

I was agent for Mrs. Tompkins, and claim the property in dispute; I have received no money from the judgment; Mrs. Tompkins holds the property under a lease from me; my attorney was Judge Sutherland; I was in the court room when judgment was given.

David Evans testified—I was attorney for Mrs. Marks in the case of Tompkins vs. Marks; I went to Commissioner Hills on the 18th, having heard that judgment had been taken against my client; I wrote a telegram to Mr. Sullivan, leaving it with Mr. Hills; I then came and notified Judge Sutherland, and wrote a letter to Mr. Sullivan.

Judge Sutherland testified—I never sent any communication to Mr. Sullivan relative to this matter; I gave the writ of restitution to Mrs. Tompkins; saw Mr. Evans on the evening of the 18th.

Mr. Evans, further testified—It usually takes the mail less than a day to get to Eureka.

The letter referred to was offered in evidence. Mr. Brown objected as it had not been received by the defendant before the alleged offense was committed. Objection overruled.

The letter is as follows;

[Salt Lake City, Dec. 18, 1887.  
John Sullivan, Esq., Constable Eureka Precinct, Utah:

Dear Sir—I went to Provo today for the purpose of answering the complaint in the case of Belle Tompkins against Anna Marks. Previous to going, I had been notified by Commissioner Hills and Wm. Culmer that the case was set down for the 19th inst. This word came to me by separate letters written by each. On arriving at Provo, I was informed, to my utter astonishment, that on yesterday a default and judgment had been taken and that an execution had been placed in your hands to execute at once. Learning this fact, Commissioner Hills and I joined in a telegram to you to refrain from serving the same until further notice.

I, of course, do not blame you nor the Commissioner for anything you have done, as I am entirely satisfied that neither of you were parties to this sharp and unjustifiable practice. Wm. Culmer is the only one I censure in the matter. It becomes my duty, however, to warn you that I shall hold you responsible if you undertake to execute that writ, and whatever you do under it will be at your peril. I give you this notice, not that I am blaming you, but from the fact that I am sure you will not do anything after understanding the trick that has been perpetrated on me.

Tomorrow a motion will be made to set aside the default and judgment, and the proper appearance will be entered in the case, and I shall be ready for trial. Tomorrow, the 19th Dec., 1887, is the day set for the trial, and I do not intend to be imposed upon by having snap judgment taken as it was yesterday, the 17th Dec., 1887. I write you this so that you may know the facts. I will not submit to that judgment, nor will I submit to the execution of a fraudulent writ, based on an illegal and void judgment.

Yours very truly,

D. EVANS.  
P. S.—I shall be busy at Ogden all this week, but shall be at Provo after that time. I hope you will move in this matter with caution and on proper legal advice, so that you may avoid trouble.

Mrs. Marks said she had lived in the house about a week before the 19th; it was finished after the suit commenced. At this point an adjournment was taken to this afternoon. The evidence for the prosecution will probably occupy all the time till adjournment this evening.

## GRAVEYARD TROUBLE.

The Directors of Mt. Olivet Cemetery Sued for Damages.

Another suit for damages has been instituted in the Third District Court against the directors of the Mt. Olivet Cemetery, the legal title of the case being James W. Carrigan, plaintiff, vs. H. G. McNeice, E. Sells, Edmund Wilkes, J. B. Thall, C. M. Armstrong, Simon F. Mackie, R. Wright and Ira E. Lyons, defendants.

The complaint recites that the plaintiff was the owner of Lot No. 47 B, in Mount Olivet Cemetery, where he had placed the mortal remains of his deceased wife. It also asserts that on or about the first of September, 1885, under the direction of the defendants, Mrs. Carrigan's body was removed from the grave in her husband's lot and "buried in a strange and unknown place," which is described as a part of the cemetery designated as the "potter's field," where the remains of the friendless and paupers are usually buried; and that "the removal and trespass was made in a grossly careless, reckless and indifferent manner, and without respect for the ashes of the dead or the feelings of the plaintiff."

The summons to the defendants says: "This action is brought to recover judgment against the defendants for the sum of \$500 damages, and for \$100 special damages to the lot, coffin and grave clothes, and for costs; on the ground that the defendants did enter upon a certain lot belonging to and in the possession of James W. Carrigan, in Mount Olivet Cemetery, Salt Lake County, and did willfully take therefrom, in a rude and reckless manner, the body of Henrietta, theretofore and lately the wife of said plaintiff."

