DESERET EVENING NEWS.

Thursday, January 22, 1891.

FRAGMENTS.

THE Z. C. M. I. will close on Monday next, for stock taking.

THE City Railroad Company has now completed its line of rails to Fort Douglas.

THE Lotta engagement closed at the Theatre last night, with "Pawn Ticket 210," before a large and good natured audience.

IN the Supreme Court, yesterday afternoon, B. D. Dunbar, of Kansas, and Mr. F. F. Cornell, of Colorado, were admitted to practice at the bar.

THE land claim cases which were to have been taken up at the United States land office this morning have been continued until some time in April next.

THE eighth annual ball of the Brotherhood of Locomotive Engineers will be given in the Theatre this evening. Good's quadrille band will furnish the music.

VARIOUS improvements are being made within the Deseret University building, among them being the addition of gas fixtures and the furnishing of the new normal hall.

THERE are messages at the Western Union office for E. G. Ragsdale, attorney; J. T. Morrison, care Mrs. Brown; Brickwell & Co., John A. Benjamin, Geo. F. Bush, care Enterprise Lithographing Company.

ELDER WILLIAM M. PARKER will, on Monday evening next, under the auspices of the Y. M. M. I. A. of the Twenty-first Ward, deliver a lecture, commencing at 7:30 o'clock. Subject, "Signs of the Times." The public are invited.

A MEMBER of the fire brigade at Ogden, named Axtell, accidentally took an overdose of laudanum yesterday morning, which came near resulting fatally. Axtell discovered his mistake in time to summon medical assistance. In a short time he was out of danger, though very sick and weak.

AMONG the latest settlers in this city is the Hon. B. Anderson, nephew of Judge Anderson of the Third District Court, and late of Curtis, Nebraska, where he several years to hold the position of prosecuting attorney. Mr. Anderson is about to enter into a law partnership with Attorney M. M. Kaighn.

A BOY named Samuel Barrett, when in charge of Dickinson's meat delivery cart yesterday afternoon, was about to cross the Rapid Transit track. One of the cars came along and ran into the vehicle, upsetting the lad and turning a portion of the contents of the cart into the street. Barrett was not much hurt and the meat was soon gathered up again.

THE articles of incorporation of the "Castle Dome Flagstone Company" were to be filed with county Clerk Allen today. The business of the firm will be the quarrying of curbstones and flagging. The capital stock is $200,000, divided into 10,000 shares of $1 each. R. W. Cross will be president, H. Donovan vice-president, O. H. Wilber, treasurer, and S. B. Weeks secretary. The quarries are located at Castle Dome, adjoining those of the Rio Grande Western.

YESTERDAY articles of incorporation of the Deseret Live Stock Company were filed with the secretary of the Territory. The corporation is organized to raise and deal in live stock and to do a general slaughtering, butchering and packing business. The principal office is at Beautiful, Davis County. The capital stock is placed at $50,000, divided into 5,000 shares of the denomination of $10 each. The stock is held by sixty-five shareholders. The officers are J. E. Moss, president, J. I. Atkinson, vice-president, O. P. Hatch, secretary, Simon Hatch, treasurer.

Annual Police Court Report.

The following is a copy of the annual report of business transacted in the Police Court for the year 1890:

Number of cases tried	2,877
Fines assessed	$19,203 50
Cash collected as follows:	
From fines assessed	124 00
" paid into city treasury	11,262 40
" paid into county treasury	19 10
To fines paid in labor	16,206 25
Fines appealed, remitted and forfeited	857 65
Total	$28,315 00

"Liverpool Bob" Arrested.

Information was received at the police headquarters this afternoon stating that "Liverpool Bob," alias James Smith, had been arrested today at Ogden for burglary. Smith is wanted in this city to answer to the charge of robbery, being one of the footpads who robbed a Swedish peddler at the rear of the Gelsty Saloon, about ten days ago. When the Ogden officers is satisfied, Smith will be brought to this city to answer to the charge of highway robbery. Smith is a desperado character and has been the source of much trouble to the police in this city for several months, being the recognized leader of a ring of footpads.

Dr. K. G. Maeser Will Lecture.

"The advantages of youth" is the subject of a lecture which will be delivered by Dr. K. G. Maeser before the Students' Society, in the Social Hall, on Friday evening next, commencing promptly at 7:30 o'clock.

II. Guitar and Mandolin solo by Messrs. T. Ashworth, A. Chase and H. Rightway.

III. Recitation, Miss Edith Rossiter.

IV. Quartet by the College Male Glee Club "Awake O value of harmony."

All lovers of education are respectfully invited to be present.

J. J. WALTON, Chairman.

A Great Success.

