

Jan. 27, 1883.

FLOATING FRAGMENTS.

Secure your seats for "Forbidden Fruit," Monday night.

Hon. W. D. Johnson will be back from Washington in a few days.

President John Taylor, Joseph Smith and party of brethren from this city are attending Juab Stake conference at Nephi, to-day.

The M. I. A. of the 1st and 10th wards will meet conjointly in the 10th Ward Assembly Hall, next Tuesday evening, Jan. 30th. The purpose of the meeting is to discuss the new law on the subject of the franchise.

On Thursday night the workshop of John Eades, of Ogden, was burglarized, the thief carrying off a large quantity of tools. The thief of that town stated that the tools had not been caught.

Yesterday William Bowen, while carrying up stock at Spanish Fork, broke down about three inches from the ankle, both bones being broken. He is now lying in bed, unable to move.

We have received a copy of an anti-polygamy bill introduced into the Idaho Legislature by E. P. Johnson, formerly of Corinne, but the lack of space precludes the possibility of its publication to-day.

Editor William Fotheringham will appear under the auspices of the Young Men's Mutual Improvement Association, at the school-house of the Seventh Ward, on Monday evening, beginning at 7 o'clock. The public are invited. No charge.

LOCAL AND OTHER MATTERS.

Religious Services.—Religious services of the Church of Jesus Christ of Latter-day Saints will be held at the Assembly Hall, to-morrow afternoon, beginning at two o'clock.

High Council.—The members of the High Council are requested to meet in the Council House on Monday evening, the 29th inst., at seven o'clock.

Wm. W. Taylor, Clerk of Council.

Priesthood Meeting.—The regular meeting of the Priesthood of this Stake will be held in the Assembly Hall, on Saturday, February 3rd, 1883, at 11 a.m.

William W. Taylor, Clerk of Stake.

Home Mission.—The regular monthly meeting of the Home Missions of this Stake will be held on Wednesday evening, the 29th inst., at the Council House, at 7 o'clock.

W. W. Taylor, Clerk of Stake.

Home Musical Composition.—We have received from the music store of Mr. David O. Calder, the musical march "Immortalien," composed by Anton Pedersen, conductor of the Opera House orchestra. It is dedicated to the memory of Dr. E. D. Benedict. The piece has been published and copyrighted by Mr. Calder.

A Branch House.—Messrs. W. Jennings & Sons are about to establish a branch house at First, as the rapid prospective development of that part of the Territory is bound to cause a considerable increase of population and a commensurate swelling of trade. Mr. Frank Jennings has gone to the locality to make the necessary arrangements, thus taking time by the forelock.

Broke His Thigh.—Last Monday afternoon a three and a half year old son of Brother Thomas Drury, of the Twenty-first Ward, while playing with some other children in a neighbor's house, slipped and broke his thigh. It was not ascertained that the limb was broken until Thursday. Dr. Benedict visited the little sufferer, but states that it cannot be set at First, as the rapid prospective development of that part of the Territory is bound to cause a considerable increase of population and a commensurate swelling of trade. Mr. Frank Jennings has gone to the locality to make the necessary arrangements, thus taking time by the forelock.

Little Minnie.—Concerning the vivacious little actress who will appear at Haverly's Salt Lake Theatre on February 1st, the New York Star says:

"Little Minnie Palmer, since last seen here, has made a wonderful change for the better in every way. She is prettier, plumper, and a more pleasing little person. Her voice has become fuller and stronger, and by good training she has acquired a better method than is noted in musical comedy. Added to this she has not only the charm of real pathos, but much more vivacity and class than she formerly displayed—facts which explain the phenomenal success she has met with."

"Forbidden Fruit."—The last opportunity of witnessing the Home Club's latest triumph will occur at the Theatre on Monday evening. There were so many people turned away from the doors on New Year's night, and the place has been so simply advertised by the many rumors that have been afloat since its first production, that no newspaper puffing will place it any more prominently before the public. The Carleson Orchestra and the new office scene by Mr. W. C. Morris and Mr. Spencer Tryon, say nothing of the strength of the cast of the play, make Monday night's bill a very strong one. Mr. Carleson is preparing some specialties for the performance.