FROM SATURDAY'S DAILY, DECEMBER 31.

## Holiday Bill.

As Monday next will be observed as a holiday, the Home Dramatic Club will give a matinee in the afternoon and a performance in the evening. The piece which will be presented, "Diplomacy," has been carefully prepared,

and the cast of characters includes all the leading members of the Club. The box office at the Theatre opened for the sale of tickets this morning.

## Alleged Rape.

Last evening a man named Peter Stevens was arrested at his residence about four miles up City Creek Canon on a charge of rape. It is alleged that the victim is his own daughter, a little girl of eight years. He was placed in the penitentiary to await a preliminary examination for the horrible crime.

## A Credit to the Territory.

The Provo Rifle Club yesterday (the 29th) made the finest average score claimed to have ever been made in Utah. If this is so, and we have no proof to the contrary, it speaks well for Provo's marksmen. Following is the score made:

S. V. LeSueur	4444554455-44
W. N. Dusenberry	4354454544-42
Frank Rushton	343445445-39
W. C. A. Smoot Jr.	3454344454-40
W. H. Brown	4345454543-41
Walter Cox	344454444-39
Loveridge	443454444-42
John Brown	4544335454-41
A. Brown	3443444444-38
A. O. Smoot, Jr.	3454455443-41
Jos. Daniels	4445445444-42

As this was the match to decide the winner of the target rifle, to be won twice in succession, there was a good turn out. Mr. LeSueur got away with the rifle, this being the second time he has made the highest score. W. C. A. Smoot, Jr., shot for Mr. Loveridge, and J. R. Twelves for A. O. Smoot, Jr. Each of these gentlemen, in connection with Judge Dusenberry and Jos. Daniels, did some excellent work with the gun.—Territorial Enquirer

## THE OTHER SIDE.

The Officers' Story in the Marks-Sullivan Embroilment.

Yesterday afternoon in the case of the People vs. John T. Sullivan and others, charged with assault on Mrs. Marks, the prosecution closed its evidence with the testimony of Mr. Watts, who said—I talked with Mrs. Marks through the window while the house was locked, and advised her not to resist the officers, as it might be a serious matter. Mrs. Marks was much excited, and said she would give up the house; Mr. Sullivan told me that he had received a dispatch from Mr. Evans; heard Sullivan say that he was going to serve the execution, and intended to take assistance, as he was not going to take any chances; the day after I saw a number of men tearing the house down; recognized Mr. Tompkins among them.

Joseph Ferguson was the first witness on behalf of the defense. He said—I was in Eureka when the affair took place; the first I heard of it was when Sullivan came to me and asked me to help move some furniture; knew that Sullivan was an officer, and went with him to Mrs. Marks' house; the house was situated on the Eureka Hotel property; upon arriving at the house, we met Mr. Lynett; Mr. Sullivan went to the bedroom door and asked to be admitted; Mrs. Marks refused to open the door; Mr. Sullivan then took a piece of board and struck the door; Mrs. Marks had a revolver in each hand, and said, "If you break, I'll break you;" Sullivan then went to the window and told Mrs. Marks that was the dearest gun she had ever pointed; I had some conversation with Mrs. Marks after this, and advised her to give up the house to the officer; she replied that she would never do so; Sullivan went away and returned, bringing with him Mr. Howe, Mr. Lynett and Mr. Douglas, who were armed with guns; Sullivan attempted to read a warrant of arrest to her, but she would not listen to it. It was between 2 and 3 o'clock when Sullivan returned with the men, whom he placed at different points around the house; I was stationed near the window; Sullivan told me to do nothing unless she turned loose with her guns; Sullivan then went around to the back door; did not see the arrest made; did not see them taking her away.

