EVENING NEWS.

Wednesday, . January 18, 1888.

FRAGMENTS.

THERE were no arrests by the police last evening.

HARVEY W. Saurn has been admitted to the bar of the Territorial Supreme Court.

In another column will be found the advertisement of Charles W. Stayner, UTAH TERRITORY, SUFEEME COURT

THE appeal of Andrew Calton was argued in the Supreme Court today by Messrs. Dickson and Denny.

JAMES O'NEILL in "Monte Christo" at the Theatre on Friday and Saturday

evenings. THE Supreme Court to-day refused

to grant a rehearing in the suit of Joba W. Enright et al., respondents, v.s. Richard Grant, appellant.

THE case of Farrell vs. Pingree, involving the title to the office of treasurer of Weber County,is to come up in the Territorial Supreme Court on F.eb. 1st.

The Territorial Supreme Court today refused to allow an "appeal from the appointment of a r ceiver in the suit of the govern dent against the

JOHN M. W MITAKER opens his class in shorthar dat ball-past seven o'clock tonight. This presents an excellent oppr stanity for young people who de-.e to master the art.

IN a suit of Mrs. McMaster against E. J. McCleary, for \$50 for a board bill for the defendant and his wife, before Commissioner Norrell today, judgment was given in favor of the plain-

The young ladies of the Improvement Association of the Fifteenth Ward Intend giving a leap year party on Friday evening, the 20th inst., in the district school-room.

MESSES. STAYNER & SIMMONS have removed their office to more convenirooms in the Hooper Building, east of the Deseret National Bank, where clients may find them irea iy to attend to business.

THIS afternoon Mary Pettit and Nel lie Humphfles pleaded guilty, in the Pelice Court, to petit larceny, and were claimed. wentenced to pay a fine of \$75 each and to be imprisoned fifty days. They will both remain in the city jail 125 days.

THE Brotherhood of Locomotive Engineers give what promises to be one of the grandest balls of the season in the Opera House on Wednesday evening next, extensive preparations for which are being made. The tickets will be \$3, and by invitation.

WE were called upon this moraing by Wm. Brown Esq., General Agent,

the stipulation that the facts therein stipulated should be used upon the hearing of the motion and for no other purpose whatever. At the time the motion was heard the defendants had field a general demurrer to the com-plaint for wast of equity. The motion was neard and granted by tais Court November 5th last, the opinion of the Court being read by the Chief Justice, and reported in leth Profife Reporter, 478. This opinion recites fully the ceiver as prayed in the Complaint. Since that time the demurrer has Deta submitted and an order which it submitted and an order which it swered, conformation the defendants have an-swered, conformation the averments

of sime fraudulent acts which jus- | delivered and must be transmitted by of sime fraudulent acts which jus-tily the interference of a court of chaucery in reaching out the strong arm of the law and taking possession of the property before there is any de-termination of the rights in controv-ersy between the parties." And the Court is any volume of the laws of this

ruling it, and the defendants have an-swered, con roverting the averments of the complaint and averring the gr-constitutionality of the law under which it is brought. A commissioner has been appointed to take testimony. This is the situation of the case when this application is made. The statute before referred to, under which this application is made, pro-vides that "An appeal shall be allowed to the Supreme Court from all final decrees." It is contended by counsel for the defendant corporation that the ofder appointing a receiver is a final decree within the meaning of this stat-ute, while counsel for the Government to the the supreme to the government that the order asked for was interlogu-tory and not final. tory and not final. contend that the order is not final but We should be glad if the case was in

is interlocutory, and therefore not ap-pealable. And this is the only question before us. The right to appeal is purely statu-tory, and therefore depends entirely upon the construction of the particular statute puer which an appeal is statute upon which an appeal is

We have been referred by counsel for defendant to a large number of cases defendant to a large number of cases from the various states construing various statutes thereof, from which the general rule may be deduced, that under statutes allowing an appeal from final orders and decrees, in determin-ing whether an order or decree is final and appealable, the Court will look at the substance and effect rather than to the form or the time when it is made; and in appinting receivers, if it is ound that the order finally adjudi-cates and disposes of the subject mat-ter of the litigation so far as it can be done in the action, or any part of it,

