

a similar condition to that in which I am placed.

INQUIRY.

The rule of law in relation to the ownership and right to use water flowing in natural channels is: The water belongs to the first appropriator to the extent of his appropriation. This rule has been held to be superior to legislative enactments, and is virtually a constitutional provision in the states and territories in which irrigation prevails. If our correspondent was, as he intimates, one of five settlers who appropriated an entire stream, agreeing that each should have the whole stream two days in every ten, during the irrigating season, and if no part of the stream was, in the beginning, or subsequent agreement or custom, allowed to remain in the channel for the domestic use of the four settlers who were not at the time using the main body of it for irrigating purposes, then our correspondent has no relief.

But if the original practice among the five settlers was to leave a small portion of the water in the channel for the domestic use of four of them, while the fifth had the bulk of the stream turned upon his land, then the extent of the appropriation of each settler would be: The bulk of the stream two days in ten, and a small portion of it all the time for domestic use. Such would be the extent of the water right of each settler, and such would be the relief which a court would grant in case of a legal contest. The rights of the five settlers referred to, respectively, depend upon the original arrangement and custom which were established among them.

In case of such a shrinkage in the stream as to render it insufficient to serve both for domestic and irrigating purposes, and the rights of each party in interest to use it for both purposes were equal, a court of equity would, on a showing of the facts, order the water to be devoted to the most urgent and necessary use. The law upon this subject is the same as the judgment of a wise, humane and impartial man would be; and whatever the latter might feel ought to be done, a court of equity would be very likely to order.

THE CHICAGO EXPLOSIONS.

The anarchist question every now and then bobs up its ferocious head in Chicago. The recent action of the chief of police of that city, in preventing the anarchists from assembling in meeting is questionable from two strong standpoints. It is opposed to the genius of the Constitution to prevent any body of people from peaceably assembling for the purpose of discussing their grievances whether the latter be real or imaginary.

The argument that it is a foregone conclusion that they would deliver incendiary speeches and thus incite the people to deeds of violence is untenable from a constitutional point of view. The officer had no right to anticipate what would be said and done at the proposed meetings. His point of interference would be reached when they ventured upon unlawful ground by engaging in illegal proceedings. The act of merely meeting together is not unlawful, but is a right guaranteed to people of every class.

The other questionable point in relation to the advisability of Chief Hubbard's action is in regard to its being conducive to the public weal. If the anarchists are to be suppressed by the deprivation of a constitutional right, the probability is that it will increase instead of diminishing the danger so much feared. If not permitted to meet and let off the steam, the probability is that the motive power will accumulate until an explosion results. If a disease exists in the human body there are natural processes, functions and channels by which the poisonous matter causing the trouble is carried off, thus relieving the system. If the pores of the skin are closed by the application of a delusively presumed remedy, the foreign ingredient causing the disease is confined and accumulates, until it finally breaks out in violent and unsightly eruptions. This may be applied as a comparison to the malady of anarchism with which the body politic is seriously affected.

Presumptive evidence of the correctness of this theory is not wanting. The other day a disastrous explosion occurred in a Chicago distillery. The material used for the purpose of consummating the destruction was dynamite. This was made clear by the finding of certain fragments pertaining to that explosive. The ostensible suspicion for the commission of this crime is thrown upon what is known as the whiskey trust, which the proprietors of the distillery state they had declined to join. The anarchists are, on the surface, presumed not to have done it. It is probable, however, that this presumption is a pretense to throw those who are really suspected off their guard. But suppose the theory advanced be correct, the fact would be more alarming than if it should turn out to be the work of anarchists of the regular stripe, for this reason: It would show that trusts and combines are beginning to be bodies of anarchists. It would indicate that the monster anarchy was indeed hydra-headed and assuming proportions that would render it more and more difficult to handle.