To Mr. Varian—Sullivan told me the night before the arrest that he had some papers to serve on Mrs. Marks, and told Mr. Lynett and myself that he wanted us to go with him and help him to move some furniture; have no interest in the case; it was generally known that Mrs. Marks was to be dispossessed of her property and Mrs. Tompkins put in possession; did not hear Mrs. Marks say at any time that she would let Mr. Sullivan into the house; he would send the men away; when Sullivan attempted to read the warrant of arrest to her, she said she did not care a snap for the warrant, and that she would not give up the house. There were four guns among the men who were stationed around the house by Sullivan, and in addition I had a pistol, which was given to me by Sullivan; after the circuit was made, Sullivan returned to the place and told me to get Mr. Lynett and V. L. Thomas to make an inventory of the furniture, and take it outside, which was done; we found a girl and a young man in the house; when we were moving the bed, I found two pistols in it; these I gave to Mr. Sullivan; I have known Mrs. Marks for over a year; know nothing against her; never said that she had shot a man; am not responsible for the statement to that effect, which appeared in the Tribune;

did not make such a statement to a Tribune reporter. On the day after the arrest of Mrs. Marks, Sullivan sent me with Barnes and Lynett to the store to levy on some goods; the levy was not made, as a settlement was effected.

William Lynett testified: I live at Eureka; am a miner; on the 19th inst. Mr. Sullivan met me, and said that he wanted me to assist him in some business he had to transact with Mrs. Marks; he did not explain the nature of the business; Mr. Ferguson also accompanied us; Mr. Sullivan went to the door of Mrs. Marks' house, and asked to be admitted; Mrs. Marks refused to admit him; Sullivan then went away, and returned with a warrant for Mrs. Marks' arrest for resisting an officer, and tried to read it to her, but she refused to listen to him; saw that she had a couple of pistols, one in her left hand and the other in her right pocket; in the afternoon Sullivan returned with Douglas and House; He gave each man a gun, and stationed them around the house; did not see the arrest made, nor see the men take Mrs. Marks away.

To Mr. Varian—I work at the Bullion-Beck mine; when Sullivan returned with the guns, he said to Ferguson and myself that he was going around to the door, and was going to get in; he told us not to fire unless we were fired upon; did not see Sullivan arrest Mrs. Marks; did not see her taken away.

James Douglas testified—Mr. Sullivan told me that he wanted me to go with him to Mrs. Marks' house, that she had defied him, and that he had a warrant for her arrest; he said that she was armed, and I told him that I would not go on such an errand unarmed, and obtained a gun from a friend; on reaching the house, Sullivan stationed the men around the house, and then went in and arrested her; I helped to take her away; she was not called a s— of a b—, and no more force was used than was absolutely necessary to get her along; she could have walked, and I asked her to do so; no guns were pointed at her.

To Mr. Varian—The gun I borrowed was a Winchester rifle; I never assisted Sullivan before; when I went into the house, Mrs. Marks was on the floor screaming and Sullivan had hold of her arms; did not know that the writ of restitution was to be served.

W. D. House testified—On the 19th of this month Mr. Sullivan told me that he had a warrant for Mrs. Marks' arrest, that she resisted him, and was armed; I went off and got a Colt's 44, and went up to Mrs. Marks' house; Sullivan broke the kitchen door and went in; I followed him; Sullivan took hold of her and said that she would have to come, and had better come peaceably; I went out and called Douglas in, and we took her down to Judge Dana's court; did not hear her called any names; did not see any one strike or kick her; no guns were pointed at her.

To Mr. Varian—My gun was loaded; Mrs. Marks was on the bed when Sullivan entered, and we lifted her off; saw no abuse of any kind administered to her; Mr. Sullivan received a telegram from Provo about an hour after the occurrence at Mrs. Marks' house.

An adjournment was then taken until 10 o'clock today.

John T. Sullivan was the first witness called this morning. He testified—I have been constable at Eureka since June, 1887; prior to Dec. 19 I had nothing to do with this litigation except the arrest of Mrs. Tompkins and Mrs. Marks, who had some trouble; Mrs. Marks has talked with me about this case; I got the writ from Judge Lambert on Sunday night, the 18th; he told me to serve it in the morning; I understood as got his instruction; from Hills; I went to Mrs. Marks next morning and told her; she laughed at me; I talked with her for some time, and then read the original execution; I asked her if she wanted a copy; she said yes, and I told her it would cost 75 cents, as that was what Justice Dana charged for copying; Mrs. Marks began to get angry, and I told her to send for an attorney, and if there was anything wrong with the writ I would not serve it; I had submitted it to Judge Dana and Mr. Burns, an attorney, who said it was all right; she sent for Judge Watts, who read the paper and said there was nothing wrong with it; he said I could give her time if I wanted to; I said I could not give her time to send to her lawyer, but would to communicate with the commissioner; I told them I was ordered to go ahead; she then said she would not give me peaceable possession, and I told her I would have to use force; I left Lacon in charge and called in Messrs. Ferguson and Lynett; we then went back with the two men, and found the door locked; she said she would let me in but no mob; I told her there was no mob; she said she was sick, and remarked that she had got sick very quick; she still refused to open the door, and I struck it with a piece of board; she called out that she would shoot; I looked in at the window and saw her with a revolver in each hand; I then went away and made out a complaint; I returned with a warrant for her arrest, and told her what I had; I was at the window, and when I went to read the warrant she walked to the other side of the room; I was outside of the window; I then called on Gus Howe and James Douglas to help me; I had been around about two hours; Lacon told me the doors were locked; this was when I could not get in; I asked him to open them, and he said he was afraid, as Mrs. Marks had two guns; I put the four men about the house; I told them