done in the action, or any part of it, the attorneys, and the court set Tuesthen it is appealable; but if the com-plaint brings into court a subject mat-ter auxiliary to which the court is or may be charged with the care, distri-bution, disposition or application of a fund or property, and the court makes a preliminary order appointing a re-ceiver to hold the property for it, awaiting final determination o the principal question, it is not final. And the rule has been applied with varying results according to the facts under consideration ; thus in Michigan, where the rule as above stated has been repeatedly declared. the rule has been applied with varying results according to the facts under consideration ; thus in Michigan, where the rule as above stated has ealable; but if the com H. F. No. 11, a bill for the compila-tion of the Laws of Utah, was read by been repeatedly declared. Kingsbury vs. Kingsbury, 26 Mich. ts title. Duncan vs. Campau, 15 Mich. 415. Wing vs. Warner, 2 Dong. Mich. Messrs. Tuttle and Carlisle were added to the committee on the part of he Council. In applying this rule in Lewis vs. Campau, 14 Mich. 458, it was held by a Marsuall made remarks indicating Marsuall made remarks indicating that he doubted the practicability of accomplianting the work in the time specified, and suggested several diffi-culties in the way. We colley stated that as the work pro-gressed more information could be obtained by the committee on this sub-ject, and the council could act accord-ingly. Gampau, 14 Mich. 458, it was held by a divided court that the order appointing a receiver was final and appealable un-der the peculiar facts of that case. It appeared that the complanant had made application to the probate court to have an administrator removed for misconduct in the management of his trust; that the administrator was de-laying the bearing and manifest theory trust; that the administrator was de-laying the hearing, and pendiag these proceedings the complainant filed his bill praying as principal relief, that a receiver might be appointed to take charge of the trust estate during the pendency of the proceedings. Upon filing the bill the court appointed a receiver. The majority of the court held that it was final within the rule, because it granted all that the com-plainant asked as principal relief, and was a final disposition so far as the court could make it under the bill. And in Barry vs. Briggs, 22 Mich. 201, the court aeld the order appointing a receiver appealable because it took from a sole surviving partner the entire as-On motion of Woolley the rules were suspended and the bill read a second time by sectors. After reading and further discussion Woolley again pro-posed the suspension of the rules and that the bill be read a third time. Woolley moved that the bill pass. Carried, and the House notified. The Conncil concurred in the House resolution providing for the printing of 150 copies of such bills as may be The Council concurred in the House concurrent resolution No. 9, pro-viding that the joint commit-tee of memorial shall petition Coa-gress for a fourth judge for the Terri-tory and also for the defining of a a sole surviving partner the entire assets of the co-partnership and authorfourth judicial district. ized the receiver to proceed to "sell all Woelley reported that the joint com-mittee which had consideration of C. F. No. 1, had virtually killed it by the substitution of H. F. No. 11. Smoot offered a petition from the people of Spanish Fork City, to the Governor and Legislative Assembly, praying for a reduction of the limits of the township. Referred to the com-mittee on municipal corporations and the property and convert it into cash, and directing and commanding the de-fendant to transfer the legal title to the receiver," thereby divesting the surviving partner of it forever. These cases were much relied upon by coun-sel for defendant upon this arguin the Supreme Court of the United States the statute under consideration mittee on municipal corporations and has been repeatedly construed, and substantially the same general rule has Young presented a memorial from S. Hudson, which read as follows: Mining & Railroad Co. vs. Express Memorial to the Honorable Council and House of Representatives of the Ter-ritory of Utah, Greeting: Co., 108 U. S. 24. Forgay vs. Courad, 6 Howard 204. Trustees vs. Greenough, 105 U. S. Messrs .- Your petitioner respectfully Messrs.—Your petitioner respectivity solicits the return of the memorial for laws guardleg the sanctity of the nominative franchise, for the purpose of eliminating therefrom the reference to Archangel Michael and our Lord Jesus Christ, being admonished that heavenly messengers have no legal status in public affairs, and as in duty hound your petitioner will ever pray Dainese vs. Kendail, 119 U. S. 53. In the case last cited, Calef Justice Waite in deciding the case gives a gen-eral dennition of a final decree, as fol lows: "A decree to be final for the purposes of an appeal must leave the case in such a condition that if there be an affirmance in this court, the court below will have nothing to do out to execute the decree it has al-ready made." In Forgay vs. Conrad, supra, the court says: "And when a decree decides the rights to the prop-erty in contest and directs it to be delivered by the defendant to the combound, your petitioner will ever pray. Respectfully, S. HUDSON, Canvasser. The memorial was read and laid or the table. C. F. No. 3. A bill providing for attachments, was then read the third time by sections. After ridding of the and complainant time by sections. After ridding of the first section, Woolley moved that it be amended by prefixing an enacting clanse. Carried. Much of the time of the afternoon session of the Council was consumed in the third reading by sections of the rather lengthy bill entitled C. F. No. 3, providing for attachments. C. F., No. 3, passed without a dis-senting vote. plaluant is entitled to have such decree carried immediately into execution. The decree must be re-garded as a final one to that extent, and garded as a mail one to that extent, and authorizes an appeal to this court, al-though so much of the bill is retained in the Circuit Court as is n cessary for the purpose of adjusting by further decree the accounts between the par-ues pursuant to the decree passed. H. F. No 2, a bill for an act fixing the time when new laws shall go into effect, was read three times under suspension of the rules and passed. It provides that the new laws shall go into effect at 12 o'clock midnight on the Sist day of May next, unless some other time is therein specified. On motion of Carilsie the Council adjourned. animal got on his back and finally died. Two young men from Harmony joined the mail carrier on the road and their horses also got into the drift; they were successful in getting one of them out, and sending the youngest boy on to Harmony for help, which came back in the shape of a dozen men. These found the two boys almost unable to speak, but soon brought them around all right.

