

turned on the 2nd inst., from a mission to the Eastern States. They visited many of their relatives, by whom they were generally well received. They also held a few public meetings, but most of their preaching was done in a private way. Elder Clark traveled in Iowa, Illinois, Ohio, Indiana, New York, and Pennsylvania, being accompanied part of the time by Elder Haight. The latter was afflicted considerably with rheumatism during his absence.

Appreciative.—For a couple of winters past, Bishop A. Thorne, of the Seventh Ward, has, "without fear, favor or hope of reward," after every snowstorm, brought out his snow plow and cleared the sidewalks and tracks in the streets of the ward, making team traveling and pedestrianism easy. We are informed by Brother Owen J. Morgan that some of the prominent citizens residing in the Ward, desiring to show their appreciation of the public spiritedness of the Bishop, joined in tendering a suitable present, whereat the Bishop was exceedingly surprised as well as pleased, the matter being entirely unexpected to him.

Tooele.—From Mayor Andrew Galloway, of Tooele, we learn that the County Court of Tooele County met last Monday and Tuesday, for the transaction of business, a part of which was to appoint an assessor and collector. William H. Lee, a candidate for the office, and the present incumbent, presented a petition signed by about three hundred citizens, recommending him for the office. The judge and a selectman were opposed to the appointment of Mr. Lee, and two selectmen were in favor, making a tie, so the matter remains *in statu quo*. The appointment should have been made last December. Mr. Lee still occupies the office of assessor and collector, his successor not having yet been appointed and qualified.

We also learn that the co-operative store of Tooele City is doing an excellent business. Recently a dividend of over twenty per cent. was paid to stockholders for the previous six months.

A Terrible Plight.—A youth of this city, about eighteen years old, who has some interest in a mine, or at least a deep hole, in Emigration Canyon, being desirous of personally examining the prospect of striking a genuine bonanza on the claim, he wended his way, last Sunday, to the spot from which he expected to realize his prospective fortune. Reaching the perpendicular shaft, which, we are informed, is about sixty feet deep, a fact of which he might not have been cognizant and, being of an enquiring turn of mind, wishing to get at the bottom of things in his investigations, he thought he would find out what was at the bottom of that hole. There was a rope, one end of which was fastened to a windlass and the other hanging down the perpendicular excavation. This he grasped and let himself down hand over hand. When he got to the end of that rope he got to the end of a very bad dilemma, but it was only the first end of it; his feet didn't touch bottom.

On realizing his perplexing situation he made frantic efforts to get up the rope, but he couldn't do that, the strength of his arms giving way. He did not know whether he had to drop but a few inches, or, it might be, to China, on the other side, but drop he must, so he let go, and down he went, a distance of twenty-five feet, but, strange to say, was scarcely hurt, owing partially perhaps to not being a heavy weight.

As novelists say, his situation, beyond present human aid, sixty feet below the surface of the ground, "may be more easily imagined than described," but it was no imagination with him, it was a stern reality. There he was, without any prospect of early succor, his whole stock of provisions and water consisting of one small piece of tobacco.

As he did not put in an appearance at home, his parents became alarmed about him, and finally it struck them as being probable that he was at the mine. So his father and brother went there yesterday. The poor fellow, who had been in the shaft three nights, a part of Sunday, all Monday and Tuesday and a part of yesterday, heard somebody above him and managed to raise a feeble cry, which was, however, sufficiently distinct to be heard by his anxious relatives in search of him. Another piece of

rope was found, his brother was lowered into the shaft by the windlass, and the unfortunate lad was brought safely out, in a very weak state. By the fall he lost a couple of his front teeth, and, as snow fell on him during the most of the time of his novel incarceration, he caught a very bad cold.

Being a bit of an artist, he endeavored to pass the time in his narrow prison by carving figures and faces with his pocket knife on the rock and clay around him. Sound sleep was out of the question, under the circumstances, but he would frequently doze off, when he would dream all sorts of things, mostly about somebody coming to take him out of the hole. Altogether he had quite an adventure, and he has reason to be thankful that he has got out of such a scrape as well as he has.

The shaft down which he slid so unceremoniously had been left by the diggers for another locality, which was the reason he was not reached and rescued sooner.

Sharp Firing.—In the Third District Court this morning some sharp shots were fired between his honor Chief Justice McKean and Attorney Whitney. It appeared that the case of the Utah Silver Mining Company vs. John Tiernan had been set for trial to-day, and that it was understood that Bennett and Whitney were counsel for plaintiffs, and Marshal and Royle for defendant. Mr. Whitney announced that the plaintiffs were not ready, and furthermore, that it was not the understanding that it should come up for trial to-day. His honor insisted that this was the day set and agreed upon, and furthermore, he was determined to dispose of the case some way or other. Mr. Marshall said the plaintiffs were ready for trial, and the Court ordered a jury to be called. Meanwhile Mr. Whitney desired leave to make and file an affidavit, and commenced writing nervously on a piece of paper and looking exceedingly pale and angry. Finally he said, in a rather low tone, "I do not recognize the right of the Court to characterize the statement of myself or any attorney of this bar as being false."

