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SALT LAKE CITY, - MAY 29, 1905.

SEIZURE OF RIGHTS.

At the late session of the Legisla-
ture of Utah a bill was introduced,
to extend the power of eminent domain
to the acquisition of water rights by
municipalities for public uses, under
proper regulations and restrictions.
But after it had been discussed and
amended, and objections that had been
offered were removed, the majority of
the members were against the mea-
sure, because of their contention that
water rights were inalienable, and of
so much more importance than realty
rights that they would not permit any-
thing that would appear likely to en-
danger them.

Salt Lake City and some other cities
were very anxious for the passage of
the bill, because of intended improve-
ments in the water supply which were
hindered by the obstinacy and stupidity
of some people who stood in the
way. The defeat of the bill was con-
sidered a public calamity, because the
general understanding of the laws of
the State on eminent domain was that
they did not reach water rights, which
were intentionally left out of the enu-
meration of properties that might be
condemned for public uses.

The property and franchises of pri-
vate corporations are subject to the
law of eminent domain, the same as
the property of private individuals,
but not of any other kinds than those
designated by statute. The uses for
which the right of eminent domain may
be exercised form one part of the law,
and the kinds of property which may
be taken for those uses form another
part of the law. Eminent domain may
be exercised for the public use of
canals, reservoirs, dams, ditches,
flumes, aqueducts, and pipes for sup-
plying and storing water for the opera-
tion of machinery for the purpose of
generating and transmission of elec-
tricity for power, light or heat.

But while the right may be exercised
for those uses, it only extends to the
kinds of property named in the law as
subject to condemnation. These are lim-
ited to a fee simple, an easement, the
occupation of lands and the right to
take therefrom earth, gravel, stone,
trees or timber for a public use, real
property of any person, lands belonging
to the State, a county, or incorporated
city or town, when more necessary for
a public use than that to which it has
already been appropriated, all kinds of
franchises and rights of way and all
classes of private property, "when such
taking is authorized by law."

In none of these specifications are
water rights named or alluded to. In
consequence of this intentional omis-
sion, it has been held both by lawyers
and laymen acquainted with the intent
of the legislature, that the right of em-
inent domain extending to other classes
of property, does not include the con-
demnation for public use of private or
corporate water rights.

But it is now asserted by some cap-
able attorneys that water rights are
subject to the law of eminent domain,
and there has been much jubilation
among enemies of the Utah Light and
Railway company over this announce-
ment. They seem to be under the im-
pression that all that the city has to do
in order to acquire the properties
which it needs and applied for to the
company on such terms as could be
agreed upon, is to seize upon those
properties, which are water-power
rights that the company has held for
many years, and that therefore there is
no need for any negotiations with the
company and that it is not necessary
to furnish good pro quo.

Now, supposing that the opinion of
the attorneys, which is contrary to that
hitherto held on this subject, proves
to be correct, and that Salt Lake City
has the right, under the law of eminent
domain, to proceed for the condemna-
tion of those water rights which it
desires to obtain. What then?

The city must proceed according to
law. A suit would have to be brought
in a civil court. All the claimants
and owners of the properties de-
sired must be made defendants. All
the parties in interest have the right
to appear.

The value of the properties sought
to be condemned and the damages
which would accrue from the condemna-
tion must be proved and decided ac-
cording to the equity of the case. The
court, jury, commissioners or referees
having jurisdiction of the case, must
hear and ascertain and make assess-
ment according to the value of that
which is to be taken and the damages
which will arise from taking it. So
that the city cannot "grab" the prop-
erty of the company by any forcible
measures, no some folks indicate
and seem to desire.

There has been a great deal of non-
sense uttered concerning the rights of
the company to the water powers which
the city desires to acquire. These
rights have been held by the company
for many years, and work has been

performed upon them, every year, un-
der the law, for the maintenance of
those rights acquired by purchase and
belonging to the company as much as
any other property that it owns.

