THE EVENING NEWS.

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LEGISLATION WANTED.

THE Supreme Court of this Territory has rendered a remarkable decision in a case appealed from the Third District Court, involving the powers of municipal corporations. The history of the case is as follows: A man in Ogden City named of Julius Kiesel was arrested and fined for an assault which was a clear case and to which he pleaded guilty. However he refused to pay the fine, and was imprisoned under the provisions of the city ordinances in relation to crimes and punishments. The marshal of the city, Moroni Brown, and a policeman, Robert Shadden, who assisted the marshal, were indicted by the Grand Jury, for an assault on Kiesel in making the arrest and enforcing the imprisonment. They were arrested by deputy marshals and one of them, Mr. Shadden, was incarcerated several hours in the penitentiary. They were fined for the alleged offence, in the Third District Court, and appealed the case to the Supreme Court.

It was not denied that they were the legal officers of Ogden City, nor that Kiesel was arrested for an offence against the ordinances of the city. But the authority of the City Council to make any such ordinance against the crime of assault and battery was disputed. The opinion of the Supreme Court is as follows, delivered by Associate Justice Boreman:

"The principal point is as to the validity of the ordinance under which said Kiesel was arrested. No express authority is given in the charter of Ogden city to pass such an ordinance; but it is urged that it is implied to exist under the general welfare clause 'to regulate the police.'

"An implied power is such as is necessary in order to carry into effect those expressly granted, and where personal rights and liberty are involved, the charter powers of every municipal corporation are to be strictly construed. The power to punish for an act of the character of that to does not seem to be absolutely necessary in order to carry into effect the general welfare clause, and under a fair construction such power does not therefore exist, and cannot exist except by express words to that effect. Indeed, if under such a general welfare clause a city could pass ordinances against assault and batteries, it is difficult to conceive to what extent a city government might not go under such a clause. We deem the ordinance unauthorized and void.

This point being decisive of the case, it is not necessary to consider any of the points raised.

The judgment of the district court is therefore affirmed, with costs.

According to this ruling no municipality in Utah has the right to pass any ordinance for the punishment of a person who commits an assault, or for any other purpose that is not specially expressed in its charter. The decisions of the Federal courts in this Territory are frequently remarkable and astonishing, and this is one calculated to cause much wonderment, and many queries as to the reason why these higher courts should appear so averse to the exercise of any jurisdiction at all by the lower.

The Ogden City Charter provides that:

Section 13.—"The mayor and aldermen shall be conservators of the peace within the limits of the city, and shall give bonds and qualify as other justices of the peace."

Section 69.—"All officers of this city created conservators of the peace by this Act shall have power to arrest or cause to be arrested, with or without process, all persons who shall break the peace, and shall have and exercise such other powers as conservators of the peace as the City Council may prescribe.

In section 58, the City Council is empowered

"To make, ordain, establish, execute all such ordinances, as they deem necessary for carrying into effect the powers specified in this Act, and for the peace, good order, regulation, convenience and cleanliness of the city, for the protection of property therein by law or otherwise, and for the health, safety and happiness of the inhabitants thereof."

Further, an act amending the charters of Incorporated Cities approved Feb. 16, 1872, provides that—

"Sec. 3. The City Council of any city shall have power to provide by ordinance for imprisonment or forfeiture in cases of violation of city ordinance. Provided that Justices of the Peace within and for the respective cities shall have exclusive jurisdiction in all cases of fines for crimes and misdemeanors arising under the ordinances of the city where the fine does not exceed one hundred dollars or imprisonment not exceeding six months, or both fine and imprisonment."

To ordinary minds it would appear that, for the peace, good order, safety and happiness of the inhabitants of a city, regulations should be made, covering just such crimes as Kiesel was fined for committing. If so, the charter of Ogden City gives the City Council authority to make and execute ordinances for the punishment of such offenders, and this power is confirmed and extended by the amendatory act of the city charter quoted above. It is evident from the wording of the charters and their bearing upon Mayors and Aldermen the authority of Justices of the Peace, that the intent of the Legislature was to give City Councils power by ordinance to punish all kinds of petty offences against the peace, good order, safety, and general welfare of the citizens, and that city magistrates should possess similar powers to that exercised in various cities outside of this Territory.

But since, according to the ruling of the Supreme Court of Utah, a policeman cannot legally arrest a lawless brute who assaults and beats a citizen, and city Justices have no power to fine or imprison criminals of that character, it is time the Legislative Assembly took the matter under consideration and specified the powers of City Councils and local magistrates, in such a manner that excessively technical courts can find no flaw by means of which they can break the authority of lesser courts, deprive the police of power to protect citizens from violence, and put the peaceable public at the mercy of the ruffian and the desperado.

BY TELEGRAPH.

THE MORNING DISPATCHES.

TO-DAY'S DISPATCHES.

EASTERN.

[From the Morning Board Dispatchers.]

