

nals of the country demand, that is, prosecute as in other cases. If the law is broken, prove the offence, give the accused a fair trial as in any other case, and if convicted inflict the penalty. But this does not call for an army; it does not justify a resort to pickets and packed juries; it does not require an abandonment of the usual methods of judicial procedure, nor make proper the elevation of the subject into a political war cry with which to humbug the country, arouse or pander to the prejudices of the ignorant, or gain votes on a vain pretence. The Democrats should take notice of the real object of Evans' "broadside" and govern and prepare themselves accordingly.

## Local and Other Matters

FROM FRIDAY'S DAILY, AUG. 22.

**Instantly Killed.**—A dispatch from Silver Reef states that yesterday Johnson Ghanville, Jr., a miner of that place, was instantly killed by a cave in the Tecumseh mine.

**Railroad Matters.**—Bishop John Sharp returned from the terminus of the Utah Southern last evening. The work on the extension is being rapidly pushed. Iron is not furnished fast enough to keep a full force employed.

The freight business of the local roads is increasing. There were more cars of freight in the depot yesterday than there had been any day before for six years. Last evening's freight train north took out 30 cars and the Southern brought in 38.

**Ogden Items.**—William Henry, imprisoned in the Court House for robbing Wm. Nelvin's room at the Globe Hotel, the other day, tried to escape yesterday morning. Being sent out to empty a bucket of slops, he took to his heels, and finding he was pursued took refuge in a barn beneath the hay. He was found and escorted back to his quarters.

A contemptible half drunken fellow named Wm. Price, on Wednesday evening gave vent to the meanness of his disposition by cutting off a portion of the tail of a valuable greyhound, passing up the street. Such a piece of cruelty should be punished as it deserves.

We are indebted to the *Dispatch* for the above.

## HABEAS CORPUS.

APPLICATION OF THE EXECUTORS.

THE PARTIES TO APPEAR IN COURT TO-MORROW.

At 10 o'clock this morning the Supreme Court of the Territory of Utah opened as announced, Chief Justice John A. Hunter and Associate Justice P. H. Emerson being present. Judge Boreman having failed to arrive as expected, the hearing on the *certiorari* was deferred until to-morrow (Saturday) morning at 9 o'clock.

Previous to adjournment, Mr. Rawlins, of counsel for the executors, read the following petition for a writ of *habeas corpus*, which was issued. The Executors will therefore appear in court to-morrow morning, to attend the hearing on this and the other proceedings in their case:

PETITION FOR WRIT OF HABEAS CORPUS, FILED AUGUST 22, 1879.

To the Hon Justices of the Supreme Court of Utah Territory:

The petition of George Q. Cannon, Brigham Young and Albert Carrington respectfully shows:

That they are now prisoners confined in the custody of Michael Shaughnessy, United States Marshal for the Territory of Utah, in the Penitentiary in the county of Salt Lake, in said Territory. Your petitioners also show that such confinement is by virtue of a warrant, a copy of which is hereto annexed, marked "Exhibit A," and that the facts concerning the said imprisonment of your petitioners are as follows, to wit:

That on the 14th day of June, A. D. 1879, Emeline A. Young, on behalf of herself and the heirs at law, and legatees and beneficiaries under the last will and testament of Brigham Young, late of Salt Lake County, Utah Territory, deceased, commenced a suit against your petitioners and others by filing her complaint in the District

Court of the Third Judicial District, Territory of Utah, and causing a summons to be issued thereon. A copy of said complaint is hereto annexed and marked "Exhibit B," and made a part hereof.

After the filing of said complaint and upon the same day, without any notice to your petitioners or either of them, upon said complaint alone, an order was made by the judge of said court, directed to your petitioners and others, a copy of which is attached, marked "Exhibit C," and made part of this petition.

That on the 30th day of June, A. D. 1879, and in due time after service of the summons and a certified copy of said complaint upon them, your petitioners filed their separate answer thereto, duly verified. A copy of said answer with verification is hereto attached marked "Exhibit D" and made a part of this petition.