Death of an Old Member.—In another part of the paper we publish the death notice of an old member of the Church—Elder George Killian. The deceased was a man of far West when Col. Hinkle called upon the brethren to lay down their arms. The deceased told his father he believed Hinkle meant treachery and said he would not give up his gun, and he left camp and stood at a distance retaining his weapon, the brethren in the meantime having given up theirs. He was with the Saints in their persecutions. He stayed back in the States till 1865, when he crossed the plains and came to this city. He resided first in Utah County and latterly in Arizona. He died in the faith of the Gospel.

THE MANDAMUS QUESTION.

FRIDAY, 27, 1883, 1:45 p.m.

Judge R. K. Williams, in behalf of the appellant, Mr. F. D. Richards, opened his argument. In regard to the subject of the polygamy, he said that the Greenleaf document is a plan of wives at the same time, though in one sense a man who is a polygamist. Polygamy is never was a common law offense before the Act of 1862; therefore it is essential that the facts should be set forth to show that the offense has been committed, proving that at least two marriages had been contracted by Mr. Richards. His first marriage was to a woman who he had contracted another while he still had a legal wife, for the law of 1862 is evidently prospective and not retrospective in its operation. The constitutional guarantee protects the citizens of this republic from ex post facto laws. The Edmunds law itself was in intent prospective, but is argued in such a way as to make it appear retrospective. The Supreme Court of New York has decided that no law can be made retrospective unless so stated in most explicit, unambiguous language. Congress declared the election of Mr. Richards, but they filled them, and with this provision before them, would they declare other offices vacant and not fill them? The appointing power was to be exercised only in case of the failure to elect. Therefore as there were no offices vacant the appointments of the Governor were null and void he referred to the statute concerning the election of county and territorial officers containing the hold-over clause. The term of election is not for two years in reality; it is continuous until successors are duly elected and qualified. Under the amendment from which the Governor was elected, his power of appointment, the officers could hold only eight months for there is no hold-over clause in such law. This measure did not vacate the offices of the territorial officers, as would become vacant in consequence of a failure on the part of the people to elect. The fact of the matter is, we do not know what the territorial statutes were on the subject. If the appointees take the offices and that only for eight months then there will be several months' anarchy between the expiration of their term and the time of election in August, 1884. The object evidently of Congress was to avert and not to produce anarchy. If the offices were vacated under the Edmunds bill on March 22, 1882, then the offices were vacant on the first Monday in August, and if they did not become vacant through the failure in holding an election, then the power of the Governor under the Edmunds amendment cannot be exercised, for there would be no necessity for the use thereof. If the appointments are legal, then from May 1873 to August, 1884, anarchy will reign, and we will produce anarchy for one moment that the Congress of the United States would, with these facts staring them in the face, enact a measure directly producing inevitable anarchy.

Mandamus is not the proper method of redress in a case of this nature. *Quo warrantu* is the means by which the right and title of any office must be tried. The abrogation of the office of Attorney General for this Territory left the prosecution for the usurpation of office up to the United States, not continuing attorney for the Territory. The foundation of Mr. Kimball's right to the office is based upon his appointment by the Governor, which is void. Any person exercising the duties of the office of Judge of Probate without filing his bonds, etc., is guilty of misdemeanor. The President had failed to accept or refused the bonds of Mr. Kimball then mandamus would have been the proper method of redress. Mr. Richards has no right, since the passage of the law of 1862, married any woman, therefore he has offended against neither of the congressional enactments.

Mr. James N. Kimball, in his own behalf, referred to section 1817, Compiled Laws, under which power was conferred upon the Judges in chambers to hear and decide upon a case in mandamus. The right of the applicant for the writ of mandamus should first be shown to the court so as to give it jurisdiction in the matter of issuing the writ. This right was shown in the complaint, setting forth that attempts had been made to file the proper bonds and sureties, after having received the appointment. Mandamus in this case is the proper remedy. The dispute is not on the right to the office, but on the meaning of the statute of the United States.

