

the road shall be constructed and used for the purpose designated.

The first question to be determined is, did the reservation in the act of 1880 operate to remove sections 16 and 36 from the domain designated as public lands as contemplated by, and for the purpose of the act of 1862. I am of opinion that it did not.

By reference to the language used in the act of 1850 supra it will be seen that there are no words of grant contained therein and therefore the fee still remained in the general government. It is a well established doctrine, that where the fee to any lands of the United States has not passed as to those lands, Congress retains absolute jurisdiction for all purposes. And at any time from the enactment of the act of 1850 to the time when Utah was admitted as a state Congress retained absolute power to sell or otherwise dispose of the same.

If this be true, it follows, that for a stronger reason it would have the power to grant an easement over the same, which in no way operates to destroy the reservation.

To hold that Congress had no authority to grant rights of way over these sections would be to defeat the ends of the law thus enacted, to-wit, the speedy construction of the Pacific roads; it would also lead to an absurdity in this, that inasmuch as at the time these roads were constructed, the larger portion of the territory through which they were constructed was unsurveyed, it would be impossible to determine the location of sections 16 and 36; and if, when the general surveys were made it was discovered that the road had traversed these sections, it would be a trespasser thereon.

The exact question under consideration was passed upon by the circuit court of Nebraska in 1867, the opinion being delivered by Judge Brewer, Judge Dundy concurring. The opinion concludes as follows:

"These considerations, among others, lead me to the conclusion, that beyond any doubt Congress intended by this act of July 1, 1862, to grant right of way through those lands which by surveys should be found to be sections 16 and 36, the school sections which it intended to give the future state of Nebraska."

Touching your second question, it follows, that so far as concerns the status of rights of way of the respective railroads operated in Utah prior to statehood, where such rights of way were duly procured through congressional enactment over the public domain, including for that purpose, sections 16 and 36, the railroad law which takes effect on January 1, 1898, can have no application whatever and can only apply to roads now existing within the state when they are desirous of extending their present lines or build new branches and to new roads to be hereafter constructed.

You are therefore advised that the first question should be answered in the affirmative and the second in the negative.

#### STATE LAND BOARD.

The State land board has given its decision affecting settlers on State lands in Beaver county, as follows:

In the case of the application for part of section 16, township 28 south, range 7 west, the appraisement was approved and rule made that improvements be considered only when located on lands actually applied for.

In the matter of W. E. Yardley, applicant for southeast quarter of northeast quarter section 16, township 28 south, range 7 west, Attorney General Bishop advised the board that "a person cannot assign his preference right

acquired since survey." The board accordingly gave Mr. Yardley fifteen days in which to show cause why his application should not be denied, and postponed consideration of E. F. Twitchell's application for the same tract fifteen days.

Willis Twitchell, applicant for southwest quarter of southeast quarter section 16, township 28 south, range 7 west, was permitted to amend his application to correct error in description. It was also decided not to require applicants to show consent of other parties where they represent other settlers.

Benjamin Hutchins was awarded the preference right for southeast quarter of southeast quarter section 16, township 28 south, range 7 west.

Rosena Slogowski's application for south part of northeast quarter of northwest quarter section 36, township 28 south, range 7 west, was confirmed, a map of the tract to be furnished to the board. Similar action was taken on Joseph W. Hutchings's application for 9.6 acres in southwest quarter of northwest quarter section 36, township 28 south, range 7 west.

The board refused to recognize the right of W. T. Hodges to two acres in northeast quarter of northwest quarter section 36, township 28 south, range 7 west, "for the reason that he appears to have bought the improvements upon said land from the original settler who made such settlement in 1879, whereas the survey was made in 1878." The board recommends that the preference right to buy the land at private sale at its appraised valuation be given to Mr. Hodges upon his furnishing the usual map.

Application was granted in case of Joseph S. Gillis for one acre in northeast quarter of northwest quarter section 36, township 28 south, range 7 west.

