THE SUPREME COURT.

A Case Springing Out of the Park City Bank Failure.

TWO WRITS OF HABEAS CORPUS.

A Justice's Jurisdiction—Judge Howat's Little "Sick" on Charles Thiele, Etc.

The Territorial Supreme Court has has been in session again today. Opinions were handed down, and the time has been principally occupied in legal arguments in cases on appeal. All the Judges were present at the opening of the morning's business.

BILLINGS.

In the case of the Ogden State Bank, complainant, vs. Wm. Barker et al, appellants (Fourth district—Judge Maxey), the motion to dismiss was denied.

Same appellants vs. Charles M. Strauch. The motion to dismiss was denied, conditioned upon payment of $20 to the respondents.

ANOTHER CASE IN.

On motion of Judge Powers, Charles H. Hart, of Logan, a member of the bar of the supreme court of the state of Michigan, was admitted to practice in this court.

CHARLES THIELE.

District Attorney Judd inquired whether there would be yet any time upon a date for the hearing of the appeal of Charles Thiele, who is under sentence of death for wife murder at Murray.

Chief Justice Merritt answered in the negative, whereupon Assistant District Attorney Howat said that if agreeable to the court the matter might be taken up at an adjourned session, say some time in March. He did not suppose that the defendant was anxious to "speed the executioner."

"What authority have you for making that statement?" asked Judge Cherry (Thiele's counsel) with some show of warmth.

Judge Howat replied, with a bland smile, that if he himself were under sentence as was Thiele, he knew he would not take any hurry. It was but natural to suppose that he would too.

Judge Cherry urged the same argument he put forth yesterday—that the interval between now and January 20 would not be sufficient time in which for him to prepare his brief and give the other side notice in a case the trial of which occupied nearly eleven days. Counsel also stated that one of the points in the assignment of error was a new one to him and required some consideration.

The court undertook to fix the date for hearing the appeal tomorrow.

HABEAS CORPUS.

Attorney D. O. Hoyt presented a petition for a writ of habeas corpus on behalf of Clayton Emmett and Alexander Ogilvie now undergoing a sentence of two years in the penitentiary on grand larceny, passed upon them by Judge Smith in the First district court, at Provo, on March 9, 1894. The application was based upon the grounds, first, that the indictment charged no offense known to the law of this Territory, and second, that the same charged no offense greater than petit larceny.

The defendants were accused of stealing ten head of cattle belonging to one Frank Bunn.

The court granted the writ, and it was made returnable on January 21st.

PARK CITY BANK FAILURE.

The first case argued was that of Thomas Cahill, plaintiff and appellant, vs. the Park City bank, defendant and respondent.

W. L. Rawlins and Judge Powers appeared for the former; Brown and Henderson for the latter.

Appeal from third district court—Judge Smith.

The action came here on appeal from an order of the lower court dissolving an attachment. The writ was issued upon an affidavit which set forth "that the defendant has disposed of its property with intent to defraud its creditors," and as a further ground, "that the defendant fraudulently contracted $5,000 on the 7th of June, 1893, knowing well that it was insolvent; that the defendant fraudulently took the said M. H. Armstrong Mercantile Co's $873.10, knowing well that it was insolvent." The relief claimed was assigned to the plaintiff, together with six other actions of action, bringing the subject matter of this suit, aggregating nearly $6,000. On the part of the appellant it was pointed out that while the defendants gave a notice of motion to discharge the attachments, no grounds or reasons were specified as to why the motion was made. The affidavits filed in support of the motion only attempted to negative the first ground of issuing the writ and did not attempt to dispute the other. The notice, therefore, was insufficient, the statute providing that the defendant might move to discharge or dissolve the writ upon the ground that it was improperly or irregularly issued. The notice, said appellant's counsel, must set out by its own upon this ground, but specify the particular grounds of irregularity, or why the writ was improperly issued.

The respondent's counsel contended that no objection was raised to the sufficiency of the notice on hearing the motion before Judge Smith. Objection was raised as to the sufficiency of the affidavit and it was overruled, because so far as any ground of attachment was concerned it was specifically stated. The court never heard the case on the merits—to determine whether the defendant had assigned its property with intent to defraud its creditors. The Park City bank, said counsel, had been in existence for a number of years. Its manager, Mr. A. R. Robertson, had fraudulently or improperly loaned money to certain parties including J. M. Richardson. Eventually the general business of the bank prevented the carrying on of the business. Manager Robertson made an assignment for the benefit of only of all its creditors—Kimball, say plaintiffs, and this was verified by the Court of directors. It was believed that there was not the slightest trace of any actual fraud in giving a lien on the last of any effect of the bank, and that some of these claims anything to the assignment. Hence counsel asked the court of the lower court be reversed.

Judge Powers, in closing, made some strong remarks relative to the manage-

ment of the bank that were its undoing.

RAILROAD COMPANY AND CLERK.

The case of William A. Cooper, plaintiff and respondent, vs. the Denver & Rio Grande Railroad Co., defendant and appellant, came up on appeal from Judge Bartch's decision in the Third district court.

Bennett, Dickson & Dailey and Attorney E. D. R. Thompson were retained for the appellant; Attorney Frank Pierce for the respondent.

This was brought to recover the sum of $100, which plaintiff claimed was due him for services as clerk and timekeeper during the months of January and February, 1892, for the defendants during that year. Plaintiff was the clerk of the road's office in this city, and did not get paid for his services in accordance.

The jury in the case found for the plaintiff, assessing his damages at $100.00. Motion for a new trial, among several grounds, was overruled, and from this order and the judgment the case came appealed.

A JUSTICE'S JURISDICTION.

The writ and the case on the day's list was that of the McCormick Harvesting Machine Co., plaintiff and respondent, vs. John A. Marchant and George Warden, defendants and appellants.

Attorneys W. T. Snyder and Barlow Ferguson for the appellants; Attorney E. R. Christie appeared for the respondents.

This was an action on the promissory notes commenced in the justice's court of the Fifth precinct, Ute county, some seven years ago against the defendants, who made their payments partly in money and partly in work. It was tried in Judge Adams' court, who rendered judgment for $447.57. The defendants appealed to the Third district court, the result being a judgment for $200.00 and costs. Motion was made for a new trial and overruled by Judge Justus Morrill, from whose ruling thereon the present appeal is taken.

Three points were now raised, the main one being that the justice's court had no jurisdiction to cause of action, inasmuch as the amount