DESERET NEWS.
WEEKLY.

TRUTH AND LIBERTY.

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WHO OWNS OGDEN CITY?

JUEGE HUNTER delivered a decision yesterday in Ogden in the case of W. E. Hatch against the Union Pacific Railroad Company, ruling in favor of the defendant. The suit was instituted to set aside former proceedings, in which a piece of land owned by Mr. Hatch was condemned as the property of the Company, the latter paying into Court the sum at which the land was appraised by three commissioners, namely $4,000. But Mr. Hatch would not accept the amount and this suit was the consequence.

Judge Hunter gives a history of the possession of the land in dispute, by which it appears that it was held and improved for nearly thirty years by a succession of claimants down to Mr. Hatch, and that it was not filed upon under the land laws until entered, with other portions of Ogden City, under the Townsite Act. He shows that under the Acts of 1862 and 1864 certain odd sections of land were granted to the U. P. Company, of which Section 29 was one, including the Hatch property and a large portion of Ogden City. The Judge holds that the Railroad Company having received the grant of these alternate sections by the acts of 1862 and 1864, the entry by Ogden City Corporation was invalid, for at the time of the passage of the act under which the entry was made, that is March 2, 1867, the title was not in the United States, but the "absolute ownership and control" thereof was in the U. P. Company.

We think this opinion will not hold good, because the Act of Congress, under which this land grant accrues to the Company, provides that,

"Whenever said company shall have completed forty miles of any portion of said railroad * * * the President of the United States shall appoint three commissioners to examine and report to him in relation thereto; and if it shall appear to him that forty consecutive miles of said railroad and telegraph line have been completed, and equipped in all respects as required by this act, then upon certificate of said commissioners to that effect, patents shall issue conveying the right and title to said land to said company, on each side of the road as far as the same is completed to the amount aforesaid, and patents shall in like manner issue as each forty miles of said railroad and telegraph line are completed upon certificate of said commissioners."

From this it appears that the right and title to these lands did *not* pass to the Company in 1864, but as each forty miles of the road was completed and approved, on certificate of the Commissioners. Now the question is, when did the Company finish that portion of the line which would entitle it to the land in dispute, namely, section 29? Judge Hunter says, "April 1, 1869." Then the Company could not possibly obtain the title until that date, and it is a question whether the title was then given, for it would take some time for the legal examination and certificate thereof to be made and the patent to issue. And here may be stated a fact which it seems the Judge has not taken into consideration, possibly it was not presented to his notice. About the time of the completion of this portion of the railroad, the Commissioner of the Land Office notified the people that time would be given them, until June 15, 1869, to file on their claims within the limits of this very "railroad land" as it is called. What does this show? Why that the absolute right and title had *not* passed to the railroad company.

We will now quote from the Act of '64, under which the Company makes its claim.

"And any lands granted by this act or the act to which this is an amendment, shall not defeat or impair any pre-emption, homestead, swamp land or other lawful claim, nor include any government reservation or mineral lands, or the improvements of any bona fide settler * * to be ascertained under such rules as have been or may be established by the commissioner of the General Land Office in conformity with the provisions of the pre-emption laws."

It was in accordance with this provision that the Land Commissioner gave the time above specified to the bona fide settlers, to make good their claims on the land of which the Judge says the Railroad Company had the absolute ownership, but which it appears they could not have obtained the title for at that time.

Judge Hunter, after making this ruling, goes on to take up the question of the title obtained by Ogden City Corporatisn under the Townsite Act, apparently perceiving the weakness of his first position. He states that the declaratory statement made in the Salt Lake Land Office by the Mayor was not filed till May 6th, 1869, and that part of the road was completed April 1st, 1869, from which the inference is left that the Mayor was too late with his filing. But there is another fact which perhaps was not called to His Honor's attention. That is that Mayor Lorin Farr filed a declaratory statemeht under the Townsite Act At the Land Office in Denver in 1868, several months before it is even pretended that the railroad was completed through Ogden City. The reason why the filing was done at Denver was because that was the nearest Land Office to Ogden then established. As soon as a Land Office was opened in Salt Lake City the declaratory statement was re-filed in that office.

From this it appears that the absolute right and title to this land did not pass to the Railroad Company in 1864, and there is nothing to show that it was obtained at any subsequent time, because by the Townsite entry and other filings the title to the land passed to its rightful possessors, the bona fide settlers, some of whom had held it for thirty years, and it is now held by them or their heirs or assigns, and we think it will be a very difficult matter for any person or corporation, however powerful, to dispossess them.

However, we do not suppose the Union Pacific Railroad Company has any disposition to set up any such claim to these lands as the decision of Judge Hunter might seem to warrant. The Company has acted very fairly toward Mr. Hatch. In the condemnation of his land for railroad purposes, three commissioners were appointed to appraise the property and the evident desire of the Company was to do justice to the owner whose claim it virtually acknowledged. The sum decided to be a fair compensation was placed at the command of Mr. Hatch, and in refusing to accept it he has laid himself open to trouble. We have nothing to say in defense of his suit, but as the ruling affects the title of about one-half of Ogden City, we deem it worthy of this extended notice. Meanwhile the citizens of Ogden need not be alarmed nor excited They hold the Government title to their property, and it is not very likely that they will be disturbed therein, and in a short time the statute of limitations will bar any legal proceedings against them, even if anyone has a desire to contest the rights which they certainly have in justice, and we believe also in law and equity.