Application of Charles T. Stoney for 160 acres in section 16, township 29 south, range 7 west, was postponed pending information from the United States land office, as to the time of settlement.

Right was awarded to W. G. Bickley for northwest quarter of southwest half section 16, township 29; to W. H. Twitchell for northwest quarter of northeast quarter of section 16, township 28 south, range 7 west; John H. Twitchell for northwest quarter of southeast quarter section 16, township 28 south, range 7 west.

John Lang was permitted to withdraw his application and George B. Gillis awarded the right for southeast quarter of northeast quarter section 16, township 29 south, range 7 west.

Elizabeth Lang was given the right for 13½ acres in southeast quarter of southwest quarter of the northeast quarter, and 10 acres in southwest quarter of northeast quarter, all in section 36, township 29 south, range 9 west.

Joseph H. Joseph, Sr., was awarded the right for 7 acres in southwest quarter of northeast quarter section 36, township 29 south, range 9 west.

The application of Nellie V. Harris for 30 139-160 acres in northeast quarter of section 36, township 29 south, range 9 west, was granted, the usual map to be furnished.

On motion of Commissioner Macfarlane, the following questions were referred to the attorney-general for an opinion:

First, whether or not the act of Congress of 1862 granting a right of way to the Union Pacific and Central Pacific company included a right of way over sections 16 and 36?

Second, whether the act of the Legislature of the State of Utah of 1897, granting a right of way to railroad companies over the state lands would apply to and grant rights of way to railroads now constructed and operated

within the State; or whether it would only apply to railroads hereafter constructed?

#### A NEW STORY OF THE CREATION.

Dr. Henry Mason Baum, the famous historical lecturer and editor of Monumental Records, assisted the New York Herald in preparing the following article on these tablets:

From under the buried ruins of the ancient city of Nineveh come stone tablets telling a new story of the creation of the world.

In many respects they corroborate the Hebrew account, as contained in the Bible, but in others they give an entirely new version, and bring forth many fresh and important facts.

The tablets are found under the ruins of the great palace of Sennacherib by Prof. Smith, the famous English Assyriologist, where they had lain, hidden from the sight of man for more than 2,000 years.

Nineveh is one of the most prominent ancient cities mentioned in the Bible, and in its ruins have been found many of the most important records bearing upon the early history of mankind. It was in this mighty city that Sennacherib built his famous palace, which, next to Solomon's temple, was undoubtedly the finest building the world has ever known. In this palace he founded the great Library of Nineveh, which was by far the most important library that ever existed. It contained the historical writings of all the foremost scribes of that early period, and also the writings of other historians who had lived centuries before. Sennacherib sent messengers and copyists to all parts of the world to gather up the important documents bearing upon the origin of the world, the birth of man and the deluge. These were brought to the palace and placed in the great chambers built especially to preserve them.

Some of these messengers were sent to the then ancient city of Borsippa, in Babylonia, where, in the Temple of Nebo, they found wonderful tablets relating to the creation, which were supposed to have been written about 2,500 B. C. These tablets, together with copies of those that could not be moved, were taken to the palace, where they were considered the most important documents the library possessed. They were written in the cuneiform language, and were even then in a somewhat mutilated state, owing to their great age. They remained in the library during the whole time the palace existed. When generations afterward, it fell and sank into decay, these tablets—the oldest records of the creation of the world—were buried in the ruins, where from that time they lay hidden from sight and unknown to the world.

Six of these tablets have now been recovered. They bear the indelible stamp of the utmost antiquity and bring to light many new features of the creation not mentioned in the Bible. On one point—namely, the creation of the sun, moon and stars—they give a radically different account to that contained in the Old Testament. They place the orders as follows: First, the stars; second, the zodiac; then the seasons, the equinoxes, the solstices, the night, the month, the day, and, last, the sun.

In the Bible this order is just reversed, the Hebrew account giving it as follows: First, the sun; second, the day; then the moon, the night, and, last, the stars.

The six tablets were probably written a uniform order, each containing the story where the other left off. As nearly as can be determined, they were written in the following order: