

even, as a plea for freedom, for liberty unto every man and woman on the globe? Will it demonstrate that the Catholic church has ever been the advocate, the promoter, the pioneer in the struggles of the human race for education, freedom, prosperity and happiness?

On the other hand, will the *Tribune* demonstrate that the Mormon Church has ever opposed the freedom of man, woman or child; that it has ever opposed education; that it has ever opposed the prosperity of the people? It knows, if it knows anything about the history of Mormonism, that it is only sect pledged to sustain freedom and free government for humanity; knows that the Mormon people have made most commendable progress in education, and that they are prosperous and have helped to make the non-Mormon population prosperous also.

Why then, cannot the *Tribune* be fair? That it knows the Catholic priesthood to be fixed in its hostility to all governments that do not recognize the supremacy of the Pope in temporal as well as spiritual matters, is admitted this morning in an editorial in which it shows its teeth to the Catholic church. Word comes that an encyclical is expected from the Pope on social and economic questions of the day, and it is thought, of course, that he will put his finger into the political pie. The *Tribune* says:

We mention the matter merely to renew the reminder that mixing up Church and State is what always leads to heart-burnings and trouble. We mention it as a fresh reminder that the province of the church is to attend to the spiritual and moral welfare of the people, and that the moment it lays its hand upon the Government, the moment its priests are permitted to believe that they have a divine right to directly control the government of a country, that moment tyrannies and outrages begin. And this is so clear, the record is so sinister and terrible, that whenever that assumption is made in America, it should be put down—should be frowned down—and, if necessary, fought down.

"Sinister and terrible" would it be to see this puny old man snarling at the Pope, if it were not so well known that he is himself paid for denouncing the Mormons in the Catholic money of his manager. His keeper must have been out of town last night when the above named editorial "went in."

Yet, as a last word, I want to say that while children and fools tell the truth, so the vaporings of this senile editor show what will happen one of these days, when the combination of evangelical churches succeeds in getting control of our government.

The Catholics will then become as much an object of hate as are the Mormons today. The best thing that Americans can do is to say that so long as the people obey the laws they shall all have equal rights and equal protection, without regard to their religious beliefs.

CHARLES ELLIS.

### THE OLD FORT SQUARE.

When the original proposition was made by Mr. Bacon in October last to the City Council, to lease the Old Fort Square, for a term of years for a railway depot, the matter was referred to the Board of Public Works, consisting

of Messrs. James, Parsons and Cohn. The question arose as to whether or not the city could legally lease the property. A communication was accordingly sent to City Attorney Merritt by Mr. Parsons, asking him to give a written opinion on the subject. It is presented below in full:

SALT LAKE CITY, Oct. 13, 1890.  
Hon. M. K. Parsons, Chairman Committee Public Grounds:

Dear Sir—Your note of the 10th inst., requesting a written opinion, as to the power of the City Council, to donate or lease the Sixth Ward or Pioneer Square to a railroad corporation, was received by me the same day, and I herewith reply:

The property in question known as the Sixth Ward or Pioneer Square, which comprises all of block 48, plat A, Salt Lake City survey, is a part of the lands patented by the general government to Daniel H. Wells, as mayor of Salt Lake City, in trust for the use of the inhabitants of said city, to be distributed as provided by the acts of the legislative assembly of the Territory. Under the provisions of the acts of the territorial legislature, an adjudication was made by the probate judge of Salt Lake County, in favor of Brigham Young, sr., and by virtue of such adjudication Mayor Wells executed a deed to Brigham Young, sr., conveying to him all of said block 48. Afterwards by several mesne conveyances the title of said block was vested in B. Morris Young, one of the legatees of said Brigham Young.

On the 14th day of March, 1879, said B. Morris Young, in consideration of the sum of \$5000, paid to him by Salt Lake City, conveyed said block 48 to said Salt Lake City.

A petition has been presented to the Council by James H. Bacon, asking the city authorities to lease said block to him for the period of ninety-nine years, at the nominal rate of \$1, and to grant a right of way through the city from east to west, and along a street running north and south to said block 48, and that a guarantee will be given that a railway shall be constructed from the city westerly to a place called Deep Creek, within eighteen months, if said right of way and lease shall be granted by the city, said block 48 to be used as a depot for the railroad proposed to be constructed. Mr. Bacon does not propose to build the railroad himself, and presumably it is to be built by a corporation organized for that purpose.