There was a crowded audience last evening to witness the entertainment in the Twenty-first Ward meeting house. A large number of persons were unable to gain admittance. It was announced, however, just before the commencement of the performance that the entertainment would be repeated. The programme, from first to last, was well rendered. The domestic drama, "The Chimney Corner," was excellently played, several of the performers having in past years acted on the stage of the Salt Lake Theatre. The whole affair was a decided success in all respects.

The entertainment will go again tonight, with a slight variation in the programme.

THE "VARIETY" THEATRE.

Arguments in the Liquor License Dispute

CLOSED YESTERDAY AFTERNOON.

The Case Taken Under Advisement by the Supreme Court.

Continuing his arguments in the above case yesterday afternoon, Attorney Dickson said it would be seen from reading the petition and the return thereto that the applicant had complied with all the requirements of law; that the theatre was under the management of Mr. Reynolds, and that the applicant had nothing to do with that place; that there was no connection between the theatre and saloon. It was given as a reason why the application should be refused that there were two churches within a block of the theatre, but they were not on the same street. The street, by the way, was not strictly a business street, there being a theatre, a saloon and stores already there. The question was whether the City Council, without giving any reason whatever, could refuse an application for a liquor license, in spite of the fact that the applicant had complied with every requirement of law. The Legislature never intended to confer upon the Council any such power. This application was refused, the vote being a tie and the mayor voting against it. The mayor could not know what actuated the members of the Council in voting against the application. Such a course would allow the Council to give to its friends a monopoly of the business. It was a case of arbitrary and tyrannical discrimination which the law would not countenance. Mr. Dickson closed by citing a number of authorities in support of his position, and at the close of his argument a recess was taken until 2 o'clock.

When the sitting was resumed in the afternoon, Col. Merritt, city attorney, opened for the defense. After going over the points of the answer, he remarked if the intention of our Legislature was not to give the Council the power to regulate and restrain the granting of licenses, if they are not to say who shall and who shall not have a license, why, in heaven's name, didn't they say the gates are open to all who may apply, and put the granting of licenses in the hands of some clerk who can only duly shall be to issue the license without questions? Mr. Merritt quoted from Pennsylvania decisions and from California rulings in support of his position.

Mr. Varian next addressed the court. He contended that under the charter the Council had a right to prohibit the sale of liquors in certain localities. The Council could grant a license to sell liquor in a bad house. They must refuse this. If they have the power to prohibit and deny the one place they have in another. The Council had decided to issue a license to the theatre until satisfied that the liquor was to be sold. It was the fear that liquor would be dispensed to the patrons of the theatre that prompted this preliminary measure. If they have a right to take away a license for disorderly conduct, they have a right to deny a license primarily. The law states that no liquor shall be sold in the auditorium or lobby of any place of amusement. In this case the Council has a discretion which they cannot be forced to abandon. If the Council has no power to deny a license, the legislative act on license compels every one of them to vote aye whether he wants to or not. The speaker contended that even though the Council had no given grounds for their action, if they were presented at this time they were valid and binding, and the court should so rule.

Judge Powers made the closing argument on the part of the plaintiff. He said he did not contend that the Council had not the power to regulate the liquor traffic, but that such regulation must be uniform. A man should not be refused a license at the mere whim or caprice of the Council. While it was urged that it would be a bad thing to have a saloon so near to a church, the fact remained there was already a saloon directly opposite this theatre. The account of a leading match at the theatre is not matter of record, and the return was simply nonsense. The law made it mandatory on the Council to issue the license to the applicant, granting that the Council had the power to regulate, how was that power to be exercised? It must be by general ordinance, so that it would apply to all alike. The return admitted that there was no communication between the saloon and the theatre. Was not the difference whether a man came out of the theatre and went down in the basement and took a drink, or walked a few steps to a place where he could obtain what the Council had licensed? The answer was not an answer at all. It did not show any reason that the Council had ever shown this court sufficient deference to consider its order. The return was not even signed by any member of the Board of Police Commissioners, but by the City Marshal. The return should have been made by the body itself.

Judge Powers having concluded his argument, the case was taken under advisement.

Items from Rich County.

A correspondent writing from Garden City, Rich County, Utah, under date of January 17, says: Sickness of various kinds prevails here at present, quite a number of small children being down.

The cattle market is still very low, and the prospects prospect by no means encouraging. A good cow and calf can be bought almost anywhere in the valley for $10. Snow is very scarce, both here and in the mountains, for this season of the year.

There is every reason for believing that a steamer will be put upon the Bear Lake next summer.

Our new meeting house will be completed early next summer and promises to be an imposing structure when finished. The ward choir are making preparations for a dramatic entertainment.

The ward is thoroughly organized and the Associations are all in good running order.

OLD FOLKS' PARTY.