In this Territory mandamus is the proper means of redress for the terms of the statute, and the right to *quo warrantu*, and the right to the office and records has been shown. In common law mandamus is proper in obtaining the possession of an office, where there is no other immediate and legal remedy. If Judge Richards' term of office had expired, then it was a part of his official duty to deliver over to me the books, records, etc. I had received my appointment under the Edmunds amendment, and I should not be required to proceed to obtain them by *quo warrantu*. Prosecution for the usurpation of office does not devolve upon the United States District Attorney. The office of Attorney General having been abolished, and the duties thereof devolved upon the United States District Attorney, the case is properly brought in mandamus.

In regard to the allegation of polygamy made against Mr. Richards, he said that the use of the word polygamy in the Edmunds bill was intended to apply to the existing state of a marital relation in this Territory. The word was well understood. And anyone being in such relation was disqualified from acting in any office of public trust. Consequently all offices held by such persons were declared vacant. But Judge Williams had argued that before a man could be declared a polygamist he must first be indicted and tried before a competent court and jury. However, the facts were known to exist. The law says a polygamist shall neither be eligible to nor shall he hold office. The office was vacant because there was no election and therefore I had a legal right to such office having received my appointment in compliance with the law of qualification so far as practicable.

Mr. Kimball here quoted a number of authorities in support of the theory of mandamus being the proper remedy in this case.

Mr. J. L. Rawlins, in behalf of the appellant, F. D. Richards, said that the power of the several courts in the Territory was left to the Territorial Legislature, and that the judges in the manner prescribed by law are the exclusive depositories of jurisdiction in all original civil cases. In all cases where a mandamus is held to be the proper remedy to secure the custody of books, papers, etc., the relation's right must be shown *prima facie* and legally, it is complete in every respect. The statute declares that the relation shall file a bond. He says he made a number of journeys to the house of the Treasurer, but he was not there. He saw the papers Kimball left with his (the treasurer's) wife, and he saw the money in the hands of Mr. Richards, and that at any time the bond had been received and filed with the treasurer. If the bond had not been filed with the treasurer, it would have been filed with the collector of the duties of the office. Mr. Richards, in delivering up the office would have been aiding Kimball on his road to the penitentiary, through being guilty of a misdemeanor under the statutes. The filing of the bond is under our statutes a condition precedent to the right of possession of the office. The first position to maintain the remedy of mandamus is to show the Governor was substituted for the people, and also that the competent authority to determine who was elected or appointed. The vacancy, it is argued, occurred by virtue of the appointment.

It was said that Congress struck a blow at polygamy and that the Governor was given the right to appoint a set of officers that were not polygamists, and therefore all offices must have been vacated. If the offices became vacant on the first Monday in August, then how could they have been vacant by the act of appointment? Either one or the other position is false. But the Statutes of Utah were before Congress when the Edmunds amendment was passed. The Governor's power was limited to as narrow a sphere as possible, and was granted only to be used in case of emergency, in case any irregularity might ensue in consequence of a failure to elect. Before the Governor's commission has the least validity the right to the office must be shown clearly and completely in everything but possession.

In regard to polygamy, Mr. Rawlins said that a charge of any criminal nature cannot be argued against an applicant for or possessor of an office. Such a person must be tried and convicted before such an allegation can be used against him. Certain things are defined as bigamy, and there is a manner defined for the prosecution of such crimes. The practice of cohabiting with more than one woman is polygamy. It was the intention of the statute of 1862 to reach the performances of the marriage ceremony. If Mr. Richards was charged with polygamy, before that could be used against him, he must first have a conviction of such crime. Polygamy to mean not only the cohabiting in the marital relation, but it was general in meaning where a man cohabited with more than one woman. The relation is endeavoring to obtain the papers, books, etc., thinking at the same time that the office would naturally be incident to such possession. But the possession of the office was the thing in controversy, and that of the books, etc., incidental. This case was then submitted. Adjourned.

A VILLAINOUS INSTITUTION.

THE ADJUDICATION OF MODERN CIVILIZATION IN BEAR LAKE VALLEY.