"What did you say, Mr. Whitney?" said the Judge, sharply.

Mr. Whitney repeated his remark.

His honor then opened out upon him, in his clear ringing metallic voice, manifesting much pent-up intensity of feeling. He said members of this bar would complain about delay in the business of the Court, and yet when their cases were brought up for trial they were not ready, etc.

"Do I understand your honor's remarks to apply to me?" said Mr. Whitney.

"Yes," said the judge, "Mr. Whitney, I mean you, sir. You have complained particularly, more than a majority of this bar."

Mr. Whitney here inclined to "deny the soft impeachment," when the Court alluded directly to the case in point, when Mr. Whitney showed his weakest point to the enemy by stating that the case in question was not his case.

This announcement floored him, and the judge told him that he was guilty of impertinence in speaking in the case at all, and ordered him to take his seat instantly. Unless he should withdraw the statement that the case was not his, the Court would not allow the attorney to say a word in connection with it at all.

Mr. Whitney sat down again and was about to re-commence writing, when the Court told him he need not make an affidavit, for, as he had nothing to do with the case he, the Court, would not recognize him in it.

Mr. Marshall, on the other side, not wishing to take "snap judgment" on the opposing counsel, under the circumstances, made a motion to continue the case, which was granted by the Court.

It is but justice to his honor to state that there is considerable truth in his strictures about the Court not being to blame for all of the law's delay, a portion of it, at least, belonging to members of the bar.

FROM FRIDAY'S DAILY, MAR. 5.

Disorderly.—Samuel Jones, a transient, was intoxicated and disorderly last night, and swung a pistol around in a most dangerous manner. He was arrested, and Justice Pyper fined him \$25 this morning, in default of which he was committed.

What's the Time.—The other day

a man named White, who lives on the other side of Jordan, came to town and got a clock, which had been left in town for repairs. On the way home he had occasion to call at a house, and during his brief absence from his wagon somebody visited it and walked off with the timepiece.

The Bar Spiders.—The Sacramento Record-Union talks of "counsel fees and alimony" being "dangled before the eyes of a bar that has never yet shown insensibility to feminine distress personifying Fee, nor indifference to opportunity pregnant with Alimony," and says the spiders of the law "are many and hungry and lean."

Fence Breaking.—A number of boys were before Justice Pyper to-day, on a charge of breaking a fence, belonging to Alex. J. Daft, in the 8th ward. The lads confessed, seemed penitent, and said they were led to commit the act in retaliation for the owner of the fence having killed a number of pigeons belonging to them, on his lot, last summer. After receiving a salutary judicial reprimand and admonition, they were discharged.

Man Killed by a Snowslide.—Day before yesterday, while W. G. Thomas, brother of Prof. C. J. Thomas, was engaged in conveying provisions to Hennefer's mine, Big Cottonwood, a snowslide occurred, burying him. Since the occurrence parties have been engaged digging for the body, but, at last accounts, it had not been found. Several parties who were above the slide saw the unfortunate man caught and buried up. It will probably be some time before the remains are recovered.

On Trial.—The suit of Albina L. Williams et al vs. Benjamin F. Cummings was called up this morning, and the trial of the cause commenced, Morgan and McBride for plaintiffs and Snow and Hoge for defendant.

The following were drawn as a petit jury by the Marshal, and being accepted by both sides, without challenge for cause or peremptory challenge, were empanelled and sworn to try the case—

William J. Hooper, William Naylor, A. W. Davis, George E. Bourne, Joseph Peck, E. B. Callahan, De Witt C. Thompson, Geo. M. Ottinger, Daniel Cram, Charles Ellis, Samuel Bringham and Frederick Peterson.

The complaint sets up that plaintiffs are heirs of the late Thomas S. Williams, that the latter was the rightful owner, by purchase of the half of a certain town lot on Second South Street, and that his heirs held it in possession for some time after his demise; that subsequently B. F. Cummings took possession of the property in question and now holds it, and the plaintiffs set forth that they only have the right of possession, which the object of the present suit is to obtain.

Mr. Adam Patterson, by agreement and request of counsel on both sides, was sworn by the Court to report the testimony.

Mrs. Williams was the first witness on the stand.

That Unpleasantness.—Yesterday an account was given in the News of an unpleasantness in the District Court between Chief Justice McKean and attorney George E. Whitney. The matter did not end with the spat in open court. After court had adjourned, and but few persons were present, Mr. Whitney asked the judge for an explanation of his assertion that he, Mr. W., had made false statements. His honor refused to speak to him, in effect; that if the Judge said he had uttered falsehoods he was a liar, the Chief Justice did the wisest thing that he could have done under the circumstances, by refusing to speak and walking away.

