosperity that has no parallel in the history of the world.

Boston Post.

What about trade here at home? At present, the home trade in the products of the steel trust is made to pay the cost of Mr. Schwab's foreign enterprises. He earns his big salary and his associates get their big dividends, not by selling steel to China and the Orient at low prices, but by charging home consumers exorbitant prices. Congressman Babcock says the average profit of the steel trust on a ton of steel rails is \$4, and the one of \$8 per ton would enable it to pay 5 per cent on its investment. This is probably an understatement, because the trust has been selling rails in England at \$11 per ton less than its American price, presumably at a profit. This is the foundation of President Schwab's enthusiastic predictions.

RECENT PUBLICATIONS.

In the March number of the Review of Reviews, the editor comments on German relations with the United States and especially on "the American-German element" of our population. The character sketch is devoted to the interesting personality of the president of Harvard university, Mr. George P. Morris, the author of the sketch, tells how narrowly President Eliot escaped a career in commerce and finance by accepting an academic position at a time when the trusteeship of a cotton mill was the hunt. Mr. Edwin Emerson Jr., the American correspondent who served as a colonel of volunteers under Ulysses S. Grant, gives an intelligent account of "South American War Issues."

"The Longest Power-Transmission in the World," the one recently installed in California—is described by Mr. Thomas C. Martin. In a paper on "The Need of Scientific Agriculture in the South," Prof. George W. Carver, of the Tuskegee Institute, gives much sensible advice to Southern farmers. A feature of the Review is a very full account of "The Metaphysical Movement," by Paul Tynner, and Dr. Edwin Munsell Bliss writes on "Practical Missions," describing recent efforts to adapt the activities of foreign mission work to the exigencies of modern progress in all departments of life.—New York.

The March number of Country Life in America offers a profusion of pictures relating to wild and domestic life of the woods, of the fields and of country places. The estate feature, this month, is the "New England Garden Home," of Mrs. Jack Gardner, showing the Italian and Japanese landscape architecture. Among other articles are: "The Sugar-Brush," which treats pictorially of the unique American industry of maple-sugar making, and "The Animals of the Farm." A. Radcliffe Dugmore contributes "The Life of the Trapper," with photographs of a one-armed trapper and his two St. Bernard dogs in the snowy Canadian woods. "The Return to the Soil" is an editorial discussion of the success, and failures of the city man in agriculture and country home making; "Common Sense in the Poultry Yard" treats of the selection of stock with suggestions on care and management of fowls. A "calendar" of various country pursuits includes, not only the more quiet pleasures amid the birds and flowers of the March woods, but also spring hunting and fishing, and suggestions for some novel sports.—New York.

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