SECOND EDITION.

DESERET EVENING NEWS.

Copy for Advertisements which are expected to appear in the Morning Issue on the day when the latter should be handed in to the business department not later than 9 p. m.

Notice of Advertising forwarded upon application.

☞ Only for advertisements must be so addressed.

Wednesday, January 6, 1892

Ogden Court Cases.

The case of adultery against Charles Morris, which has been pending before Commissioner Cross at Ogden for the past few days, was again postponed yesterday for a period of ten days, as the witness in the case was not in a condition to attend.

George Williams, who was recently arrested on a charge of having assaulted his stepfather with intent to kill, succeeded in getting a stay of proceedings until today at 3 p. m., as a material witness was lacking and could not be secured yesterday.

The case of Wesley Boyd, the negro who is charged with an attempt to commit a criminal assault on a little girl a few days ago, was on trial before Judge Bishop today.

Probate Court.

The following business was transacted before Judge Barton today.

Estate and guardianship of George Hoover, an insane person; report of sale of equitable property came on per continuance. Mrs. Anna C. Hirshbrown and others examined. Order made confirming sale.

Estate of Frank Crocker deceased; counsel for minor heirs moved that that portion of his objections to expenditure for improvement of buildings be set aside. By order of the judge, counsel was allowed to withdraw said objection. Attorney herein then moved that a statement be made by the administrator of the real and personal property of the estate. Motion granted. Continued to Jan. 13.

Estate of Christopher D. Schiele, deceased; administrator's account came under consideration and was ordered to close estate.

Estate of James Shields, deceased; order made fixing January 16 to hear return of sale of personal property; order made appointing Herbert Ferguson attorney for minor heirs.

Estate and guardianship of Annie J. Shields et al., minors; order made fixing January 16 to hear petition for letters of guardianship.

Estate of Frank A. Woolley, deceased; final discharge of administrator made.

Estate of William Skewes, deceased; order made appointing appraisers.

A MINER KILLED

By the Discharge of a Faulty Shot, in a Tintic Prospect Shaft.

A horrible accident which resulted fatally occurred to a miner named John Hardwick, at a prospect shaft, between the Silver and Mammoth mines, in the Tintic Mining District, on Monday afternoon at 3 o'clock.

Hardwick was working in the shaft with a partner, and it appears that three charges of powder had been put in during the day, one of which, for some reason unexplained, failed to explode. Hardwick decided to go to the bottom of the shaft and investigate. Just before he reached his destination the "faulty" shot did the discharged. Hardwick's left forearm, hand and fingers were blown to atoms. His face was powder-burned and he was internally injured. He was removed to his home in Eureka, where the wounded arm was amputated. The shock, however, was too great and the unfortunate man expired at 9 o'clock on the following morning. He was a native of England, and was 36 years of age. He leaves a wife but no children.

EUREKA TOWNSITE DISPUTE.

This Morning's Proceedings in the Local Land Office.

The hearing of the above case was resumed before Registrar Hobbs and Receiver Hoyt Sherman today, but nothing of importance transpired. Mr. Urquhart again took the stand for cross-examination by Major Bird. The witness was first questioned in regard to the houses on the Diablo mining claim, most of which, he said, belonged to private individuals, and not mine owners. He was not very well acquainted with the Acquarius lode claim, and had never seen any tunnels, workings, shafts, or tunnels thereon. There could have been some, however, without his knowledge. There were two houses on the claim. Witness's attention was directed to the Old Bull and Norway mining claims, U. S. lots 276—6, and said he knew the lands embraced within those locations. The parties who now held them located them in 1882. He could not, however, state, as a fact, when the ground was first located for a mine or mining claims. To the best of his information no mineral bearing rock had been discovered in the Norway or Old Bull. Witness had worked in both these claims. From the knowledge he had obtained as a miner in these claims he should consider them valuable for mining purposes. No portion of the ground that was located and occupied by those mining claims was claimed or occupied for townsite purposes prior to the location of the mine. There had been mineral discovered in the Norway, but not in the Old Bull, he did not see any in the workings.

