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TRUTH AND LIBERTY.

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AN ERROR OF JUDGMENT.

THE ruling of Judge Hunter in the tax case has created the impression on certain minds that "back taxes," that is, the uncollected taxes of 1877 and the years previous, cannot now be collected by law. This is a very great mistake, as any person may discover by carefully reading the Opinion as published in the EVENING NEWS of the 8th inst. The decision is unfavorable to the Assessor in that the Judge holds that the back taxes were collectible by suit only, whereas that officer levied upon the property.

Those who have been trying to evade payment of lawful and just assessments on their property can take but small comfort from the decision. The taxes are declared collectible, though not by distraint. If suit has to be prosecuted, the delinquents will only increase their expenses, because the costs will be recoverable, as well as the taxes.

It would be amusing, if it were not disgusting, to notice the disposition to break the law and evade its consequences on the part of men who are ever ready to accuse the "Mormons" of lawlessness. Those who have disregarded the Act of '62 are not nearly so culpable, viewing their position from the standpoint of secular law, as men who, representing the law, have violated a statute which they thoroughly understood, and which no one can dispute is a necessary provision for the well being of society. For the former really believed themselves justified in their course, while the latter have endeavored wilfully to evade the requirements of the law with the paltry object of saving a few dollars. Yet, while they are themselves guilty of lawlessness, they are eager at every opportunity to apply the epithet of "law-breakers" to the body of the people, who are really more law-abiding than their assailants.

But though the ruling of Judge Hunter is in the interest of the Territory and against the cunning schemers who seek to shirk the common responsibilities of citizens, and though we believe it was rendered in the spirit of sincerity and impartiality, we are of the opinion that on one point His Honor was in error. We refer to his decision that the "back taxes" must be collected by suit, and not by levying on the property of the delinquents. We need not say that judges make mistakes sometimes as well as common folk, for this has been painfully and repeatedly proven to the people of Utah. His Honor's predecessor made two diametrically opposite rulings on this same question at two different times, and one of them must have been erroneous. We propose to examine this matter closely, and feel quite willing to be corrected if we happen to be in the wrong.

His Honor shows very clearly that uncollected taxes, assessed under the old revenue law, are collectible under the provisions of the new. How? He answers:

"Why, in the manner provided by section 28 of the new law. If in this way, then he certainly would not proceed by distraint for such taxes.

The seizure of the property of the plaintiff was made on the 3d day of December, 1878.

The new law was approved February 27, 1878. On the day of its approval it became the law of the Territory and the defendant was bound by its provisions. From thence forward he could only sue for the taxes, and had no right to seize when he did, and his attempt therefore to justify his acts by pleading that they were in pursuance of the statute, will not hold, and his answer is demurrable. The demurrer to that branch of the answer is sustained."

But, we ask, why confine the Collector to section 28 of the new law? No such limit appears in the statute. The last sentence therein is as follows:

"All delinquent taxes due and remaining unpaid on the 1st day of March, 1878, shall be collected of the person assessed in accordance with the provisions of this act, by the Collectors of their respective counties."

It will be observed that no special section of the Act is pointed out as a sole guide in this matter. The natural inference is, then, that the same method of collecting the current taxes is to be used for the collection of back taxes. What is the method? Section 19 says:

"If any person neglect or fail to pay his taxes on or before the 31st day of October in the year the taxes are assessed, it shall be the duty of the Collector to levy upon enough taxable personal property of the taxpayer to pay the taxes and costs, and proceed to sell the same. * * * When personal taxable property of a delinquent taxpayer is not found by the Collector, or if found is insufficient in amount to pay his taxes and costs, then the Collector is authorized to levy upon and sell any real estate belonging or assessed to such delinquent taxpayer."

Now in the case under consideration, the delinquent had not paid his taxes "before the 31st day of October in the year he was assessed:" his taxes were "due and remaining unpaid on the 1st day of March, 1878," and the Collector, authorized as above, proceeded to levy on the personal property of the delinquent. This he was allowed to do until December 31st, when, being required to make settlement with the County Court and full payment of all the taxes paid or unpaid to him, the delinquent taxes become his own property and he must then collect, if at all, by suit and not by distraint. As will be seen in the Judge's own remarks, the seizure was made on the 3d of December. The Collector therefore acted clearly within the time and according to the provisions prescribed by the new law. If the seizure had been made after the 31st of December 1878, it would have been unlawful, but being made before that time we argue it was perfectly lawful.

It must be remembered that though the liabilities, forfeitures and penalties imposed by the old law are unrepealed by the new, yet the manner of collecting the delinquent taxes of the old law is specifically provided for, and it is therefore clear to us that between the 31st day of October and the 31st day of December, 1878, the correct mode of enforcing collection thereof was by levying on the property, as provided for in section 19, but after the latter date, the proper method was by suit at law.