Several questions arise:

"1—Has block 48 been dedicated for public purposes as a public square or park?"

"From examination I have been unable to find any formal order or declaration by the former or present City Council dedicating said block to public uses. But as evidencing the understanding of the city authorities, that said block was a public square, dedicated to the use of the public, I find in the records the following facts:

"A—That on the 25th of March, 1879, by resolution of the Council, the property recently purchased by B. Morris Young, known as the 'Old Fort Block,' was named and thereafter to be known as 'Pioneer Square.'

"B—On the 20th of March, 1880, the committee on public grounds reported that pursuant to the authorization of the Council, that they had advertised for plans for the improvement of public parks and squares, offering the following premiums to the successful bidders: For the plan of Liberty Park, \$100; for the plan of Washington Square, \$20; for the plan of the Tenth Ward square, \$20; for the plan of Pioneer Square, \$10; the report was presumably adopted.

"C—On April 3, 1883, \$150 was appro-

riated to pay the premiums offered for the best plans for the improvement of public parks, to the following successful competitors: Don Carlos Young for the plan of Liberty Park, \$100; Will S. Hedges for the plan of Washington park, \$50; Charles S. Wilkes for the plan of Tenth Ward square, \$20; William R. Jones for the plan of Pioneer square, \$10.

"It will be seen from the foregoing that the city council designated, after the purchase of block 48, that property as 'Pioneer square,' that premiums were offered for plans for the improvement of public parks and squares, and that Pioneer square was named as one of such public parks or squares; and that thereafter money was appropriated and paid for such plans, to the successful competitors thereof.

"Such plans are on file in the city engineer's office. It is true that Pioneer square was leased to one Reading, but if Pioneer square was a public square, this lease was ultra vires the corporation, yet in that same lease Reading undertook to plant trees, etc., for the adornment and beautifying of said square.

"It would appear from the foregoing that the council intended to dedicate Pioneer Square to the public use, a formal dedication is not required, but it may be inferred from acts and declarations. Here we have the naming of the square, the mention of it as a public park or square, and plans for its improvement. These are facts strongly in favor of dedication, and where the animus dedicandi is established, no uses for any definite period by the public is necessary. Sec. 638, 2 Dillon, Mun. corporations. If, then, there has been a dedication of this property as a public park or square, it is not in the power of the city to sell or lease it, or give it away. A municipal corporation cannot, except under valid legislative authority, dispose of the public squares, streets or commons. 2 Dillon, Mun. Corp., sec. 575; 102 U. S. 472; 16 Barber, N. Y., 167; 124 U. S. 639.

"A lease is asked for in this case, but a lease is a conveyance or grant, and is an alienation of property for a term, and during said term is as absolute as a deed.

"2—Another question arises as to whether the city has the right, admitting that block 48, or Pioneer Square, is not a public square, and has not been dedicated to the public use, to lease said square for a nominal rent to a railroad corporation, virtually giving it away, to aid said corporation in the project of constructing a railroad.

"By act of Congress passed July 30, 1886, it is provided: 'That no territory of the United States now or hereafter to be organized, or any political or municipal corporation or subdivision of any such territory, shall hereafter make any subscription to the capital stock of any incorporation, or company or association having corporate powers, or in any manner loan its credit to, or use it for the benefit of any such company, or association, or borrow any money for the use of such company or association.'

"The evident intention of Congress in passing this act was to correct a growing evil in the Territories, viz: To prevent Territories and cities therein from aiding railroad corporations by unwise and lavish grants of money or credit, in many cases almost bankrupting Territories and counties and cities therein. While I do not contend that the proposed lease comes within the letter of the prohibitory act of Congress cited, at least a strong argument can be made to show that it comes within the spirit and intent of said act.

"It will be observed that the act of Congress prohibits Territories, counties and cities from 'in any manner loaning its credit, etc., to any corporation or association.' It would be a strange anomaly that the city