SOME GLARING ERRORS CORRECTED.

IN consequence of false reports concerning the status of education in Utah, it has become the fashion abroad to disparage the school system and the efforts made towards the instruction of the youth in this Territory. We have become so accustomed to the misrepresentations of our enemies that we do not expect them to tell the truth in regard to any of our affairs, domestic, educational or religious. But we do look for facts when persons or papers interested in the progress of the Territory and the majority of its inhabitants, undertake to give information. We therefore note with some surprise the following paragraph in the Utah County *Enquirer:*

"The school system of this Territory is a poor one, with the honorable exception of a few schools that have chosen an independent course. The rule is, that school is taught only in the winter season, then the children are disbanded for eight or nine months in the year. Another serious mistake which has been made, is the employment of incompetent teachers. As a rule a person of superior abilities, and one who could successfully teach, can find other employment more remunerative, than those offered to school teachers in this community. If persons of ability could be assured a reasonable salary during efficiency and good behavior, so that the schools could be kept going the year around our present system would soon emerge from its primitive form, and plenty of good preceptors could be found. But the niggardly method now in vogue can never be a success."

If this untruthful statement had appeared in some rabid anti-"Mormon" journal, reckless as to truth and desirous only of showing up our affairs in the worst possible light, we should have had no cause for wonder; but appearing in the *Enquirer* we are led to think that when this paragraph was penned the editor must have been abroad.

The first sentence is a singular one. It states that our "school system is a poor one with the honorable exception of a few schools that have chosen an independent course. What is the matter with the "school system?" No deficiencies are pointed out by the *Enquirer*, neither is any better or improved system suggested. What is meant by a few schools being "exceptions" to a system? And what is meant by their choosing an "independent course?" Are they honorable because they act "independent" of the school law?

The existing school system, established by legislative enactment, provides for the organization of school districts all over the Territory; the election of three school trustees in each district; the assessment of a maximum tax of three per cent. for school purposes, optional on a two-thirds vote of the *legal voters in each district;* the examination of school teachers; the periodical inspection of schools; the detailed reporting of their condition to county superintendents and from them to the Territorial Superintendent; the assessment, collection and appropriation of three mills on the dollar on all the taxable property in the Territory for the payment of teachers; and the possession and succession of title to real estate for school purposes.

What is the matter with the system? The objector does not state, but contents himself with repeating the stale cry against it. Complaint is made that "The rule is, that school is taught only in the winter season, then the children are disbanded for eight or nine months in the year." We should like to know what kind of a fix the children are in when "disbanded." But if this complaint is founded on fact, is this condition the fault of the school system? Is it not rather the fault or misfortune of certain isolated districts, or the neglect of their trustees to carry out the system? But reference to the last report of the Territorial Superintendent shows that the assertion is incorrect. There is no school district in this Territory with such a beggarly showing as that which the *Enquirer* says is "the rule." The number of days on which school is taught during the year ranges from 91 up to 266. Thus not one school in the Territory maintains school so brief a period as three months in the year, while many of them, allowing for the usual vacations, keep up school the whole year round, and most of them within a very little of the entire year. Only three are reported under 110 days per annum, and the lowest of all is 91 days.

The statement about incompetent teachers might have applied to this Territory many years ago, but under the system now established, District Schools are not permitted to employ teachers who have not passed an examination and obtained a certificate from the board of examiners. "Persons of ability," *are* obtained in most of the School Districts and very liberal salaries are paid in a great many of them. The total amount paid to teachers in the years 1876 and '77 was $162,782.10.

To read the paragraph from the *Enquirer*, a stranger would think that Utah was far behind the rest of the country in educational interest and facilities, and that the rubbish circulated by her enemies on this subject were matters of fact; while the truth is, that taken on any of its school statistics, Utah holds her own with many of the old States of the Union, is far ahead of many others, particularly the Southern States, and is foremost of all the Territories.

We do not claim that our school system has no defects, nor that it is incapable of improvement. We do not wish to discourage any individual, association or paper that can suggest practical measures for the educational progress of the Territory. But we deprecate the practice of fault-finding without mention of a remedy, and of adopting the statements of unscrupulous enemies without examination as to their truth. Utah has done exceedingly well in educational matters. The young people reared in these valleys, as a rule, are at least as well informed as any to be found in rural districts in other parts of the country. We have just as good district schools as can be generally found in distant places with a similar population, and while there is room for improvement in all of them, we have many schools of which the people may be pardonably proud.

Some people can see no good whatever in a school system that is not entirely supported by taxation. We are sorry for them. Schools sustained in that way are advocated by some and opposed by others. Our laws place it within the power of any district to establish and maintain such schools. A two-thirds vote of any district will settle it so far as that district is concerned. This leaves it in the power of the people to adopt which method they choose. It is not considered wise for the Territory at present to force such a system upon the people, therefore it is left to the people's own discretion.