American Fork Entertains Its Veterans.

A GRAND GATHERING.

The annual gathering of the Old Folks' of American Fork took place on Wednesday, January 21st, 1891. They were honored with the presence of Bishop W. B. Preston, Elders C. R. Savage, George Goddard, W. C. Dunbar and N. A. Empey of Salt Lake City. The aged of American Fork, irrespective of creed or condition, were invited and carriages sent to bring them to the Opera Hall. Banners and mottoes were suspended over the seats, bearing such as: "Welcome," "God Bless the Old Folks," "Honor Old Age," "In God we Trust."

At 12 o'clock the company were called to order by Brother Thos. Barrett, master of ceremonies, and after being arranged in order were photographed by Mr. Calhoun. Brother of Amiversin Fork, after which the aged veterans and invited guests were seated at tables on the stage which were tastefully laden with all manner of eatables, which pleased the eye, gladdened the heart and comforted the inner man. Blessing was asked by Bishop Preston. It was amusing to see with what alacrity the aged veterans used their knives and forks upon the delicacies of meats, vegetables, puddings, pies and fancy cakes, which vanished with astonishing rapidity.

After dinner the entertainments began by the American Fork choir singing an anthem. Miss Annie Wild read an address written for the occasion by Brother James Crystal.

Brother Wm. Grant then sang "Let Bygones be Bygones." Recitation "Diamond Wedding" by Miss Emma Eccarte. John Peters sang "Don't Tie to a Man You Don't Know."

A brief speech from Brother George Goddard followed, then a song, "Always wear both alike," Sister Mary Ann Evans and her class of seventeen little girls sang sweetly the song entitled "Shake Brotherly and Jenny Wren." Recitation by Sister Ada Walton. During the Highland Fling by Brother Joseph Crystal, accompanied by Brother Wm. Grant and Brother W. C. Dunbar, both of whom were admirably executed. Singing by children, Jack and Jill, by Sister Ivy. "Do it with a Will." The audience burst into applause from the entire assemblage. Brother Grant then sang the song entitled "Little Delight," accompanied by Brother Dunbar on the organ by Sister Evans.

Rev. H. Webster, of the Presbyterian Church, then addressed the assembly in an interesting and pointed manner, which was well received. Brother Grant then sang the song, "Another song, "My Dear Old Wife and I," in his usual happy manner. Bishop Preston being called upon for a speech said:

"I am spread out on the walls to my right and left the flags of our common country. It is your flag and also mine, and under its broad folds we seek protection. I am pleased to see the young so loyally disinclining unto the aged ones. This is as it should be, and may you ever find it pleasurable to listen and comfort them. I say to all, may God bless you for each acts of kindness."

The old folks were highly delighted by the singing of "Sister Evans' class, "Grandpa and I."

Remarks were then made by the humorous C. R. Savage, whose concerted remarks and sayings always draw forth marked applause and much laughter.

Brother J. Peters then sang the song, "Castles in the Air."

All present were startled at the sound of the bugle, calling the boys to order, behind the scenes. They quickly made their appearance, dressed in uniform and marched in true military style to the centre of the hall, and commenced singing the song entitled "Mormon Boys' March Song," composed by Brother William Grant. The little boys did their part in true military style, and received the hearty applause of all present.

A character recitation was then given by Miss Pearl Stillman, "The New Church Organ," in a very excellent manner. Bishop Halliday made a very appropriate speech. Brother Dunbar sang "The Nervous Family," which received great applause.

Cheese, fruit and candies were then distributed to the old folks. Sisters Holmes, Sherry, Woodward and Hickenlooper, also Brothers Armstrong, Robinson, Bentley and Rowley, each received suitable presents.

Sister Fairbourne artistically sang "Why Do Summer Roses Fade?" Brother N. Empey then addressed the assemblage while refreshments were being prepared. Brother Dunbar sang the song with organ accompaniment, "Layout Home," the entire company joining in the chorus.

The children of the ward then sang "Hickory Dickory Dock."

The old folks were then taken to their homes in carriages. In the evening a ball was given those who had donated and interested themselves in making the old folks' gathering so successful and pleasant. The entire credit is given to the respective committees, who responded to the call of the committee of the executive committee, Brother Thomas Barrett.

Ogden Safe Blowers.

The office of W. G. Cain & Company, corner Grant Avenue and Twenty-sixth Street, was entered by thieves sometime Tuesday night or early Wednesday morning. They evidently gained an entrance by forcing a door out of a door in the mill, as the staple was found on the ground, and the marks of a bar of some kind were visible on the door and wall.