That on the second day of July, A. D. 1879, the affidavits of W. S. McCormick and of J. G. Sutherland and John R. McBride, copies of which being hereto attached marked respectively exhibits "E" and "F" and made a part hereof, were made and filed in said court, whereupon and without any other or different showing and without any previous notice of your petitioners, on the same day the said court made the order hereto attached marked "Exhibit G" and made a part of this petition.

That on the same day, pursuant to said order, an attachment issued and your petitioners were arrested, brought before said court and held to answer as for the alleged contempt therein mentioned.

That on the 15th day of July, A. D. 1879, your petitioners filed their answer, duly verified, to the said charge, a copy of which, with verification thereto is hereto attached, marked "Exhibit H," and made a part of this petition. Thereupon, after hearing evidence and investigation of said charge, on the 30th day of July, A. D. 1879, the court rendered its opinion and findings and on the same day filed the same and also filed the order, both of which are hereto attached, marked respectively Exhibits "I" and "J," and made a part of this petition, whereupon the warrant herein first set out, was issued. And your petitioners further state that it is not within their power or the power of either of them to comply with the said last mentioned order, with respect to the delivery of the property to the Receiver as therein directed. And your petitioners further state that the record of the aforesaid proceedings and judgment and conviction is now in this court on *certiorari* to said District Court, and your petitioners pray said record may be considered by the court herein.

And your petitioners further state that they are advised by their counsel, Bennett & Harkness and Sheeks & Rawlins, residing in Salt Lake City, and verily believe that their imprisonment is illegal, and that such illegality consists in this:

1.—The court had no authority to issue an attachment as for contempt upon the order marked Exhibit "G," or upon a failure to comply therewith.

2.—The affidavits marked Exhibits "E" and "F" did not state facts sufficient to authorize the issuing of such attachment or to give the court jurisdiction to proceed against your petitioners as for contempt.

3.—Said attachment was issued without notice to your petitioners or either of them.

4.—The court had no jurisdiction of the subject matter of said charge of contempt.

5.—The order marked "Exhibit J" was in excess of the jurisdiction of the court, and void in addition to the reasons mentioned, because it embraced matters which were not the subject of the charge made in the affidavit upon which the proceeding as for contempt was based, and in respect to which your petitioners were not called upon and had no opportunity to answer, and because said order directed the delivery of property which had passed beyond their control and which they had no power to deliver, as appears from the face of said order, and did not embrace any specific property the assets of the estate of the said deceased in their hands.

6.—That said order and the warrant of commitment thereupon issued, were otherwise illegal and void, as appears from the facts hereinbefore set forth.

Wherefore your petitioners pray

a writ of *habeas corpus*, to the end that they may be discharged from custody.

GEO. Q. CANNON,  
BRIGHAM YOUNG,  
ALBERT CARRINGTON.

Salt Lake County, } s.s.

Geo. Q. Cannon, Brigham Young, and Albert Carrington, the petitioners above named being severally duly sworn, each for himself, say: that he has heard read the foregoing petition and knows the contents thereof; that the same is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

GEO. Q. CANNON,  
BRIGHAM YOUNG,  
ALBERT CARRINGTON.

Subscribed and sworn to before me, this 12th day of August, A. D. 1879,

JAMES JACK,  
Notary Public for Salt Lake County, U. T.

The exhibits referred to in the above petition have all appeared in print before; it is therefore unnecessary to again give them publicity in full.

FROM SATURDAY'S DAILY, AUG. 23

**For Soda.**—Last evening T. E. Taylor, Esq., business manager of this office, and Elder W. W. Taylor, Clerk of the Stake, will start with their families for an "out" of several weeks at Soda Springs. We wish them a pleasant visit and a safe return.

**Exciting Runaway.**—Last evening, about 4 o'clock, a team hitched to a loaded wagon at one side of Main Street, became frightened, broke loose and started up the street at a terrible rate. Turning the corner opposite this office, they ran east for half a block, came in contact with another span of horses also hitched near the sidewalk, and were brought to a standstill in the water ditch near by. Nothing hurt but one of the horses ran into by the runaways.

**Police Court.**—A fellow named Harmon was yesterday before Justice Pyper on a charge of threatening to kill his wife. It appeared that he had repeatedly beaten and otherwise ill-treated her, and was generally cruel and brutal in his deportment towards his family. He was placed under bonds of \$200, to keep the peace for 6 months, assessed costs and in default of bail committed to prison.