Major Bird asked the witness whether it was not a fact that he saw mineral bearing rock upon the surface ground of these two claims, outside of the workings that are upon the claim.

Witness replied that he did on the Norway, but not on the Old Bull.

The redirect examination of the witness was then taken up by Judge Rutherland, and was still in progress at the noon adjournment.

The Police court was entirely denuded of thieves today. Only one case appeared on the trial docket, and that was a charge of drunkenness against an individual who gave his name as John Doe, a title which has shielded many a scoundrel from public censure and shame.

STEWART'S COMPLAINT.

A Suit for $10,000 Damages Brought Against the City Council,

BY BENJAMIN F. STEWART.

Arising Out of the Revocation of the Franklin Avenue Theatre Liquor License.

The following complaint was filed with the Clerk of the Third District Court this morning:

IN THE THIRD JUDICIAL DISTRICT COURT OF UTAH TERRITORY, SALT LAKE COUNTY.

Benjamin F. Stewart, plaintiff, vs. Salt Lake City, George M. Scott, Frank H. Hyde, Richard W. Young, Andrew J. Cunningham, Eli A. Folland, Oscar H. Hardy, William J. Tomlinson, and William F. James, defendants.

I. The plaintiff complains of the defendants for that the defendant Salt Lake City at all times hereinafter stated was and now is a municipal corporation created by the laws of Utah Territory.

II. That among other things it is by the charter of said city provided that the City Council of Salt Lake City is thereby empowered by ordinance and enforcement thereof to license, tax and regulate the manufacturing, selling, giving away, or in any other manner disposing of spirituous, vinous or malt liquors, and the persons who engage therein; to restrain, prohibit and punish the manufacturing, selling, giving away, or in any other manner disposing of spirituous, vinous or malt liquors, without a license granted to exercise said powers conjointly or separately; to prohibit the selling, giving away, or in any manner disposing of spirituous, vinous, or malt liquors upon holidays, public holidays and election days; to adopt and employ proper and convenient means for carrying the same into effect; to have the power to require the payment in advance, into the city treasury, for purposes of revenue for each and every license granted for manufacturing, selling, or otherwise disposing of such liquors, a sum not exceeding at the rate of twelve hundred dollars per annum;" That at the time of the affection hereinafter complained of the said last mentioned provisions of law were in full force and effect, and were and are the sole and only source and power whereby said City Council derived any power or authority over the subject matter of said law.

III. That under the authority so granted said Salt Lake City by the legislature of Utah Territory in its charter, said City Council heretofore passed subsequently the following ordinances, regulating the sale of liquors, viz: "Section 42, Chapter XXIII, Revised Ordinances of said Salt Lake City, provides that no person shall manufacture, sell, barter, deal out or otherwise dispose of any spirituous, vinous, malt or other intoxicating liquors without first obtaining from the City Council a license therefor; that by section 43 said chapter of said Revised Ordinances, it is provided that application for said license shall be made by petition to the City Council signed by the applicant and filed with the recorder; that said petition must state definitely the principal place at which such liquors are to be manufactured, sold, bartered dealt out or otherwise disposed of and whether at wholesale or at retail; that applicant shall also file with the petition a bond in Salt Lake City, conditioned that during the continuance of his license he will keep an orderly and well regulated house, that he will not allow gambling with cards, dice, or any other device or implements used in gambling within his house where such liquors are to be used; that he will pay all damages, fines and forfeitures which may be adjudged against him under the provisions of said chapter; that he will refrain from and an act of the governor and legislative assembly of the Territory of Utah, entitled an act to license and regulate the manufacture and sale of intoxicating liquors, approved March 6th, 1888; that such bond shall be in the sum of $1,000, with two or more sureties; that said sureties must justify on oath that they are residents within the Territory and are worth the amount specified in said bond over and above all their debts and liabilities, exclusive of property exempt from sale on execution; that such justification shall be in writing, signed by the persons justifying, and shall be attached to and filed with the bond.