if she fired to use their guns; I knew they would not do so unless they were compelled to; I brought my gun after I got the warrant; there were four guns in the party; I got Harvey Tompkins' ax and knocked in the door; Mrs. Marks was screaming "Murder!" "Citizens!" and so on all the time; when we got in she was in bed with her hands under the clothes; I thought she had her pistols; she drew her hands and I caught them and induced her to get out of bed; she sank down to her knees and Douglas told her to get up; I told Douglas not to ill-use her and he said he would not; we took her by the arms and carried her out; she resisted, and after we got outside, John Murtha took hold of her feet and helped to carry her; there her arrest; I called on the men to help me to make the arrest, as I did not want to get shot; I had a man, Lacon, in the house, but he was no good; I broke the kitchen door because she could not shoot there; I expected she would shoot if I went to the other door; whenever I went near the door she threatened to shoot; the men had their guns loaded; I considered her extremely dangerous; Judge Lambert said the instructions to me were from Commissioner Hills; I took no telegram from Mr. Hathaway or anyone else; Mrs. Marks' telegrams did not bother me; did not expect her to try to stand me off with guns; I received no telegram from Commissioner Hills; got a letter from him after all was over. Ike Fordonski's dispatch read, "Stop action on Mrs. Marks. See letter of commissioner tomorrow;" I turned the money over to Judge Sutherland yesterday morning.

Mr. Varian—I demand that this suit be dismissed.

The attorneys got pretty warm, and Commissioner Norrell had to call them to order. Sullivan then continued and was followed by Wm. H. Jensen.

To Mr. Brown Sullivan said—I read the warrant a second time because I heard that Mrs. Marks claimed it had not been read to her; I had no notice of the judgment being set aside when I gave the money to Judge Sutherland; it was before the trial began; we used no more force than was necessary to arrest Mrs. Marks.

To Mr. Varian—I made no return on the writ of restitution, because of the order to stay proceedings; I gave the money to Judge Sutherland because he ordered me to, and I thought it would be all right.

Daniel S. Dana testified to having issued a warrant for the arrest of Mrs. Marks.

Wm. Hanson testified that he took no part in the affair till after the arrest, when he was employed by Mrs. Tompkins to aid in tearing the house down.

The letter written by Commissioner Hills is as follows:

To John I. Sullivan, Constable;  
You will please stay all proceedings in the matter of the execution in the above entitled cause until the further order of the court.

J. E. Hills,  
U. S. Commissioner.  
Provo, Dec. 19, 1887.

The defense rested their case and an adjournment was taken this afternoon when the arguments were made before Commissioner Norrell.

## ABOUT WATER.

Unsatisfactory State of Things in an Irrigation District.

PROVIDENCE, Utah,  
Dec. 21st, 1887.

Editor Deseret News:

Some years ago the people of Millville and Providence united together and made two ditches to bring water out of Blacksmith Fork River on the east side. Some time afterwards these two settlements formed themselves, under the laws of the Territory, into an irrigating district, and in this capacity they took in the two ditches on the east side and one ditch on the west side. (This latter one is owned exclusively by Millville.) Providence put in its ditches, which carry water from other directions and which are owned exclusively by Providence. Every two years, according to the law, the landowners of these settlements meet together and elect five directors, a secretary and a treasurer. Millville furnishes three directors and Providence furnishes two directors and the secretary and treasurer.

### ON THE BALLOTS

is stated the amount necessary to pay the expenses for the ensuing year, but each settlement has a different amount. The directors have issued stock certificates and land-holders in Providence have taken them. But in Millville they have not complied with this, and say that the law does not authorize anything of the kind. The directors, in each settlement, use their own interpretation of the law.