The following letter, which is self explanatory, was received by a young lady of this city. We publish it without correction:

MONTPELIER, Idaho, Jan 10th, 1883

Miss _____

As I got your address from a gentleman friend of yours I thought I would drop you a few lines to see what the chances would be to have you come here I am building a large Dance Hall and want some gay girls who will give good layouts to this is a lively town and on the O & N. R. R. more money to be made than in salt lake please consider the matter and let me know soon Respectfully a Kinney Montpelier Idaho Bear Lake or

The recipient of this base communication is a respectable young lady of irreproachable character, modest and retiring, and is surrounded as well as justly indignant at being thus addressed on such a subject. Whoever the "gentleman friend" referred to is, he must assuredly be a depraved and unmitigated scoundrel, while Kinney, the writer of the communication, is a double-dyed villain. Were it not that the box postoffice address of the young lady was on the envelope enclosing the letter it would probably have been considered that it was intended for another party bearing a similar name, but the number of the box left no doubt as to the young lady for whom it was intended. It is not improbable that others may have received similar missives.

We draw the attention of the good people of Montpelier to this subject, and ask whether they intend that such a den of pollution shall be permitted to exist amongst them, to taint the moral atmosphere of society, and draw the young and unwary from the paths of purity into the destructive vortex of sin?

COHN BROTHERS.

For choice Tons and Coffins go to I. G. QUINN'S, 1st South Street, opposite Theatre.

Rheumatism, blood, general debility, and many chronic diseases pronounced incurable, are often cured by Brown's Iron Bitters.

ORDER YOUR FURNITURE from the Co-op Furniture Company, corner of South and West Temple Streets, opposite Salt Lake Assembly Hall.

Go to F. W. MADSON'S for Cupboards and Lounges.

WE HAVE A full and well assorted stock of WINTER GOODS, which we will sell cheaper than any other house in town.

DONALDSON BROS.

For Furniture of all kinds go to F. W. MADSON'S.

Fruits, Vegetables, Poultry, etc., at I. G. QUINN'S, 1st South Street, opposite Theatre.

Go to the Globe Bakery for your Confectionery and CAKES, where they are to be had pure and wholesome.

E. ANN. L.D.

A nice line of boy's School Suits offered very cheap at L. GOLDRENGER'S.

Just received, Wool Batting, new styles in Suits. Colored Shoulder Shawls, New Dress Flannels, Socks, Stockings, Trunks, etc. Reduction in price of Shawls.

JOHN C. CUTLER, Agent Provo Mills, Salt Lake City.

James W. Eardley informs his friends and the public generally that he has purchased the business formerly carried on by C. E. Angell on the State Road and is prepared to furnish all kinds of building materials at the lowest possible rates. Promptly delivered.

WE ARE NOW Preparing to do business on a large scale. Goods from East and West are rolling in daily.

Co-op Furniture Company, corner of South and West Temple Streets, opposite Salt Lake Assembly Hall.

REDUCTION IN COAL.

Rock Springs, per ton, by Car load, \$8.00.
Rock Springs, per ton, by Yard, 8.50.
Rock Springs, per ton, delivered, 7.00.
Red Canyon, per ton, by Car load, 4.50.
Red Canyon, per ton, at Yard, 5.00.
Red Canyon, per ton, delivered, 5.50.
Weber, per ton, by Car load, 4.50.
Weber, per ton, at Yard, 5.25.
Weber, per ton, delivered, 6.00.

4342 A. GOULD, Agent.

INTERESTING.

We direct attention to Cohn Bros' advertisement. Ladies will find it interesting. They announce a reduction sale, and are offering their entire stock at cost and less than cost.

IF YOU WANT First-Class Upholstery, go to the Co-op Furniture Company. S. P. Neve will attend to your wants. Corner of South and West Temple Streets, opposite the Assembly Hall.

COHN BROS.

Reader, you should go at once to your druggist and get a 25c. box of Brown's ANKER-PAIN-EXPELLER. It falls once to cure any burn, old sore, ulcer, frost bite or inflamed sore eye, your druggist will return your money. Positively warranted.

The Children often get burned or bruised, BROWN'S ANKER-PAIN-EXPELLER is warranted to cure at once. 25 cents.