That by section 44 of said chapter of said revised ordinances it is provided as follows: "That on the City Council granting the license petitioned for, which shall be for the period of three months, the applicant shall pay into the city treasury the amount herein after specified for such license and shall receive the treasurer's receipt therefor, and present the same to the recorder, who shall thereupon issue to the applicant a certificate of license, which certificate shall state that the person or persons therein named are duly authorized to carry on the business specified in the license, selling, bartering or otherwise disposing of intoxicating liquors, as the case may be, at the place and for the time therein specified." That by section 46 of the said chapter XXIII of said revised ordinances it is provided that the applicant for such liquor license shall pay into city treasury in advance, for such license, if the same be for a license for a retail dealer, the sum of $500. That all of the provisions of said chapter XXIII are and at all times herein mentioned were in full force and effect as a part of the ordinances of said Salt Lake City, Utah Territory. That in the provisions of section 555 chapter X of the compiled laws of Utah, 1888, it is enacted that said City Council shall have power "to license, regulate and restrain the manufacture, sales or vendors of spirituous and fermented liquors, farmers-resort, drum and tippling shop keepers, grocers and keepers of entireties, bowling, virtual tiling or selling house, saloon or other house or place for the selling or giving away of wines or other liquors, whether cooked, vinous or fermented."

That of the times herein referred to the said laws and ordinances herein before set forth were in full force and effect and were the full source of the power whereby said City Council derived any power to grant or regulate the sale of liquors within said city.

IV. That heretofore, to wit on the fifth day of September, 1891, the plaintiff made application by petition to the City Council as required by said laws and ordinance for a license as a retail dealer to sell or otherwise dispose of spirituous, vinous, malt or other intoxicating liquors at No. [illegible] Franklin Avenue, which said Salt Lake City, Utah Territory, and the said City Council of said Salt Lake City, Utah Territory, at the said place and time aforesaid, and at all times thereafter, fully complied with the requirements of law and the conditions of said bond as said retail liquor dealer.

That on the first day of December, 1891, the said City Council of Salt Lake City, upon the application of the plaintiff, made as required by law, granted to the plaintiff a license for a term of three additional months, which upon the plaintiff executed and delivered to said city a bond, conforming in every respect to the bond, covering said period of three months.

VI. That on the 15th day of December, 1891, the City Council of said Salt Lake City, Utah Territory, composed among others of the defendants George M. Scott, Frank H. Hyde, Richard W. Young, Andrew J. Cunningham, Eli A. Folland, Oscar H. Hardy, William J. Tomlinson and William F. James, were acting by virtue of their said office, as the City Council of said city, and at said time and place the said City Council, passed the following motion revoking plaintiff's said license, viz: "On motion of Councilman Hyde the liquor license of the Franklin Avenue Theatre was revoked; on motion of Councilman James the city marshal was instructed to investigate the matter and if necessary make the arrest for violation of the city ordinance." That the acts of said City Council and of the defendants named, preceding and including said motion by virtue of their said offices in revoking said licenses as aforesaid, was wholly unauthorized by law, or any or either of the ordinances of said city, and without just cause or notice of any kind to said plaintiff and was a wanton violation of the plaintiff's rights in the premises, and was willfully and maliciously perpetrated by said defendants, who then and there conspired and confederated together for the sole purpose of injuring and defrauding the plaintiff of and out of the said license.

That on said 15th day of December, 1891, and other times, the plaintiff had a large and extensive credit in Salt Lake City, upon which he was entitled to, and by reason of the wrongful and illegal acts of said City Council the said defendants, without just cause or provocation, in breaking up and destroying his said business, plaintiff's business standing and credit have become greatly impaired, to his damage in the sum of $10,000. That the said defendants well knew that they and each of them were wholly without authority to revoke said license, and that the said City and said acts he was subjected to the surveillance of the police officers of said city and other malignities, and was compelled to close up and abandon his said business.