In Providence the certificates issued, on their face indicate the number of acres for which water may be had, and the ditch from which it must be taken. At the same time, when any work is needed to be done on any ditch,

### ALL THE LAND IS TAXED,

whether the ditch which the said land draws the water from needs any repairs or not.

In Millville it is quite different. The owner of land pays the expense of the ditch by which the said land is benefited. Providence makes its own regulations to suit itself, and Millville does the same; and yet both are in the same irrigation district. The question is, is this according to law?

When the question is asked of the directors, the reason of these things existing, they do not know what to say, and it causes confusion in the meeting. If something is not done whereby the people can get satisfaction, some one will break through and apply to the courts for redress, for new land is being taken up every day, and the water is taken away from the owners that have had it for twenty-eight years, and at the same time the land being taken up is not worth much, being situated on the benches and covered with big boniders.

A SUBSCRIBER.

## TWO ACCIDENTS.

Reported Fatal Collisions on the Utah Northern Railroad.

We are informed that an accident occurred two days since on the stretch of track between Medicine Bow and Aurora, U. P. railroad, by which two engines were badly wrecked and one man killed. The facts, as near as can be learned, are as follows: Train 20 and train 23 were ordered to meet at Medicine Bow; 20 arrived at the Bow first, and was given orders to proceed to Aurora. There is no night office at Aurora and train 23 passed the last named point and was on the hill when the two came together, with results as above stated.

Yesterday at Beaver Canyon, another terrible accident occurred, so we are told. Several loaded cars standing on a track broke loose and started down hill. They soon acquired a terrific speed, along the heavy grade in the canyon, and flew forward to do a deed that could never be righted. There was no night office along the course of the train, and, although its departure was known at the place it began its bloody career, no earthly power could stop it until it had run its race. After going a few miles it came in contact with a freight train, and its course was checked at the cost of one human being's life, and the serious injury of another. Eight cars of the freight train, were thrown from the track, the engine was badly damaged, while the wild train was piled up in a promiscuous manner. Fireman McShane was badly scalded.—Ogden Herald, 31st.

President Cleveland is said to have been much annoyed at the foundationless report gaining some currency to the effect that ill-feeling has existed between himself and the late Secretary Manning. So far from that being the case the two statesmen were on the most affectionate terms, and that amiable relation had never suffered an interruption.

The Boston Herald remarks very sensibly: "The howl that has been raised against Mr. Lamar as once a rebel, to us is simply disgusting. He is no worse in this respect than hundreds of thousands of others whom the nation has pledged itself to receive as citizens on terms of equality. Besides, how absurd to take the position that a man who has been a rebel is fit to make laws, but not to interpret them!"

Prince Ferdinand of Bulgaria owes the Czar such a grudge for his continued antagonism that he is stated to have cleared out of the place all every single portrait of Alexander I. and II. which had been placed there in days of Russo-Bulgarian friendship. Further all Russian books in the public offices have been suppressed and replaced by Austrian or Polish works.

A passenger on a Georgia railroad with a ticket to Waters Station found that the train would not stop there. After appealing in vain to the conductor he went to the front platform of the rear coach, drew out the coupling-pin, set the brake, and when the car slackened its speed, jumped off into the darkness. It was not until the train reached Sylvania, some distance beyond, that the loss of the car was discovered.

The Peoria Journal makes these remarks: "Here is a case where the Christians are overhauled by the Turks. The Europeans have started a number of saloons in Constantinople and some of them are in the neighborhood of the Turkish mosques. The sale of liquor is forbidden by the Koran, and these drinking places have become such a nuisance that the Turks ordered them closed. Thereupon an earnest request has gone up from the Christian diplomats. All the foreign consuls have held a meeting and protested against this unspeakable outrage on the part of the turbaned Turk. Here is a case of the ameliorating influence of Christianity. The heathen Turk trying to put down the sale of liquor, and the Christian authorities forcing him to keep saloons open. This is on a par with England's obliging the Chinese to open their ports to the opium trade, when that government was earnestly endeavoring to stop its use among its subjects as a dangerous and demoralizing practice. This is about as clear an instance of men's stealing the livery of heaven to serve the devil in as even modern diplomacy furnishes."

Berlin has a technical high school, built by the city at a cost of \$1,900,000 and maintained at a cost of \$100,000.