NEW YORK, 14.—The *Sun's* Washington special says: Hayes is beginning to absorb some of John Sherman's feeling in regard to the conviction of Anderson. According to very good authority, he said he had made up his mind to protect the members of the Louisiana returning board, and those who did not like it might go to hell. It is supposed that Fourtelotte, of Gen. Sherman's staff, who has just gone to New Orleans, goes as bearer of secret and confidential orders.

The Press on the Recess of the House of Representatives.

The *Sun's* Washington special says of the scene in the House, yesterday: The democrats made a deplorable failure. In the debate upon the electoral question, in which all the odds favored the democrats, all the odds were won by the republicans. One man only (Hewitt) gained even personal credit. In a personal fight, of party advantage to democrat gained anything. It has been for some time doubtful whether the democrats would control the next House. That the leaders of the present House ought not to control the next democratic majority has ceased to be doubtful. In the first hot debate upon the false count and secret intrigue the republican leaders are allowed to go to the country with unchallenged denials of facts which any fearless democrat of tolerably decent ability could have torn to tatters.

The *Times'* Washington special says: The result of yesterday's proceedings has been disastrous to the malcontents who have been continually shrieking about fraud and bargains. They were given battle on the ground of their own selection and the boldest defiances that could be made failed to draw them out. After yesterday's contest it is not likely that the electoral fraud bugaboo will be again brought into the House.

The *Tribune* says, editorially, of what it calls "The Circus in the House," that Aiken seems to be a mere gauge bully, but he is evidently a brass gauge braggart and blackguard.

The Situation in the East—Warlike Aspect.

The *Times'* London special says: No fleet of any other power, except perhaps a single American war vessel, has accompanied the English fleet through the Dardanelles.

The *Tribune's* London special says: As Russia's intention of occupying Constantinople has been officially announced in case of the arrival of the British fleet, there is every probability that to-day or to-morrow will witness the total extinction of the Turkish empire in Europe. The Sultan has declared that on the entry of the Russians, he will proceed at once to Brousa, in Asia Minor, and should he do so, there is little likelihood of his future return. It is reported that 1,500 Russian officers and naval officers have arrived in Adrianople on their way to take possession of the Turkish fleet in the Bosphorus. It is understood here that Admiral Hornby's orders have been changed, so that he will proceed with his whole force, instead of six ships as was at first directed, and that he is instructed to use his guns, if necessary, to pass the forts. This movement, and the reported order for the mobilization of the Austrian army, give a very warlike aspect to affairs, and little or nothing is heard about a conference.

[illegible]

PITTSBURG, 14.—A collision on the Pittsburg and Fort Wayne Railroad, this morning, wrecked two engines and several freight cars, killed the engineer, Pleigh, and the fireman Hill, and seriously injured two others. No passengers were hurt.

WASHINGTON, 14.—At a meeting of the House committee on military affairs, to-day, Mr. Cook offered the following resolution, which was rejected by a large majority:

[illegible] the Indian troubles on the Mexican frontier and danger arising from an outbreak of Indian hostilities, and especially looking towards the reduction of the effective force of the army as a justified source of complaint of danger to the peace of the country, be.

The Webster Mansion Burned.

MARSHFIELD, Mass., 14.—The mansion of Daniel Webster was burned early this morning.

FOREIGN.

GREAT BRITAIN.

LONDON, 14.—A Vienna special says: The Montenegrins are provided with a number of torpedo boats at Rodosto, and intend to finish off sinking the Bosphorus as a preliminary condition to the granting of armistice for the passage of the Russian troops.

A special, dated St. Petersburg, says: The Montenegrins are provided with a number of torpedo boats at Rodosto, and intend to finish off sinking the Bosphorus as a preliminary condition to the granting of armistice for the passage of the Russian troops.

[illegible]

[illegible] Russia maintains an extensive secret service and has taken measures for the advance of post of her people, now before Constantinople, as soon as any foreign man-of-war enter the straits. The situation of the troops is not changed to any act of hostility, but anxiety [illegible] has an apparently military aspect. It is the tragic [illegible] the Sultan will retire to Brousa. A statement it would be extremely difficult to publish even a shadow of the Turkish empire in Europe. The Russian government does not, for the present, desire such a national solution. The question is in view of all the complications for the meantime of the governments have, for the moment, fallen into the background. An attempt to Austrian alliance is now [illegible] of a possibility.

A Vienna special says: Torpedoes have actually been shipped from Odessa for the Russians, presumably intended for the Bosphorus. The prohibition against the statement of the armistice in the Armistice is a [illegible] It is believed in competent quarters in Paris that matters will be [illegible] A letter from St. Petersburg affirms that the Russians are advancing, Constantinople [illegible] Gen. Gourko [illegible] Gen. Gurko [illegible] Sofia [illegible] Adrianople [illegible] Turkish [illegible] Sofia [illegible] Adrianople [illegible] Turkish [illegible] Sofia [illegible] Adrianople [illegible] Turkish