The explosion in an oatmeal factory,

destroying life and property, following so closely upon the heels of the distillery event, is exceedingly suggestive. The terrible catastrophe could not very well be attributed to an oatmeal trust, so instead of formulating suspicion in that direction it is laid to oatmeal dust. There are several considerations that render the spontaneous combustion theory highly improbable. Explosions from that cause in a factory where oatmeal is made are exceedingly rare, and when they occur they have no such force as to lift the roof of a large building, carry it some distance and let it crash down upon smaller structures and shiver them to ruin. About as well one might expect that a man making a hearty meal of oatmeal porridge would be liable to have the top of his head lifted off by the force of gasses generated in his stomach and dumped among a crowd of bystanders. If a dynamite bomb burst in his mouth such a result might accrue, and so with the oatmeal factory. While fragments connected with dynamic destructives may not be found among the ruins, the force of the explosion renders it probable that the cause of the destruction on each occasion was the same.

If these disasters are the work of anarchists it is probable that evidence to that effect will soon be forthcoming; they will in all likelihood be followed by similar calamities. In that event it will be curious to observe to what cause they will be attributed, seeing that the whiskey trust and oatmeal dust will not seem feasible in every instance.

It really looks, as the *News* of that city recently stated, as if Chicago was in a dangerous predicament.

THE HAYTIAN DIFFICULTY.

To say that there is a speck of war looming up between the United States and Hayti would be to use a ridiculous term in that connection. Under no conceivable circumstances could there be a war between the two countries for the reason that one stands at the head, the other at the foot of the nations, and whatever this government sets out to accomplish by force with Hayti will undoubtedly be consummated at once. This is not altogether an illustration of the supremacy of physical power, for without a just and sufficient cause, it is not to be presumed that the little island would be interfered with by force of arms. This is not necessarily because of the likelihood of foreign intervention if we were to presume upon our superior strength and thus seek a foregone conclusion, but principally because, if there were nothing in the matter calling for force, we could hardly afford to occupy the position of crushing a helpless little community with our gigantic strength, for crushing it would certainly amount to if any resistance were offered.

It seems that a merchantman—the *Haytian Republic*—owned in the United States, was cruising around in the waters of the insular nation when she was seized by its authorities and confiscated. There is a tempest in a teapot going on there, which is dignified by the name of rebellion; and while in this country it could scarcely be more serious than the dreadful affair at Birmingham on Saturday last, still it is the best they can do in the way of an organized revolt against the government, numbers and territory considered, and the regularly constituted authorities of course look upon it with as much of apprehension and treat it with as much of determination as though the civilized world were looking on with bated breath. They considered, or claim that they did, that the vessel was violating neutrality laws by giving aid and comfort to the rebels in the way of landing supplies for them, etc. This would be a just ground for confiscation, and if it were well taken our government would not send war ships to the Lilliputian republic, or if she did there would doubtless come such a murmur of discontent as would effect a cause and eventually a retreat.

In order that the right or the wrong of the matter might be established, it was submitted to arbitration and the decision was against Hayti. She thereupon announced that the ship would be given up, but up to date has not returned it. As her action now is wrongfully detaining the property of a citizen of the United States, this government is only doing what England would have done earlier, and what should of course be done if it involved war with all the rest of the world.

There is no doubt that the gunboats that have been dispatched to Hayti will greatly accelerate the mental and other action of the authorities there; and, as the owner of the captive ship accompanies them, that he will receive his property without further delay. The Haytian authorities will hardly care to have a fight with the United States, even if they were in the right of it, which they are not; particularly when they already have as much of a fight on their hands as they can well get along with.

An effort to belittle the expedition was made in the United States Senate on Monday last by Mr. Frye, of Maine, a gentleman prominently mentioned in connection with the Navy portfolio in President Harrison's Cabinet. He thought, or claimed to think, it dis-

graceful that we should pounce upon poor little Hayti and steer clear of a brush with Germany over the situation in Samoa. "Let us protect ourselves against our equals," he said in substance, and a proper doctrine it is too, whenever applicable; but a better one is to protect ourselves against all comers, equals or inferiors, when protection is demanded. With this object in view, the action of Secretary Whitney would seem to place him beyond attack.