For a further and second cause of action the plaintiff alleges that at the times hereinbefore stated the plaintiff was conducting and carrying on a part of his business of retail liquor dealer, a general theatrical business at said Franklin Avenue Theatre, Salt Lake City, which was being run in connection with and as a part of said retail liquor business, and had at the time of said revocation of said liquor license as herein stated in his employ and working for him under contract to render professional services to him during the term of his license by both of said liquor licenses, twenty or more theatrical performers and other servants; that by reason of the revocation of plaintiff's said license, as herein set forth, and the closing of his said bar, the patronage of his house both as a drinking resort and theatre was wholly and completely broken up and destroyed, his said employes thrown out of employment, by reason whereof he was compelled to expend a large sum of money for services, rents, contracts and other causes and to sustain many employes in his said service under pay without being able to secure other said services, or labor or business, to his damage in the sum of $5000.

By reason of all of which facts and the premises aforesaid the plaintiff has been damaged by the defendants in the several ways as fully set forth herein and by reason of the acts of the several defendants as hereinbefore set forth and arising out of the illegal and wrongful revocation of plaintiff's said liquor license, to the sum of $10,000.

Wherefore plaintiff prays judgment against defendants in the sum of $10,000, together with costs of suit.

BEILLY & KANE,
Plaintiff's Attorneys.

THERE are passengers at the Western Union Telegraph office for M. & M. M. Company, Fort Y. Wasatch.

Jewelry Box.

[illegible] Jewelry Box [illegible] Day [illegible] Friday [illegible] will be held in the [illegible] of W. H. Hooper, of Ogden [illegible] December 8th, 1891.

Lodge Officers Installed.

An officer of the Class Court of the Rocky Institute for the state of [illegible] and visitors of the morphine habit informed a News reporter today that applications for treatment were being received daily. None of the patients who have been treated for morphine, the statement goes on, Mr. Hyde, the first patient to this city and is not expected to return. The lodge is a good one and will, no doubt, draw heavily.

LATEST TELEGRAMS.

A Strike Over.

BUFFALO, Jan. 5.—The strike of printers in this country is virtually over.

A Nephew of President Harrison Dies on a Train.

PALESTINE, Texas, Jan. 5.—Carey Harrison, nephew of President Harrison, died on the south bound train yesterday afternoon near Franklin. Harrison was consumptive and had been in San Antonio for his health.

A Congress of Colored Catholics.

PHILADELPHIA, Jan. 5.—The first day's session of the third congress of colored Catholics of the United States, opened last evening. Archbishop Ryan delivered a brief address of welcome. James A. Spencer was elected president. A resolution was passed asking that the negro catechism be abolished in Catholic schools, also against the closing of public schools to Catholic teachers.

Death of a Prominent Indian Chief.

TACOMA, Wash., Jan. 5.—Chief Joshua Sirwell, the last of the Puyallup tribe, died yesterday, aged eighty. He was always friendly to the whites, and received the early settlers much assistance in the Indian wars.

Another Railroad Accident.

UTICA, N. Y., Jan. 5.—Early this morning a freight and accommodation train on the New York, Ontario and Western railroad at Smyrna, was run into by a light engine. The engineers of both locomotives were killed. One man is missing. The three men killed are Engineers Young, Utica; Sheedy, Oswego, and Fireman Cady, Norwich.

The bodies of both locomotives exploded soon after they struck.

Presidential Nominations.

WASHINGTON, Jan. 5.—The President today sent the Senate the following nominations: Walter Wyman, Illinois, supervising surgeon-general of the marine hospital service; Duncan A. McIlhenny, postmaster at Steilacoom, Washington.