A Huge Cinnamon Bear lacerated and tore Geo. Barker near Leadville last winter; Dr. W. K. Leonard sent him his great wound with two boxes of BROWN'S ANKER-PAIN-EXPELLER, and WITHOUT A SCAR. You should have a box of Brown's Anker-Pain-Expeller in the house; it removes itching, itching, itching, whenever the skin is broken. If your druggist does not have it, send 25c. in stamps to the Brown Medicine Co., Leavenworth, Kansas, and they will send a box by return mail.

For sale by Z. C. M. Inst., A. C. Smith & Co., Godde Pitts & Co., Brown & Co., Allen & Co., Bevan & Hoyer, Utah.

HAVERLY'S THEATRE.

An Electrical Success!

MONDAY EVENING, JANUARY 27TH.

REPRODUCTION

LAST PERFORMANCE

HOME DRAMATIC CLUB'S

GREAT HIT ON NEW YEAR'S NIGHT!

FORBIDDEN FRUIT

Just taken of the Boards at the 15th Avenue Theatre, New York. Secured by this Company from the original Great East, Messrs. Wells, Spicer, Cummings, French, Whitney, Miss Dwyer, Miss Chelridge, and Mrs. Snell.

Entirely New Features!

THE REORGANIZED CARELESS ORCHESTRA.

Fourteen Instruments under the Overlook of the Symphony.

Office of the P. C. H. R. A Grand Scene just patented by the Spencer X-ray, Etc., and W. Morris. See, now shown for the first time.

SPENCER GRATE ON SATURDAY.

H. G. WHITNEY, Manager.

REWARD!

Kelley's Island, Ohio, March 28th, 1880. I have used Kelley's Standard Care on a bone sprain, and am pleased to report that it has taken the enlargement completely off. I took only one bottle to perform the cure. I am confident if it is properly used it will do all you claim for it. Yours truly, C. M. Lincoln.

REPAIRING Of Furniture and Upholstery in all its branches at the Co-op Furniture Store, corner of South and West Temple Streets, opposite Salt Lake Assembly Hall.

COHN BROTHERS.

Finding our present quarters entirely too small for our vastly increasing business, we shall remove to the Large Store, No. 98 MAIN ST., Two Doors North of our present location, on or about FEBRUARY 1st.

And on that account will offer our large and well assorted stock of

DRY GOODS AT COST!

IT WILL SURELY PAY YOU TO GLANCE OVER THE FOLLOWING:

Black and Colored Gros Grain Silks at COST.
Brocades, Black and Colored at COST.
Flashes in all Colors at less than COST.
Black and Colored Velvets at COST.
Brocade Velvets in Black and Colors, at Twenty-five per cent. below COST.
Rhoades in all Shades and Black at COST.
Billiard Cloths and Shoodas at COST.
Morning Goods and Crepes at COST.
Embroidered and Braided Suits, Twenty-five per cent. less than COST.
This Season's Fancy Dress Goods and Novelties at Ten per cent. below COST.
All Cloakings and Ladies' Cloths at COST.
Fringes and Passementeries at 75cts. on the DOLLAR.
Towels, Table Damask and Napkins at COST.
Flannels, Blankets and Comforts at COST.
We have a few Seal Garments, at your OWN PRICE.
Fur Lined Dolmans and Circulars, regardless of COST.
Cloth Dolmans, Ulsters and Walking Jackets at COST.
Plush and Satin Garments, 25 pr. cent. less than COST.
Misses' Havelocks and Coats at COST.
Shawls and Skirts at less than COST.
Ladies' and Misses' Merino Underwear at COST.
Ladies' and Misses' Muslin Underwear at COST.
Embroideries and Laces at COST.
Corsets of all descriptions at COST.
Ladies' and Children's Wool and Cotton Hosiery at COST.
Ribbons, Ties, Fichus, Collars, Ruching at COST.
Linen and Silk Handkerchiefs, of all descriptions at COST.

In the foregoing we are not offering an old trashy stock of Goods to the public, but are giving you

NEW and FRESH GOODS of this Season's Purchase.

Our stock is too large to move, and hence this sacrifice.

This Sale Will Continue Until We Move.

COHN BROS.

F. AUERBACH & BRO.

Semi-Annual Clearance Sale

FOR THE NEXT 15 DAYS ONLY!