THE OGDEN DECISION.

We reproduce elsewhere in this issue the opinion rendered by Judge Henderson in the case of Hayes vs. Corey, involving the validity of the territorial statute commonly called the general municipal law, and also the legality of the action of the city council of Ogden in dividing that city into municipal wards. The line of argument and explanation pursued in the opinion is lucid, and the sections of the statute which are cited, require to be read in connection with the language of the court, in order that the full meaning of the latter may be comprehended. Such a process would be too tedious for the ordinary newspaper reader, and we will therefore endeavor to state the main points involved, both political and legal, in a brief and concise manner.

The city council of Ogden knew that the population of that city was large enough to constitute it a city of the second class, under the general municipal law passed at the last session of the Legislature. The council, therefore, ordered a census to be taken, in order that the question of the city's right to take rank as a city of the second class might be determined in the manner provided or indicated in the general municipal law. When thus classified the city would be divided into five municipal wards, from each of which would be elected, by voters residing therein, two councilmen and one justice of the peace, the mayor and certain other city officers being elected at large.

The bulk of the Liberal population of Ogden resides within the limits of a comparatively small area, and it would be difficult to divide the city into five wards in such a manner as to give them a majority in more than two.

In an election at large the Liberals consider that they have a good fighting chance to carry the entire municipal ticket; whereas in an election by wards they know that their opponents would, for an indefinite number of years to come, elect a majority of the councilmen. Hence the objections of the Liberals of Ogden to a division of that city, and hence their opposition to every move made looking to such division. A suit was planted by them to prevent the taking of the census, but they lost it.

Returns of the census being duly made, Governor West issued a proclamation, as required by law, declaring Ogden to be a city of the second class; whereupon the city council, acting upon the presumption that all the requirements of the law had been complied with by taking the census and having the city declared by the Executive to belong to the second class, enacted an ordinance dividing the city into five municipal wards. The division destroyed the hope entertained by the Liberals of capturing the city government at the next election, and they determined to annul the action of the city council if possible. In pursuance of this purpose, the present action before Judge Henderson was instituted, all the parties to it being Liberals.

In order to accomplish an annulment of the action of the Ogden city council, a determined attack was made, not only upon the division ordinance, but upon the general municipal law itself, under the presumed authority of which that ordinance was passed. By an oversight of the Legislature, an enacting clause was not prefixed to the body of the general municipal bill, and the attorneys who attacked that statute also insisted that it was in conflict with the Edmunds law in certain particulars relative to elections. The decision ignores the latter objection to the general municipal law, and deals only with the enacting clause question. The court admits that there are two classes of decisions applicable to it which conflict, and that it is not free from doubt; but holds that the lack of an enacting clause in the present instance, does not invalidate the statute.

The court then proceeds to construe by means of a lengthy and intricate analysis, the statute. The result may be summed up thus: Those sections relating to the division into wards of cities already incorporated cannot be applied to Ogden until the question of adopting them is submitted to the people of that city at the polls. Section 601 of Article I of the general municipal bill provides that "any incorporated city or town, now existing in this Territory may incorporate under this act," if a majority of the qualified electors shall petition the city council or board of trustees to submit the question to a vote of the people, and such election shall be carried in favor of such action. By the line of reasoning which he adopts Judge Henderson reaches the conclusion that this section should have been carried out in the case of Ogden; but the city council have acted upon the supposition that the sections requiring a division into wards were made additional and cumulative to the present charter, thus

obviating the necessity of an election by the people upon the question.

The trouble has arisen from the fact that the general municipal law was so loosely framed as to be uncertain in its provisions upon this point. A strong argument can be made in favor of the position taken by the city council—strong enough at least to show that they acted in good faith; but any attempt to either sustain or contest the decision rendered by Judge Henderson would require copious quotations from the law and authorities, and would occupy more space than we care to devote to the subject at present.