Affidavits of two water stealing cases in the Sugar House Ward, were filed this morning, and were to be heard this afternoon.

**"Dispatch" Gleanings.**—Colonel Miller and the other members of the California rifle team passed through Ogden yesterday, on their way to Creedmoor, to contest in the international shooting match next month.

Yesterday a man, detected in secreting a pair of new pants in a saloon was arrested on suspicion of theft, which was afterwards confirmed by a merchant identifying the apparel as belonging to his store.

The three worthies found in the glass car at the Ogden depot the other day, have been bound over in the sums of \$150 each. They give their names as George Lee, Tony Coyle and Thomas Johnson.

Mr. John Greenwell, of West Weber, while killing a sheep the other day, cut his hand very severely. Inflammation having set in, it is feared amputation will be necessary.

**The Movement Inaugurated.**—We are pleased to notice that a step is being taken to establish the new plan of graded schools discussed at the educational meeting held in this city several days ago. To the Thirteenth Ward belongs the credit of the initial movement, their trustees having decided that the primary and intermediate departments of their district school shall hereafter form grades to the Deseret University. The design is to extend this system throughout the city, thereby making a complete and thorough gradation from every district to the University, with Dr. John R. Park as principal. By this means stricter economy, order and discipline will be insured, means and ability will be concentrated and better facilities afforded for the pursuit of learning in every way. Pupils will no longer

be compelled to enter primary grades when fully prepared for more advanced departments, nor forced to enter classes for which they are not properly qualified, through the lack of schools of a lower standard. We can see in this system, which we hope is to be generally adopted, many advantages which do not now exist, for the furtherance of the cause of education in our midst.

**Habeas Corpus and Certiorari.**—At the opening of the Supreme Court this morning, all the justices being present, Judge Bennett, of counsel for the Executors, moved for the return of the writ of *habeas corpus*, issued yesterday, and as the Executors were present in court awaiting the hearing in the matter, that it be proceeded with summarily. Judge Sutherland of counsel for the other side stated that they were not ready with their argument on the matter of *habeas corpus*, and desired that the *certiorari* case proceed in the meantime. To this the court acceded, stating that the hearing on *habeas corpus* would follow that of *certiorari*, and that in the meantime, though not wishing to appear harsh, it could not admit the Executors to bail, and was therefore under the necessity of remanding them to the custody of the marshal.

The *certiorari* hearing then commenced, Judge Sutherland presenting the following motion:

In the Supreme Court of Utah Territory, June Term, 1879.

EMELINE A. YOUNG, et al.,  
Plaintiffs,  
vs.  
GEO. Q. CANNON, et al.,  
Defendants.

ON CERTIORARI.

Now come the plaintiffs by their attorneys, and move to quash the writ issued herein on the 16th day of August, 1879, and to dismiss all proceedings herein on *certiorari*, upon the ground that this court has no jurisdiction to issue said writ, or to hear or determine the proceedings herein on *certiorari*.

That this court has no original jurisdiction, and no jurisdiction of this cause.

SUTHERLAND & MCBRIDE,  
TILFORD & HAGAN,  
Attorneys for Plaintiffs.

Judge Sutherland then entered into an extended argument to show that supreme courts have no original, but merely appellate jurisdiction, they being merely revisory tribunals. They had no jurisdiction in matters of *certiorari*, unless the case in hand was not appealable, (40 Cal., p. 479.) All judgments not final were appealable. In this contempt case the judgment was final, and therefore not appealable, but the supreme court had no right to issue the writ of *certiorari*.

The speaker also referred to sec. 9 of the Revised Statutes of Utah, and claimed that not only was *certiorari* unmentioned among the several modes of review, and therefore not available on the code, but that legislatures had no power to extend the jurisdiction of supreme courts, and hence were without the right of conferring upon them jurisdiction in matters of *certiorari*.

Another argument was that *certiorari* was peculiarly applicable to common law cases, and not to be used in suits in chancery.