The chief reason why many are opposed to a legislative system of free schools, is because it would at once destroy the denominational character of all public schools in the Territory, and soon banish the worship of God and any reference to religious principles and sentiments from the institutions in which our children spend the greatest portion of their time; thus fostering the spirit of infidelity and independence of divine direction in human affairs, which is the prevailing and increasing spirit of the age. If schools are entirely supported by general taxation, objections may be raised by any taxpayer to the introduction therein of any reference to God or his providences, designs and commandments. For this reason many of those who earnestly desire the educational progress of the Territory are opposed to the common free school system, desiring that the youth of this community should be trained up in the fear of the Lord as well as in the rudiments of secular learning.

Let us have light, argument, good advice, sound reasoning on any point connected with the improvement of existing laws and customs; but do not pander to the spirit of the world, the grumbling complaints of carping objectors, nor the disposition to find fault so common to the unreflecting. And if you do assail any weak point or measure unsuited to the times, be sure you have a foundation in truth for your assertions and in wisdom for your criticisms, or for your own sake as well as the public welfare, have sense enough to hold your peace.

OLD WIVES FABLES.

THE "Christian" ladies of the Anti-Polygamy Society have once more committed themselves to a public expression of their views and objects in the shape of a Memorial. It is addressed to the House of Representatives of the Congress of the United States, and urges the expulsion of Hon. George Q. Cannon for the alleged reason that, "although he cowardly denied it before a committee of a former House, he is the husband of four wives and the father of twenty children;" that "He is one of the Twelve Apostles of the Mormon Church, which politically dominates the Territory of Utah, and claims to be above the laws of the country;" that although the constitutionality of the law of 1862 has been judicially decided, "he still disobeys it, continuing to defy the national authority;" that "he has not only lately urged polygamy upon his hearers in the Mormon Tabernacle, but recommended that they marry wives in pairs." They further ask that the laws be so amended "as to make the continuous living together of men and women in polygamous relations the offence, and not the ceremony of marriage." They assert that "Mormon" men are now marrying polygamous wives, frequently girls in their minority, leaving them at home with their parents and keeping it secret until three years shall have expired, when they will openly acknowledge them, which in the present state of the law they can do with impunity." That "another way is to marry two wives at once giving precedence to neither."

This contradictory mess of falsehood, twaddle and gossip is signed by S. A. Cooke, Prest; M. Chislett, Secy.; Fannie S. Allen, First Vice Prest.; Jennie A. Froiseth, Second Vice Prest.; Hattie K. Bane, Corresponding Secy.; M. E. B. Green, Treasurer; E. M. Fisher, C. S. Hollister, L. C. Douglas, C. A. Smith, S. Boukofsky, M. A. Lloyd, Executive Committee.

Some time ago we took occasion to make a few remarks on the very charitable, womanly and "Christian" work which these ladies were trying to perform, in breaking up hundreds of families, separating husbands and wives and depriving thousands of children of parental care and claims. This was indignantly denied, and their efforts were declared to be directed solely against the extension and increase of the practice of plural marriage; it was asserted that they had no desire to interfere with existing polygamous relations, but only to prevent the future infraction of the law. The women of Utah protested against the inhumanity of these professedly Christian ladies, and a similar reply was given.

But how does this tally with the language of their new Memorial? Now they do not want the offence to consist of the ceremony or contract of marriage, but in the family relations of those who have entered into such obligations. In other words, to separate husbands and wives, to part parents and children, to make social chaos out of order, and bring misery, sorrow and ruin to thousands of innocent persons. Shame on them for their cruel desires and fanatical endeavors! Is this the spirit of Christianity or the proper work of women? Is it not rather more worthy of brutal and stony-hearted ruffian men, whose consciences and sensibilities have been seared and blunted with the hot iron of politics and the indulgence of base desires, than of the gentler sex from whom we expect all that is tender, forbearing, charitable and heavenly in earthly human nature?

But this Memorial is not only diabolically cruel in its intent, but is absolutely false in its assertions. In the first place, Hon. George Q. Cannon never denied, either before a committee or otherwise, the relations which he has sustained with his family. He was charged with living in open and notorious cohabitation with four women, in violation of the laws of God and man. To this, in his answer, he gave a general and specific denial. In whatever family relations he has sustained, he violated neither the laws of God nor man, either in action or intent. These anti-polygamy people do not attempt to prove that he has even broken the law of 1862. No dates of his alleged marriages are given. And even if it could be proven that he has married a wife since the passage of the Anti-Polygamy Act, it is well known that he and his co-religionists firmly believe that it was in accordance with and not contrary to the laws of God, and that they also believed, as they considered with good reason, that the law against it was unconstitutional and therefore void.

But these ladies say that he still disobeys that law, "continuing to defy the national government." This is manifestly false from their own showing. They state that the law makes the ceremony the offence, and ask for an amendment making it to consist in the cohabitation. What is our Delegate's offence in