Unless an appeal is taken, the next city election in Ogden will have to be held as previous ones have been, the members of the city council, mayor, etc., being voted for at large. The Liberals are confident of victory in such a contest, but it remains to be seen what the future is destined to bring forth.

TO THE PUBLIC.

It having been stated that Mr. A. J. Stewart, of Utah County, has represented himself, while in the East and in Mexico, as an agent of the Church of Jesus Christ of Latter-day Saints, for the purchase of lands in Mexico, and for colonizing our people thereon, I have pleasure in stating to the public through this notice that Mr. Stewart wholly disclaims having made, here or elsewhere, any such claim.

Mr. Stewart's operations in such matters have nothing whatever to do with the Church; and the Saints having business in Mexico, or who contemplate investing means or making homes in that country, would do well to consult with Elder Moses Thatcher, at Logan, Cache County, Utah, or Elder A. F. Macdonald, at Juarez, Canton Galeana, Chihuahua, Mexico, or with Bishop Wm. D. Johnson, Jr., at Diaz, Canton Galeana, Chihuahua, Mexico. WILFORD WOODRUFF.

A Good Work.

We have before us Vol. VII of the *Historical Record*, Andrew Jensen proprietor and publisher. There are few publications that are of greater value or interest to Latter-day Saints than this. It presents a continuous epitome of Church history from the inception of the work of God in this dispensation until the present time. Brother Jensen possesses a marked faculty for hunting out and culling historical facts, and gives as a result a periodical whose value as a work of reference alone, cannot be commensurately computed. We believe it is destined to be in some future time largely used as the basis of a detailed history of the rise and progress of the Church. The labors of Elder Jensen as a compiler of the past and current history should be, and we have no doubt is, largely appreciated. He is a diligent and capable worker, in his particular line.

A Terrible Fatality.

On December 3d, Ida Eliza, the pretty little daughter of William and Eliza Rebecca Howell, met with a violent death. The parents reside in Mountain Home, Alturas County, Idaho. On the day previously named, the father with his little girl was driving through Cañon Creek in the same county. Striking the horses that were lagging, they made a quick start, throwing the girl out of the wagon. One of the wheels struck her on the left side of the head ranging from the chin upwards, and cutting a deep gash near the temple, instantly killing her. The unfortunate child was 3 years, 6 months and 20 days of age. The remains were brought to Ogden on Friday morning. The funeral services were held at the Wilson meetinghouse at 2 p. m. of the same day. The parents are grief-stricken over the loss of their little darling. The mother is a daughter of John Staker of Willson Ward.—*Ogden Standard*.

The Graham County Election.

Concerning the election in Graham County, Arizona, W. W. Damson writes as follows from Thatcher in that county, under date of the 1st inst: "I notice in your paper of November 23d an error which although unimportant generally, out of respect to the democratic party, I beg leave to correct.

A correspondent, under the initials "J. P. L." says the republicans carried Graham County by a large majority. The returns published show that Hon. M. A. Smith, democratic candidate for Delegate to Congress received 745 votes; Wilson, republican, only 156; Hoadly, democrat, got 616; and his opponent got 183.

I cannot see how "J. P. L." can construe it to say the republicans got a large majority.

He probably is misled by there having been dissatisfaction among the people caused by the nomination of some men on the county democratic ticket whom they did not feel to support. They got up another ticket and the majority of the candidates were democrats and carried the county by a large majority. The ticket was called and printed "the people's ticket."

A case in Butte, M. T., a few days ago, in which defendant was under examination for selling liquor to Indians, brought out the unique defense that the inter-state commerce act forbids commerce with the Indians shall be entirely free.

A Cat Kills a Hawk.