WE OFFER OUR ENTIRE STOCK OF ELEGANT PLUSHES, BROCADES, MOIREES, SATINS, RHADAMES, OTTOMANS, GROS DE SOIE, SATINS DE LYONS, SILK VELVETS, in Black and Colors, Etc., Etc., AT EASTERN COST, for NET CASH ONLY!

Brocades at \$1.00, 1.35, 1.45, 1.60 and upwards.
Moirees " 1.20, 1.50, 2.35, 3.20 "
Plushes " 1.70, 2.50, 2.75 and upwards.
Heavy Plushes for Cloaks, \$4.25, 4.75, 5.75 and upwards.
Black Silks, 70, 80, 90, \$1.25, 1.45, 1.70, 2.00 and upwards.
Satin Rhadame, 30 inches wide, \$2.40.
Black and Colored Cashmeres, 35, 40, 45, 50, 60, 70, 75, 85, 90 and upwards.
Dress Goods, 7, 9, 10, 12, 13, 15, up to \$1.50 per yard.

—OUR ENTIRE STOCK OF—
Dolmans, Cloaks, Ulsters, Pelisses, Circulars and Children's Cloaks POSITIVELY AT COST!
RANGING FROM \$2.50 to 120.00 a piece.

Millinery Goods at Cost!

A large lot of remnants in our BOOT AND SHOE DEPARTMENT, consisting of MEN'S and BOY'S BOOTS, GAITERS and SLIPPERS, LADIES' and CHILDREN'S BUTTON and LACE SHOES and SLIPPERS. Old ladies' SHOES, etc., at LESS THAN COST on account of lack of room for our

IMMENSE SPRING STOCK TO ARRIVE.

MATERIAL REDUCTIONS IN THE PRICES OF ALL WINTER GOODS.

Such as Gents' and Boy's Overcoats, Winter Caps, Heavy Shoes, Shawls, Cloakings, Knit Woolens, etc., As we are anxious to avail ourselves of this cold spell to work off all our Winter Goods to make room for the

FINEST and LARGEST SPRING STOCK EVER IMPORTED TO THIS CITY!

MAIL ORDERS will be filled at COST and REDUCED PRICES. WHOLESALE BUYERS in need of WINTER GOODS will find us ready to CUT prices, as we are not in the habit of carrying over unsalable goods. It pays better to sell them at less than cost even, and open with a fresh stock next season.

We are never Under-sold. Established 1864.

F. AUERBACH & BRO.

I. & J. JENNINGS,

EMPIRE MEAT MARKET.

WHOLESALE AND RETAIL

BUTCHERS AND CONTRACTORS,

SALT LAKE CITY.

EXAMINE

TEASDEL'S

XMAS PRESENTS

NEW YEAR GIFTS

Cleaned Fruits for Mince Meat, Pudding and Pies.
Candies, Nuts and Spices.
Fancy Ornaments and Vases.
Glassware, Toys, Toys, Toys,
New and Novel, Endless Variety,
At Prices to Close During Holidays
that Ensure Satisfaction, at

TEASDEL'S!

TO WHOLESALE TRADE!

I have reduced the price of Coats' Six-Cord Cotton. Call and see.

SPENCER CLAWSON.

KIRK'S STANDARD SOAPS

ESTABLISHED 1839.

Annual Production over 50,000,000 lbs.

Respectfully to the public, we are offering our goods at a discount of 25% on account of the low price of the raw materials.

HARDY BRO'S & BURTON.

HOLIDAY GOODS

STAPLE AND FANCY DRY GOODS, BOOTS AND SHOES, AND CLOTHING.

CHRISTMAS FRUITS

GROCERIES

HARDY BRO'S & BURTON'S,
26 & 28 MAIN STREET.

BARNES & DAVIS,

FORMERLY DAY & CO.

CHOICE HOLIDAY GOODS!

RAISINS, CURRANTS, NUTS, CANDIES, Etc.

ALSO, A LARGE ASSORTMENT OF

TOYS

THAT WILL BE SOLD VERY CHEAP!

Our Stock is Complete and

PRICES THE LOWEST IN THE CITY!

AGENTS FOR DEMOREST PATTERNS