

LOCAL AND OTHER MATTERS.

FROM WEDNESDAY'S DAILY, SEPTEMBER 28.

Your generous words for the deceased actress were read with pleasure. "Fanny" was an American girl of honest renown. She did not need to lose her jewels or to pose in last farewells to win attention.

You said she was "over forty." That was a safe statement. But I write this note because of that statement. When I was a boy Fanny Davenport made her debut upon the stage of the Boston theater, then a new auditorium. I remember her well. She was a tall, slim girl, as much unlike the woman of later years as you could imagine. But she was a beautiful girl. She must have been very nearly sixty years old when she passed.

CHARLES ELLIS.

FROM THURSDAY'S DAILY, SEPTEMBER 29.

Last night between six and seven o'clock there was a collision on the Rio Grande Western railroad at Kyune station, a little depot near Pleasant Valley Junction.

Full particulars have not reached the officials here further than that in the smashup a fireman by the name of Alstot was killed and several freight cars were demolished.

J. C. Gregory, an Oregon Short Line conductor, was killed near the divide outside of Dillon, Montana, on Monday afternoon. He was coupling cars at a side track and was caught and run over. The body has been sent to Toronto, Canada, wher he came from. He had only been employed on the road for a short time.

The cut rates ended yesterday and the roads report that for several days the trains will be congested with freight.

FROM FRIDAY'S DAILY, SEPTEMBER 30.

I protest against the sale, destruction and removal of the old mill building in Liberty Park. My reason for so doing is that it is a monument and a landmark that should be preserved with all care, to show visitors, as a relic, of the enterprise and industry of Brigham Young and the Pioneers. The place should be repaired, the machinery put in place as far as it exists, and the doors locked to keep the despoiler out. As far as I am concerned I would rather see the trees, flowers, grass and many other things sold and removed from the park than that mill.

S. H. VOWLES.

Judge Hiles today handed down an opinion in the injunction case of John Dern et al against the Salt Lake City Railroad company, finding the issues for the defendant.

Immediately after his honor had rendered the decision, Judge Dee, of counsel for the plaintiffs, moved that the restraining order be continued in force until tomorrow morning, when further consideration of the matter will be gone into, presumably an appeal to the Supreme court.

The court granted the motion.

This suit was for an injunction to prevent the defendant from constructing a street car line on South Temple street, east of E street.

The opposition of the plaintiffs to the extension was of the pronounced order, it being claimed by them that the defendant had surrendered its franchise over the street in question, in 1893.

Judge Hiles finds that several meetings were had between members of the old City Council and the directors of

the Street Railroad company, and that the letter F. O. Horn supposed he received from Mr. Read came from the secretary, Mr. Joseph S. Wells. This letter, which said that the company did not intend to build on the street "under existing circumstances," Judge Hiles holds was written without authority.

On the interview between Mr. Louis Cohn and members of the railroad company, the court finds from the evidence that nothing was ever done tending to show a surrender on the part of the defendant company.

"As a matter of law," the court says, before a surrender can be asserted of a franchise such as this, the evidence must show an offer by the grantee, the street car company by the corporate act of its board of directors to the city government to surrender the franchise, and an acceptance by the city of such offer, and if it be asserted that such action was had on the part of both the grantee and the grantor, but that the record thereof was designedly omitted from the record of the proceedings of both parties, and if fraud is assigned of such omission as being against the rights of the plaintiffs, the evidence must prove beyond a reasonable doubt the fact that such fraud exists."

The court then goes on to say that there is no evidence on the records of the City Council, nor of the minutes of the business proceedings of the defendant company to show a surrender of the franchise.

On the question of the evidentiary facts which was contended by counsel for plaintiffs, ought to work an estoppel, the court finds that the conduct of the directors, the Wells letter and the assurance given Mr. Horn did have the effect of causing the abutting property owners to discontinue their efforts to prevent the passage of the ordinance of April, 1894, but it was not sufficient to constitute an estoppel.