Assertions to the contrary are on a
par with other misrepresentations that
have been made and will count for
nothing if an issue is raised.

If litigation should arise under the
law of eminent domain, the city would
have other parties to contend with be-
sides the company which has offered
to convey the properties without de-
manding money, which the city is not
in a position to pay, but which it would
have to pay as the court or jury might
assess as their value. There is no need
for any such contest, as the company
has been perfectly willing to make a
satisfactory arrangement with the city,
so that there may be no hindrance in
the carrying out of the plans devised
for a pure and permanent water supply
for the city.

We do not believe there will be any
necessity for such litigation. We are
of the opinion that good sense, justice
and fairness will rule in the final dis-
position of the franchise question. But
if the wishes of the obstructionists and
pretended "defenders" of the city who
are its actual enemies, are carried out
and encroachments upon the rights and
existing franchises of the company
are accumulated, we hope the company
will fall back upon the franchises al-
ready existing, under which it can
make more money, and have greater
liberty for rates and charges than
would be possible under the franchise
contemplated, and will refuse to be
bound up and muddled and crippled as
its enemies are plotting to bring
about.

The true friends of the city and of
the public will use their influence to
effect a satisfactory settlement of the
pending question, and will ignore all
the froth and folly and falsehood which
have been so abundantly poured out to
hedge up the way of an organization
that has been and will be of immense
benefit to the people of Salt Lake.

SHOULD BE REJECTED.

The majority of the property owners
in the vicinity of Market and Main
streets, supported by a number of frami-
tarian organizations that meet in the
Odd Fellows' building, it is said, are
protesting against the granting of a
license for the re-opening of a saloon
on that corner. The question, it is un-
derstood, will come before the City
Council tonight, and we hope the wis-
dom of the people, as expressed in the
protest, will not be disregarded. It
rests with the Council, to grant or re-
ject an application for license of that
kind, and the question for that body
to consider is, what public, not private,
interest requires.

The corner in question is opposite the
Federal building, where the federal of-
fices will be established. Would not a
cheap saloon in its immediate
vicinity be entirely contrary to the
character of that locality?

The law prohibits the establish-
ment of such places within a certain
distance from buildings used for public
schools, theaters, concert halls, and
other places of amusement. The same
statute gives the City Council the power
to refuse the application for liquor li-
cense for any other "good cause," and
for that reason we believe the Council
would be lamentably remiss in the per-
formance of its duty, were it not to pro-
tect that corner from the hoodlumism
that inevitably goes with places where
intoxicated persons congregate.

The women who hold their club meet-
ings, and social gatherings, in halls on
Market street know from experience
that the presence of a saloon on that
corner is a nuisance. Their protest
should have due weight with the Coun-
cil. They have the right to the protec-
tion of the city authorities. We are
pleased to notice that the license com-
mittee recommend the rejection of the
application, and we hope the Council
will sustain the committee. The decent
part of the public will be with the
Council, in favor of the protest.

THAT NAVAL BATTLE.

It is evident from the dispatches re-
ceived from eastern Asia, that the Japs
have again gained a decided victory in
a sea fight, this time against a portion
of, if not against the entire, fleet of
Rojestvensky. Just what the facts
are can hardly be gathered from the
meager details cabled, but the Russian
admiral has undoubtedly sustained sev-
erely loss. Has he succeeded in inflicting
corresponding loss to the enemy? That
is a question that can be answered only
from Japanese sources, and the Japs
are not in the habit of proclaiming
their losses in battles to the world.

It appears from the news obtained,
that Rojostvensky is no match for Ad-
miral Togo. And that is a most impor-
tant inference from the result of the
first encounter between the two ad-
mirals. Russia's hope has been cen-
tered in the anticipated exploits of Ro-
jostvensky. With his defeat, the Czar's
government has arrived almost at the
end of their naval resources. The an-
nihilation of the Baltic squadron, when-
ever that feat shall have been accom-
plished, means that Japan retains her
supremacy on the sea, and can send
supplies and reinforcements to her
armies operating in Manchuria. Rus-
sia should, therefore, logically, make
overtures for peace, as soon as it be-
comes clear that Rojostvensky's ex-
pedition is a failure.