Sikhs Wants Redress for Injuries Sustained by Him in Chile.

SAN FRANCISCO, Jan. 5.—Pritch Sikhs, the Sikhs on the steamer "Ravenscraig," who was badly injured by the Chilenos while in Valparaiso, has entered a claim for fifty thousand dollars against the Chilean government, and the papers in the case have been forwarded to Secretary Blaine.

Rollin Washed Ashore.

LONDON, Jan. 5.—The bodies of the steward and second officer of the steamer "Cavalier" were washed ashore on the coast of Cornwall. The "Cavalier" left Gibraltar December 4th for Falmouth.

The Pope and France.

LONDON, Jan. 5.—The Chronicle's Paris correspondent says: The Pope yesterday decided to advise the French Catholics in regard to the adherence to the republic.

Appeal for Help.

LONDON, Jan. 5.—A Berlin correspondent of the Times says: The pastors of a number of German colonies in Russia have appealed urgently to the German consul-general in St. Petersburg for assistance to prevent thousands of Germans from starving. It is said that they do not only suffer from famine, but are exposed to much ill-treatment. Some Germans are killed and their houses burned, it is said.

Thanks to a Judge and Grand Jury.

SAN FRANCISCO, Jan. 5.—At a largely attended meeting last night, resolutions were adopted thanking the late grand jury and Judge Wallace for their efforts in trying to put an end to the corruption in the city and state government, and denouncing the interference of the Southern Pacific Railroad company in politics. A committee of thirty was appointed to further the work begun by the grand jury.

The Senatorial Contest.

COLUMBUS, Ohio, Jan. 6.—The last day of the senatorial contest brings with it no change in the situation. The only question agitating the public mind is, "What will be Sherman's majority in the senatorial caucus?" His friends claim this morning that he will receive fifty-six votes, and Foraker but fifty-six, but the friends of ex-Governor Scott assert that their candidate will be nearer by twenty votes, and many statistics that he still has a chance to win. The chief interest today seems to center in the question whether Foraker's wonderful hold is to be open or secret. Generally speaking, the Sherman people are fighting for an open ballot and the Foraker people a secret ballot.

Congressional.

WASHINGTON, Jan. 5.—[illegible] Congressional Record, the [illegible] 99 [illegible] Congressional Record [illegible] the revised copyright law, now in force in the country is a thorough exclusion of [illegible] to be in force in Canada, and [illegible] the copyright and protect [illegible] equally in any part of the world.

The Vice-President laid before the Senate a message from the President transmitting the agreement made by the commissioners with the Indians of Cheyenne reservation, Wyoming.

A message from the same transmitted and referred was one granting pensions to the widows of the Revolutionary and older Indian wars.

Mr. Cullom offered a resolution directing a communication on Senate relations to Congress into the Congress made to the world, and the Senate has been [illegible] Mr. Cullom's resolution was laid on the table. Mr. Cole stating that he would call it up to-morrow.

SUNDAY'S FREE COINAGE BILL.

The Senate bill, introduced by Senator Stewart, for the free coinage of gold and silver bullion, was taken up and Senator Stewart proceeded to address the Senate. He criticised the speech made by Senator Sherman on the same subject, and said that there was no one to blame for the low and demoralized coinage of silver, the war now, and had ever been in favor of maintaining both gold and silver as money, and had strived to the extremest boundary that could mentioned it on a parity with gold.

He had not asked for the silver bill which was before the Senate. The bullion was neither to be paid, nor paid out in accordance with the same proposed of Secretary Windom, and that was the reason why he had introduced it. It appeared to him at the time that the price was to be paid for a commodity, which the government could not, in other self not part from in any considerable extent without disturbing the situation and serious loss. Sunday was not in favor of free coinage at large prices, and was evident, at least, from the speech made by Senator Sherman, that the silver bullion would be the only or the time and demonetized coinage of silver. He was now, and had ever been in favor of maintaining both gold and silver as money, and