This argument being finished, Judge Harkness and J. L. Rawlins, Esq., of counsel for the Executors replied in turn. The former submitted a brief of their argument, and considered some of the points advanced by the opposite side; the latter took up and answered other points of the same. The substance of the return argument was that the Supreme Court had jurisdiction to issue the writ of *certiorari* and hear the case, because the jurisdiction exercised was clearly appellate, and the Organic Act, Statutes p. 31, and the general act, p. 41, made it an appellate court. Section 1863, p. 41, gave Territorial supreme Courts chancery and common law jurisdiction. The Poland bill vested exclusive original jurisdiction in the District Court, and this case did originate in the District Court, where it was instituted, heard, decided and final judgment rendered; but what the defendants now sought was a review of the case, under the appellate power of the Supreme Court.

The point put forth that the omission of the term *certiorari* in the statute providing methods of review excluded the *certiorari* proceeding and rendered it unavailable, was

not held, because the statutes gave the legislature the right to provide other means than those specified, and *certiorari* was implied therefore, and consequently available. Judge Hagan followed for the other side, submitted their brief, and concluded the argument. The court reserved its decision, and adjourned over until Monday morning, at 9 o'clock.

## SHOOTING IN SAN FRANCISCO.

KALLOCH, WORKINGMEN'S CANDIDATE FOR MAYOR, SHOT BY AN EDITOR.

GREAT EXCITEMENT—TROUBLE ANTICIPATED.

The following comes over the wires from San Francisco:

Last night Rev. I. S. Kalloch defended himself before an immense audience against charges 30 years old, of immorality, preferred against him by the *Chronicle*. He said these charges were revived by Charles and Mike De Young two bastard sons of a prostitute. This morning Charles De Young drove in a covered coupe in front of the private entrance of the Metropolitan Temple where Kalloch has a study room, and sent a messenger boy asking him to come out. Kalloch immediately appeared on the sidewalk when De Young shot him in the breast. Kalloch turned to retreat indoors when De Young shot him in the back. It is believed Kalloch is dead. A crowd immediately secured the carriage in which was De Young, turned it over and tore him out. He was dreadfully kicked and bruised, and would no doubt have been killed on the spot had not an unusual number of police come suddenly to his rescue and hurried him to jail.

The city is intensely excited. The police did not think De Young safe in jail and had made arrangements to hurry him to Fort Alcatraz, when the intention became known to the people. At present the spirit of the multitude is aroused to prevent any removal of De Young from jail. There was never a time when San Francisco was more angry.

HIS RETAINERS SUMMONED.

A meeting of workingmen at the Sand Lot is called for two o'clock this afternoon, by runners who are going all over the town.

## Various Causes—

Advancing years, care, sickness, disappointment, and hereditary predisposition—all operate to turn the hair gray, and either of them inclines it to shed prematurely.

AYER'S HAIR VIGOR will restore faded or gray, light and red hair to a rich brown or deep black, as may be desired. It softens and cleanses the scalp, giving it a healthy action, and removes and cures dandruff and humors. By its use falling hair is checked, and a new growth will be produced in all cases where the follicles are not destroyed or glands decayed. Its effects are beautifully shown on brassy, weak, or sickly hair, to which a few applications will produce the gloss and freshness of youth. Harmless and sure in its operation, it is incomparable as a dressing, and is especially valued for the soft lustre and richness of tone it imparts. It contains neither oil nor dye, and will not soil nor color white cambric; yet it lasts long on the hair, and keeps it fresh and vigorous.

For sale by all dealers. dsw

THE *Millennial Star* will be mailed to any address, on receipt, by the publishers, of \$2.10. Three copies will be forwarded for \$4.20, the reduction being on account of the difference in postage. Address William Budge, 42 Islington, Liverpool, England. dswt

## EYE AND EAR.

Dr. Ballou cures all curable cases of the EYE and EAR, PILES, CATARRH, RHEUMATISM, NEURALGIA, Nervous and Blood Diseases, &c. The Dr. is the friend of the unfortunate of both sexes, and guarantees any case he will take. Office and Residence Second door East of City Hall, Salt Lake. (Address Box 786.) dswt

Wanted

Corn Husk at H. DINWOODEY Furniture Store. a7w3