It is true, Russia can still send re-
cruits to Manchuria and keep up mili-
tary operations there. Lincolith can
fight and run away, and live to fight
another day, as his predecessor in com-
mand has done, provided he does not
linger too long before he sounds a re-
treat, but that mode of warfare must
be humiliating to the Czar, and it is
utterly void of results. Peace should
therefore be the logical outcome of a
complete defeat of the Baltic squad-
ron.

The soft coal combine is a soft snap.

The Quakers have fought the good
fight and won.

To Rojostvensky Togo proved to be a
lesion of destruction.

Some of Secretary Taft's logic is
worthy "A Tale of a Tub."

"There's life in the old dog yet," very
well describes Philadelphia today.

The Chicago strikers seem to have
better luck raising Cain than raising
cash.

The strike breakers do not seem to
have hit hard enough to break any-
thing.

Lillian Russell says she takes five
baths a day. And she still inclines to
embroider.

Fashion note. At the seaside this
summer certified checks will be very
fashionable.

That Northern Pacific railroad rob-
ber got his reward, but it was entirely
different from what he expected.

Mayor Weaver has succeeded in dis-
tancing both Mayor Tom Johnson and
Mayor Dunne in the notoriety race.

Mary Ellen Leases has been held up
and robbed. Contrary to what might
have been expected there was no yel-
low.

John D. Rockefeller Jr. is a victim of
dyspepsia. And he can afford to buy
such good things to eat and in any
quantity!

The troops have been ordered to pac-
ify Warsaw. Give them time and am-
munition and they will do it, all same
Samar.

The call of the Russian fleet at Sad-
die Islands shows that Rojostvensky
was in the saddle, but he has been un-
horsed.

Let it be understood that Nan and
Pilly Peterson are not brother and
sister; no relation. This will relieve
both of embarrassment.

The farmers of Kansas are again
calling for eastern college students to
come out and help them harvest the
great wheat crop. The call of the wild.

Few are the men of this world, pub-
lic or private, who have declined the
invitation of an emperor and of a king
to be their guests, but John Hay has.

A Kansas judge has fined a Kansas
woman for charging usurious interest.
Was she the only person in the Sun-
flower state who could be found to
make an example of? Kansas surely
is the rare axis of the American eagle's
family.

"The Beggar Student" will be pre-
sented tonight at the Salt Lake The-
atre by students of the Brigham Young
University, under the direction of Prof.
Lund. We hope the attendance will jus-
tify this effort at placing before the
public a musical feast prepared by home
talent.

In his poem "America to England,"
read at the Lotus club formerly to Am-
bassador Reid, Rev. Minot J. Savage
says:

The youngest of the nations,
Grown stalwart in the West,
Years back to where each morning
Gloves o'er the ocean's crest;
And cries, "O Mother Country,
Come to your ancient side,
And, whatever may befall you,
Our place is at your side.

Isn't that putting it a little strong,
slopping over just a trifle?

A rather startling revelation was
made in a New York police court the
other day, when it was proved that a
stolen check had been altered so as to
call for more than 25 times the amount
for which it was originally drawn. The
ingenuity of the methods by which it
was "ruined" and the skill of the opera-
tors have set detectives and bank of-
ficials to guessing as to the identity of
the criminals, and as it is said that
there are only five men known who
could have manipulated the paper, sus-
picion is narrowed to them. But the de-
velopment which is most startling to
the public is that the Bankers' associa-
tion has been paying pensions to the
known experts to refrain from forging
papers.

MYSTERY OF PAUL JONES.