Since Moyes & Company's safe was blown open, the safe in Cahill's office has been left unlocked and a card placed on the door, "Safe Open, Don't Blow." The thieves met with no obstacle and easily opened the door of the office, which was not locked, and several about the floor, but all the thieves secured was seventy cents in postage stamps.

They pried open the small brass in the safe, but they contained nothing of value. The robbers next turned their attention to the office desk. The drawers were unlocked, and the lids also were easily opened. A silver watch was carried away for their trouble in this vestige. They overlooked a certified check for $245, or else thought it would be risky work trying to cash it. The card which was on the safe door they took with them, probably as a reminder of the fact that an open safe does not contain any great amount of valuables.—*Standard.*

AN ASSIGNMENT CASE.

Another Interesting Judicial Opinion Given.

HARDING'S AUTHOR CORRECT.

So Say the Judges of the Supreme Court.

The following opinion was delivered by Judge Zane in the Supreme Court, yesterday, in the case of O. J. Spaulding and David Kay vs. S. H. Paterson:

It appears from the record in this case that one Valentine H. Harding, on the 6th day of October, 1889, assigned to two creditors the goods in question to pay his debts, and that when they were in possession as such assignees, the appellant, as United States Marshal, levied an attachment on them. On the trial of the case in the court below, the defendant objected to the introduction of the assignment in evidence on the ground that it was void under the following provision of the statutes of Utah: "Every conveyance or assignment in writing or otherwise, of any estate or interest in lands or tenements, or of any goods made with the intent to delay, hinder or defraud creditors or other persons of their lawful debts or demands shall be void." (2 compiled laws, section 2838.) The court overruled the objection and the defendant excepted. The court also charged the jury that the assignment was valid, to which appellant also excepted. The appellant relies on both exceptions and assigns the ruling and charge of the court as error. He insists that the assignment conferred the power to sell the property assigned on credit, and it is for that reason void. The language which it is contended confers such authority to sell on credit is as follows: "And if the proceeds of the personal property . . . will pay," etc. The said parties accepted the trust and agree to execute the same by disposing of the property and applying the proceeds to the payment of said debts. The intention to authorize a sale on credit by the assignee is not expressed, it is implied. The term "proceeds of a disposition of property" can be construed to mean money or other property, and the term "disposed" in the connection in which it is found may mean a sale for cash, or in lieu of an exchange for other property. To construe the language used as meaning a sale for cash supports the instrument; but to interpret it as authorizing a sale on a credit or an exchange of the goods for other property renders the assignment void. But the first construction mentioned is equally if not more reasonable than either of the others. When an assignment may be given a reasonable construction by which it is valid and ineffective by which it is void, the rule is to adopt the construction which will support it. Such a construction will generally be found to be in harmony with the intent of the assignor intended to make a valid instrument—that he did not intend to violate the law. In Spence Van Hessen vs. Bishop, 34 L. 220, the court said, "It is fearfully objected that the assignment was void as allowing the assignee to sell on credit. The construction that they were allowed to sell upon credit is based upon the following language: "And sell and dispose of the same to the best advantage for private sale, as they in their good judgment may deem most advisable; and for the best interest of the creditors conferring the same into money," etc. If it is true that a grant of a power to sell upon credit would render the assignment void, it is not to be inferred from the language used, yet we think a fair and reasonable interpretation of the language will not justify the construction which is thus complained of. This provision is usually found in the form of assignment executed by debtors, and it is so constantly in use as to justify the inference that the intent in following such form and in using the language used in the clause in question, was to give the assignee a power to sell on credit. The construction that they were allowed to sell upon credit is based upon the following language: "And sell and dispose of the same to the best advantage for private sale, as they in their good judgment may deem most advisable; and for the best interest of the creditors conferring the same into money," etc. If it is true that a grant of a power to sell upon credit would render the assignment void, it is not to be inferred from the language used, yet we think a fair and reasonable interpretation of the language will not justify the construction which is thus complained of. This provision is usually found in the form of assignment executed by debtors, and it is so constantly in use as to justify the inference that the intent in following such form and in using the language used in the clause in question, was to give the assignee a power to sell on credit. The intention of the parties to be lawful as far as it could be expressed in the form of the instrument, and the intent to hinder, delay or defraud creditors or other persons of their lawful debts or demands shall be void." (2 compiled laws, section 2838.) The court overruled the objection and the defendant excepted. The court also charged the jury that the assignment was valid, to which appellant also excepted. The appellant relies on both exceptions and assigns the ruling and charge of the court as error. He insists that the assignment conferred the power to sell the property assigned on credit, and it is for that reason void. The language which it is contended confers such authority to sell on credit is as follows: "And if the proceeds of the personal property . . . will pay," etc. The said parties accepted the trust and agree to execute the same by disposing of the property and applying the proceeds to the payment of said debts. 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