We invite all who are interested in this matter to carefully compare section 33 with sections 28 and 19 of the revenue law, and we believe that most persons will be satisfied that the legislators who passed the statute, intended that the back taxes should be collectible in the same manner as the taxes of 1878, which became delinquent on the 31st of October of that year. In that case Judge Hunter's decision on this point is certainly erroneous.

A CALUMNY REFUTED.

WE have received the following letter, to which we direct public attention:

Editors Deseret News:

I have recently noticed, in a number of eastern publications, reports derogatory to the character of Elder Joseph Standing. Charges to the effect that he had seduced several young women and been the means of breaking up respectable families, have been made against him.

It is only due to Mr. Standing that I should reply, through the medium of your paper, to these outrageous libels. From a long and intimate acquaintance with him, both in Utah and in his field of labor in the Southern States where he met his death, I can truthfully say that all such reports as above referred to are totally false. He was a gentleman of strict morals and integrity, and had the love and confidence of all who knew him, both at home and elsewhere.

Yours respectfully,
RUDGER CLAWSON.

We have seen the scandalous reports to which Elder Clawson alludes, and can say that they will not be believed by any one who has taken the trouble to investigate the circumstances attending the tragedy in Georgia. The leading "Gentile" citizens of the county in which the murder was perpetrated, have given testimony which contradicts all such vile rumors and insinuations. The course of Elder Standing has been pronounced by them singularly careful and circumspect. This is endorsed by all who knew him, and no one had a better opportunity than Elder Rudger Clawson to understand his acts and character.

The object of manufacturing these foul aspersions is to create a feeling in favor of his murderers, who will soon be on trial for their lives, and to build a foundation for their defense. It will prove as baseless as a bad dream formed out of a depraved imagination, and redound to the discredit of the foul calumniators who are prostituting the power of the press to the defamation of the martyred dead.

CHANGES NEEDED IN THE LAND LAWS.

THE mineral interest, we understand, has been pretty well represented before the Land Commission now staying in this city, and it is to be hoped that before the gentlemen who are appointed to investigate the peculiar conditions of this region, leave for the West, the agricultural and timber interests will also be heard from.

In a previous article we alluded to a Memorial to Congress, adopted by the Legislative Assembly of Utah at its last session. We consider the subject thereof of considerable importance to settlers upon the public lands in these dry and parched vallies, and therefore respectfully call the attention of the Commission to the document, which reads as follows:

To the Honorable Senate and House of Representatives of the Congress of the United States:

Gentlemen—

Your memorialists, the Governor and Legislative Assembly of the Territory of Utah, hereby respectfully represent:

That there are large tracts of land in the regions of the Rocky Mountains which are useless for cultivation until, by the construction of expensive canals and ditches, water is conducted upon them for the purpose of irrigation: That settlers upon such lands, who endeavor to comply with the provisions of the Homestead Act, are frequently compelled to cease their residence thereupon in consequence of the lack of water for domestic purposes; or the brackish and unwholesome nature of the water there obtained from wells, until, by the construction of canals for irrigation, water is brought through such land suitable for general use.

That upon the near completion of a canal passing through such land, persons who have neither resided upon it nor assisted in the construction of said canal, but who have watched for such an opportunity, enter upon the land, and by pre-emption, or otherwise, obtain possession, to the great injury of the settler, who was unable to reside upon the land.

That the labor on and cost of construction of such canals or ditches is often more than equivalent to the value of such residence on land as will meet the requirements of the Homestead law, and that the general benefits to the country accruing from the building of such canals are far in excess of those arising from such residence.

Therefore, your memorialists respectfully ask your honorable body to extend, by appropriate legislation, the benefits of the provisions of the Homestead and other land laws to the *bona fide* builders of irrigating canals and ditches, in such a manner that so much means or labor expended on such canals may be counted equivalent to a given time of residence on the land; proof of such expenditure to be given before the Land Register by certificate of the irrigation company engaged in the construction of such canal, by the testimony of witnesses as required in relation to residence, or such other means as your honorable body may require.

Such legislation would secure many honest working people in their rights, encourage the construction of irrigating canals, and the settlement upon and redemption of much land now considered waste, and meet conditions that the Desert Land Act does not reach and to which said act does not apply.

The early attention of your honorable body to this important matter is earnestly requested, and as in duty bound your memorialists will ever pray.

February 22, 1878.

We do not think there is any need for comment or explanation of the Memorial; it is sufficiently explicit and presents an evil which is recognized by all who are acquainted with land affairs in this Territory and the country surrounding, and suggests an efficient remedy.

There is a point or two in the present timber laws to which we also invite the attention of the Commission, as they bear unjustly upon the hard-working people who are engaged in making homes in the desert places of the mountains. The Act of June 3d, 1878, permits the cutting of timber for building, agricultural, mining or other domestic purposes on *mineral* lands; that is, lands not subject to entry except for mineral entry. This of course excludes the pioneer or settler from any right to cut timber on any other lands, and under regulations issued by the Land Office, any person trespassing upon other lands for the purpose of felling timber, is to be prosecuted under section 2461 of the Revised Statutes.