Harper's Weekly.
A curious bit of history concerning
Paul Jones is brought to light by a
correspondent apropos of Gen. Horace
Porter's recent discovery in Paris of the
old admiral's body. When Paul Jones
died in Paris, in 1792, says the
correspondent, Jones' mother was still
living in her native village of Kirk-
beath, near Dumfries, Scotland, and
about a year later, at her request and
expense, his body was shipped there,
buried in the kirkyard and his grave
marked by a simple slab carved with
his real name—John Paul. Who was
deceived, wonders the correspondent,
"the mother receiving the body of her
son a few months after his death or
the patriotic searcher of 100 years later?"

WHAT CROWNS ARE WORTH.

Philadelphia Ledger.
The lightest of European crowns is
the state crown of Great Britain, which
was made for Queen Victoria sixty-six
years ago. Although it weighs only
two pounds seven ounces, its value is
\$1,000,000. One enormous sapphire came
from the signet of Edward the Confes-
sor. One of the rubies has a sad
tragic history. It was at one time in
the possession of one of the great kings
of Granada whom Pedro the Cruel in-
vited to his palace and basely murdered
through greed for this gem. In the
people's treasure house are two crowns
which are valued at \$2,500,000. One of
them was the gift of Napoleon to Plus
VII, and contains the largest emerald
in the world. The other, the gift of
Queen Isabella of Spain to Plus IX,
weighs three pounds, and is worth \$1-
000,000.

RECENT PUBLICATIONS.

The following is the list of contents
of Leslie's Magazine for June: "Mrs.
Crownville's Heart," a story, Justis
Miles Forman; "The Possibilities of
Modern Medicine," Dr. A. C. Seely.
"Trouble at Cross-Bow," a story, Har-
nor M. Price; "The Jew of Wall
Street," Samuel Armstrong Nelson;
"The Wise and Kind," verse, Richard
Kirk; "Main Mary Smith," chapters 1-2,
Henry Wallace; "A Line," "Penny's
Glad," a story, Juliet Wilber Tomp-
kins; "Judge Lindsey; Friend of Chil-

dren," William MacLeod Raine; "The
Bad Boy," How to Save Him," Hon-
min B. Lindsey; "Children of Misfor-
tune," "Zivell's Kitchen Cabinet," a
story, Holman F. Day; "The Man Who
Knew it All," a story, Caroline Lock-
hart; "Every Day Living," Annie Pay-
son Call; "The Year's Advance in
Drama," Walter Pritchard Eaton; "The
Pinkertons," H. Charles Francis
Bourke; "The Americans at Cordoba," a
story, George Allan England; "Speak-
ing of Insurance," Willard Holburn;
"State Governors and Public Safety,"
Elmer Sedgwick; "Marginalia" and
"Four Permanent Books." The cover
design is by J. C. Sommer, and the front
ispire is a striking drawing by R.
Martin Justice, 341 Fifth Ave., New
York.

The May number of System has a
very good list of contents: "Where By-
Products Make the Profit," "Problems
of Railway Organization," "Successful
Through System," "The Battlefields of
Business," "Radio Rays from the
Sales Manager," "Building Up a Bank's
Business," "Labor Economy in the
Tool Room," "Building Up a Protective
Advertiser's List," "First Step in
Training Salesmen," "Modern Account-
ing Methods," "Keeping Track of Raw
Material," and "Handling Advertising
Adverts." It is among the topics dis-
cussed. It is a helpful magazine to men
and women in any kind of business.—
Thomas Church Bldg., Chicago.

TEA

Why don't all grocers
keep Schilling's Best?

They are not all alike;
they don't all see alike.

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2:30 p. m.	3:45 p. m.
3:15 p. m.	4:30 p. m.
4:00 p. m.	5:15 p. m.
4:45 p. m.	6:00 p. m.
5:30 p. m.	6:45 p. m.
6:15 p. m.	7:30 p. m.
7:00 p. m.	8:15 p. m.
7:45 p. m.	9:00 p. m.
8:30 p. m.	9:45 p. m.
9:15 p. m.	10:30 p. m.
10:00 p. m.	11:15 p. m.
10:45 p. m.	12:00 p. m.

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