A Lockhaven, Pa., dispatch of Dec. 6th, says: Yesterday an immense hawk, which has for some days been trying in vain for a chance to swoop down on Simon Clay's poultry yard and capture a chicken, resolved to make a dinner on something belonging to Clay, and pounced upon a Maltese cat that was sunning itself in the back yard. The hawk lifted the cat easily enough, and was moving away, when the cat recovered from its surprise and began to squirm and claw. Feathers began to tumble out of the hawk in showers, and the big bird, which had reached a height of 100 feet with its unusual prey, seeing that it had caught a tartar, loosed its talons, and the cat dropped toward the earth like a plumb bob.

The hawk must have been woefully hungry, for it swooped down on the cat and seized it again before it reached the ground. That was a good thing for the cat, for if it had struck the earth at the rate it was going all nine of its lives would have gone out at once. But this second capture was bad for the hawk. He grabbed the cat near the tail, and had hardly recovered himself sufficiently to resume his upward flight, when the cat, filled with fury, twisted around and reached for the hawk with her claws. She caught the big bird's throat in her teeth and set the claws of her fore feet deep in the feathers of his neck. That was the end of the fight. The hawk pounded and flopped with his great wings, but it was of no use. His wind was effectually shut off, and he fluttered to the ground with the cat, and by the time the two reached the earth the big bird was in his last gasp.

The interesting and novel contest in midair was witnessed by several persons, and when they reached the spot where the combatants came down the cat sat by the side of its vanquished foe complacently licking the wounds the hawk's talons had made, which were deep, but not serious.

News Notes.

A son of Thomas Ogley, of Pocatello, Idaho, was badly wounded last week by the bursting of a railroad torpedo. The doctor says his condition is dangerous.

The strike of the engineers on the Montana Union at Butte still continues. The master mechanic, who is objectionable to the strikers, is defended and upheld by the superintendent.

The Nevada Central Railway, which has been in the hands of a receiver for some time, has, by order of Judge Sabin, of the United States District Court for Nevada, been delivered to the Nevada Central Railroad Company. The board of directors have appointed C. W. Hinchcliff, heretofore receiver, superintendent of the road.

Engineer O'Malle, of the O. S. L., who runs the helper out from Glenn's Ferry, Idaho, killed a deer out of the cab window last Thursday while the train was under good headway. There were two deer about one hundred yards from the engine and O'Malle took a couple of shots at them with his Winchester, knocking over one of them.—*Pocatello Reporter*.

More Mobocracy.

Through correspondence received from President Mayhew H. Dailey, we learn that Jarman has delivered another of his customary tirades of abuse against the Mormons, to the citizens of Wolverhampton. When the Saints assembled for public worship on Sunday afternoon, 18th inst., an excited mob of over 500 persons gathered around, and endeavored to force an entrance into the room; but through the efforts of the doorkeeper and the police, the rabble were foiled in their efforts. They then temporarily withdrew, but at the close of the service a wild rush for the meetinghouse was made and loud demands for the Elders (Brothers Dailey and Jorday) were heard. Threatening language was used, and a son of Brother Turner was struck in the face. Some of the Saints, when going to and from the meeting, were grossly insulted and had missiles hurled at them. During the evening service two policemen were on duty near the meetinghouse, and there was no disturbance. The Saints are feeling well in the midst of their persecutions.—*Millennial Star*, Nov. 26.

An Explanation.

A promise was made the subscribers to the SEMI-WEEKLY NEWS some time since that on or about the first of the present month that paper would be enlarged and changed in form to an 8-page sheet. Owing to the Desert Paper Mill, which for over three months past has been shut down for repairs and improvements, failing to get started at the time expected, we have been unable up to the present to fulfill the promise mentioned, but now that the mill has commenced operations again it is expected that we will be able to do so during the coming week. In the meantime we ask the indulgence of our patrons.

DEEP SEA WONDERS asks thousands of words, but are surpassed by the marvels of invention. These words are used of profitable work that can be done while living at home should at once send their address to H. L. & Co., Portland, Maine, and receive their full particulars. No other size, 60¢ a year, can be sent for 50¢ per day and upwards where they live. You are started free. Capital not required. One 1-1/2 inch wide New York style day at this work. An Answer.