Why should settlers who cannot possibly improve the lands which they acquire from the Government without timber for building and fencing and wood for fuel, be punished for obtaining what is to them an absolute necessity from any other lands but those which may be called mineral lands? This law, with the regulations accompanying it, is not reasonable nor just, and should most certainly be changed. Penalties originally designed for the protection of timber that might be useful to the United States navy, should not be enforced against the the toiling pioneer, who has to climb the rugged steeps of the mountains and, at great risk and labor, cut down the scanty timber, which can never be of use to the Government, to supply his absolute needs.

Another thing. The regulations issued by the Land Office under authority of the Act of June 3rd, 1878, make it unlawful to "cut or remove any timber or undergrowth of any kind whatsoever less than eight inches in diameter." This was designed no doubt to preserve the young trees, which if left undisturbed would in time grow to large dimensions and become useful for building purposes. But it has been made to apply to the scrub oak and maple of our mountain sides which, on reaching their maturity can be called little more than brush. It has been the custom to cut and haul this scrub growth for firewood. In many parts of this Territory it forms the only fuel attainable. Where no coal can be obtained the cutting of this scrubby growth becomes a necessity to existence in the winter season, but this regulation makes it unlawful to cut and haul it, and it is therefore also unreasonable and unjust.

These are points which should be urged before the Commission, and we think will commend themselves to the attention of all who are interested in the opening up to settlement of the Rocky Mountain regions, and the welfare of the people who are converting the wilderness into a fruitful field.

A PROFITABLE INTERVIEW.

BY the courtesy of Supt. John Sharp, a party of gentlemen took a short trip this morning on the Utah Southern Railroad. The company, numbering twenty-two, was composed of Hon. G. L. Converse, Chairman of the House Committee on Public Lands, and son; Prof. Clarence King, Director of the United States Geological Survey; Hon. Thos. Donaldson, of Philadelphia; Judge T. A. Britton, of Washington; and Mr. Brown; members of the Land Commission party; Hon. Geo. Q. Cannon, Col. John B. Neil and a number of representative citizens of Utah,

The object of the trip was to the irrigating canals by water is to be taken from the dan river near the Point Mountain, for land west of the and also for the benefit of the and to obtain and impart information on the land and water tions.

After reaching the "Point company alighted and was the edge of the declivity ov ing the valley of the Jordan, the canals winding around the of the bluffs can be inspected, and many enco were passed upon the pluck and determination exhibited attempt to conduct water a difficult path to so great tance, one canal alone twenty-seven miles in leng carried for a great distance sandy-sided mountain.

The train was pushed Lehi, with the object of giv party a view of Utah one of the prettiest bo fresh water in the c but the Indian Summer thickened by smoke from the ing timber in the mounta obscured the valley that th could not be discerned.

From conversation with the tlemen interested in the lan ber and irrigation question evident that the Land Co sion is no roving party of C sional junketers, but a body men who are bein business, and who bri bear a thorough acqua with the present land knowledge of their business a desire to learn the effects operation in *different* sect *the country*, as well as to from the actual settlers the co *that* appear to be required to them consistent and applica all without oppression or invi ness.

The result of the conver may fie summed up in this The gentlemen present seemed of the opinion that improve of the public land such as fe cultivation, irrigation, &c., more real importance than residence upon the soil, and be counted in lieu thereof, larly in places like Utah the people prefer to live or villages, and farm outside the Desert Land law shou modified so as to give the lan its redeemers, after perfecting claims, instead of charging wi h the additional one acre, also that time be extended to *bona fide* im if they are *not* able to com their irrigating works within three years allowed. That emptor or homesteader who pies and improves the land ters, should not be debarred making additional entries pelled to abandon his clai perfecting the title the should be allowed to go he actually acquires a public land. That pre timber-cutting in these mou regions should not be confi mineral lands, but extend other kinds. That the fell trees under eight inches in ter should not be prohibited gard to scrub growth, whi not mature *into timber* of able size. That if some res measures could be provided vent improper speculation, th lative authorities of these could better control the disp of the mountain timber the general Government. it would be better to pass tive regulations for the sell the timber lands at a small to actual settlers, than to les laws in their present unsatisf condition. That the Ter ought to receive for educa purposes at least a percen the income from the sale public lands, if not the full of the school sections reserved law, instead of waiting until are admitted into the Union they will not stand so much need of help as while in their gling, incipient condition.

Many other points were touch upon in a friendly, suggestive ma ner, and the party returned to the depot after a pleasant ride three hours over a portion of the well appointed and efficient managed railroad, the Utah Sout ern. Superintendent Sharp has our thanks for our share in the trip, and we hope that great good to the in dustrous people of the West will grow out of the labors of the Com mission, which we believe will im prove unaided by the conversation on the way by the Utah Jordan.