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- the compliation bill: - SEC. 7. The Auditor of Public Ac-f counts shall, before distributing the books herein provided to be furnished to county and precinct officers, cause notice to be inserted in each book that it is the property of this Territory, and is furnished for the se of the office to which it is delivered and must be transmitted by

Ferritory, as hereinbefore provided, to carefully preserve the same, and at the expiration of his term of office to immecxpiration of his term of once to imme-diately deriver it to his successor in office; and any such county or preciaci officer, who wilfully neglects or refuses to so deliver such book or books to his successor, upon demand being made therefor, shall be deemed guilty of a misdemeanor, and may be fined in any sum not exceeding fifty dollars, and

the costs of prosecution. Wood introduced the report of the condition to give it to the Supreme Court to determine the important ques-tions involved, but we feel constrained to hold that the order is not appeal-able. The motion is denied. Zane; C. J., concers; Horeman, Justice, concurs. directors of the insane asylum, which, on Thurman's motion, was referred to that committee, when the House ad-journed.

Y. M. M. I. A. ORGANIZATION. Upon the rendering by the Court of

his decision, Mr. Rawlins asked that a FRANKLIN, Idaho, Jan. 11, 1888. In behalf of the young men of Oneida Stake, I send the following report of their organization, which was effected at Frank in, Nov. 6, 1887: Charle England was chosen presi-dent, and Franklin C. Parkinson first,

of Jan

and Win. Webster second counselor; C. D. Goarlind was selected to act as secretary and treasurer. We are pleased to state that we are in a flourishing condition for a winter's campaign.

C. D. GOARLIND,



1 Lot each of Dress Patterns at \$1.25, \$1.85, \$2.65 and \$2.75. They are a

desirable and at less than value.

The balance of our High Colored Plushes at 90c.

The balance of our Silk Velvets at 75c.

The balance of our High Quality Velveteens and Corduroys at 75c. Worth Double.

A Lot of Boys' Overcoats, from three to twelve years, 32 50 and upwards. We don't want to keep them until 1889. .

Freight Department, of the Chicago Rock Island and Pacific Railway. Mr. Brown's office is in the Opera House building; he was accompanied in this office by C. D. Golding Esq., a young gentleman who was reared in this city, and who has a position with him.

Body Found.

Yesterday the party searching for James Baxter, who was carried away by a snowslide near Park City on Jan. 1st, were successful in finding the body. From the condition in which it was, they concluded that he must have been killed almost instantly.

Charged With Incest.

Yesterday afternoon Peter Tong, s resident of Snyderville, near Park City, was arrested on a charge of having committed the horrible crime of incest. It is alleged that the victim is his 22-year-eld doughter. He was taken to Park City, where he is to have a hearing before a United States Commissioner.

Probate Court.

Business transacted in the Salt Lake

County Court yesterday : In the matter of the estate of Mary

A. Murphy, 't al , minors; order made

appointing Rhoda Murphy guardian of J. P. Murphy, minor, upon filing a bond

in 'ne sum of \$1,000. Estate of Sidney K. Hooper and Alice Hooper, minors; order made appoint-

ing time and place for settlement of guardian's accounts.

In the matter of the estate of Joseph Weiler, deceased; order made appointing time and place for settlement of executor's account

In the matter of the estate of Isaac M. Fink, deceased; claims of Mary Judels, Allen Fowler, A. E. Greenwald and Bennett Kirkpatrick, allowed and approved.

A Severe Experience.

A correspondent writing from Pinto; Iron County, January 8th, says: We have just had the heaviest snowstorm that has ever been known in this part of the country. The storm commenced in earnest on the 3rd inst. and con tinued three days and nights, accompanied with a high wind, which drifted the snow in great banks, filling up the streets and lanes, and making it next to impossible to travel. The thermometer stood this morning, at sunrise, at 25 degrees below zero.

The mail carrier came very near losing his life on the night of the 5th inst. He left this place to go to Harmony, (fourteen miles) about noon of the 5th, expecting to reach Harmony by night. The storm came on flercer than ever and the snow was so deep and drifted so badly that very little pro-gress was made. Finally his horse got is a drift in Harmony Canon and could not get out. In plunging about the animal got on his back and finally died. Two young men from Harmony joined He left this place to go to Harmony,



BRANDS:

RIGH PATERT,

BAMER'S No. 1.

41 MAIN STREET.

W. N. WILLIAMS, SUPT.