The question of whether there was acquiescence on the part of the street railroad company, Judge Hiles holds cannot be pleaded or enforced in equity against the company's legal rights under the grant.

"It may be that under the circumstances of this case, the defendant company is under a moral obligation to these abutting property owners not to lay its tracks on this street, that is a matter about which men might differ. A man who owes a debt against which the statute of limitations has run, is still under moral obligation to pay it. And a man who makes a verbal promise which the statute of frauds requires to be in writing, is under a moral obligation not to repudiate his promise; but such obligations the courts can not undertake to enforce. They can enforce only legal and equitable obligations according to the rules of law and equity.

"Let findings and decree be entered for the defendant.

"OGDEN HILES,
District Judge."

FROM SATURDAY'S DAILY, OCTOBER 1.

S. N. Modlin, writing Chief Pratt from Parsons, Kansas, asks information as to the whereabouts of his brother, Wm. J. Modlin, who is said to have come to this city in May last. The man inquired after is a brakeman by occupation, stands six feet high, weighs 216 pounds, has red hair and a light, sandy mustache, and a finger off the right hand.

S. M. Blandford has arrived from Salt Lake to establish a station of the

weather bureau here. He occupies the position of section director and his office will be the headquarters for the service in the state. There will be an assistant observer and a messenger in the office. Mr. Blandford has not yet selected quarters, but will do so in a few days. He will locate on top of one of the higher buildings where his instruments will not be influenced by artificial conditions. It will probably require a month to get the station in working order. Weather forecasts for this immediate vicinity will be published.—Boise Statesman.

Elder N. C. Hiffett, of Pleasant Grove, Utah county, died at his home last night of pneumonia. Elder Hiffett returned very recently from a mission to Colorado, coming home on account of ill health. It was thought and hoped he would rapidly improve under the treatment of family and friends. Another fate apparently was in store for him and he passed away at the time and place stated, surrounded by those whom he loved. He was sixty-five years of age and leaves a wife and four children. He had lived in Pleasant Grove since the early sixties, and was a useful and respected citizen. His funeral will be held at two p. m. Sunday from the Pleasant Grove meeting house.

Mt. Pleasant Pyramid: Roy Lee, 12-year-old son of Brig Lee, met with an almost fatal accident Sunday by the horse which he was riding stumbling and throwing him. He was coming down the road this side of Jos. Proctor's ranch, and while riding slowly along, the animal he was astride of stumbled and fell, throwing the boy violently headlong directly against a large rock near the roadway. Mr. Proctor happened to be passing over the road soon after, and, finding the boy in an unconscious state, brought him quickly home. It was discovered by examination that he had a heavy blow on the forehead, producing concussion of the brain, his collar bone was broken, and he was otherwise severely injured. Although pronounced in a very serious condition, it is thought the injuries will not produce a fatal result.

Mr. Elbridge L. Thomas, son of Postmaster Thomas, came in from White Lakes this morning and informed a "News" man that a young man, whose name he could not learn, had his right hand blown off. The accident occurred at the White Lakes early this morning and seemed to Mr. Thomas to have happened while the young man was reloading the piece. The unfortunate was placed in a buggy and driven off. Mr. Thomas being near enough to see the accident was yet sufficiently far away to be able to reach any of the persons who could give him definite information. Inquiry at the hospitals, doctors' offices and wholesale houses which handle the results of hunters' luck, failed to bring out the name of the young man. This fact leads to the supposition that the young man is not a resident of this city, but lives in one of the outside settlements.

FROM MONDAY'S DAILY, OCTOBER 3.

George McDonald, who was severely hurt at the Golden Gate mine at Mercur on Thursday, and who was brought to this city for treatment, succumbed to his injuries at the Keogh-Hosmer hospital yesterday morning. Perforation of the right lung was the cause of death. The deceased leaves a wife and eight children, who live at Mercur. He was 38 years of age and came here from Wisconsin a little more than a year ago.

The Utah Sugar company again broke its record on Saturday, having turned