Such scenes cannot be regarded as being other than humiliating, and by no means creditable to those engaging in them, and cannot but be regretted, especially when the social, professional and official positions of the parties are considered. The affair has reached such a point, too, that it can scarcely be expected to have yet ended.

But a short time has elapsed since the Chief Justice took occasion, in the Court of the U. S. Commissioner, to hurl at a couple of members of the press the disgraceful epithets of "calumniators and liars," and now comes a member of the bar of his honor's own Court and flings at the Chief Justice the

sharp weapon which he himself has so forcibly dashed at others. "O judgment thou hast fled to brutish beasts, and men have lost their reason!"

The Seduction Case.—The following decision was rendered in the Third District Court this morning, by Chief Justice McKean—

Territory of Utah, } March Term,
Third District Court, } 1875.
Ex-parte, JOHN CUMMINS.

- 1.—Under the statutes of Utah it is a felony to seduce and debauch an unmarried woman of previously chaste character, but not so in the case of a married woman.
- 2.—A decree of divorce granted on the 5th day of April, 1871, by a Probate Court, and without notice to the defendant in the suit, was void.
- 3.—The woman thus sought to be divorced being still a married woman, the act of seducing and debauching her on the 28th day of April, 1874, was not a crime under any statute of this Territory.
- 4.—If any statute subsequently enacted must be so construed as to make such deed a crime, it would follow that such statute would be in that regard, *ex post facto*, and void.

The petitioner is brought before this Court by the writ of *habeas corpus*. The facts will appear in the opinion of the Court.

Frank Tilford for the petitioner.
Wm. Carey, U. S. Atty. for the people.

McKEAN CH. J.—A woman by the name of Rosina Davey was married to one Charles Morgan in July, 1870. The Probate Court of Salt Lake County, on the 5th day of April, 1871, granted to her a decree of divorce from the said Morgan, *ex parte*, the said Charles Morgan not being found. On the 28th day of April, 1874, the petitioner, John Cummins, seduced and debauched the said Rosina, it being admitted by counsel, for the purposes of this hearing, that she was previously of chaste character. For this act, a justice of the peace, on a sworn complaint, issued his warrant against Cummins, who was arrested, examined and committed to await the action of a grand jury. The statute which Cummins is alleged to have violated is the following—

"If any person seduce and debauch any unmarried woman of previously chaste character, he shall be punished by imprisonment not more than twenty years nor less than one year, and fined not more than one thousand dollars nor less than one hundred dollars." (*Laws of Utah*, p. 52, sec. 21.)

The questions presented to the court are—was the said Rosina an unmarried woman at the time she was thus seduced and debauched?—it being conceded that Charles Morgan is still living; and can Cummins be lawfully punished for the act complained of?

The doctrines repeatedly held by this court, and by the territorial and national supreme courts, settle the question that the probate court had not jurisdiction to grant the so-called decree of divorce. It follows that the woman, Rosina, was the wife of Charles Morgan at the time she was seduced and debauched; and the statute applies only to the seducing and debauching of an unmarried woman.

But the act of Congress, applicable to this Territory, approved June 23, 1874, provides, that all judgments and decrees heretofore rendered by the Probate Courts, which have been executed, and the time to appeal from which has by the existing laws of said Territory expired, are hereby validated and confirmed.

The court did not understand counsel to claim that it was the intention of Congress to validate a so-called decree which had been rendered *ex parte*, the defendant not being found. But if it were to be conceded that the decree of divorce under consideration has been validated and confirmed, so that the parties named in the decree are now lawfully divorced, still, it would by no means follow that a statute approved June 23, 1874, makes an act, perpetrated nearly two months before, a felony, when, at the time of its perpetration, such act was not a felony. Any statute that required such a construction would be *ex post facto* and void. (*Smith's Com. on Stat. and Const. Construction*, Secs. 367-8; 2 *Abb. Nat. Dig* 205-6.)

It follows that the prisoner should be discharged from custody.
Ordered accordingly.

FROM SATURDAY'S DAILY, MARCH 6.

Office Opened.—The Deseret Telegraph Company has opened a telegraph office at Shauntie, Beaver

county, nine miles southwest of Star District.

Returned Missionaries.—Last evening Elders Robert Smith and S. Bills, of Payson, returned from a mission to the United States and Canada. Elder Jas. A. Ross, of Corn Creek, also returned yesterday from a mission to the East. All were in good health and spirits.

Mason Work Completed.—A dispatch from St. George to Presidents B. Young and George A. Smith, received last evening, states that the mason work of the St. George Temple was finished yesterday. The last stone was laid in the afternoon, at 4 o'clock.

Police Court.—One Swan, a saloon keeper, pummelled Stomberg, a deaf and dumb tailor, last night. He was fined \$10 to-day.

S. A. McMullen was intoxicated last night, and was boisterous and unruly. When the police officers interfered he stepped back and was about to draw his pistol, saying he would let the officers see "who was running the machine." He was fined \$10 to-day.

More "Whoppers."—The following is from the San Francisco Chronicle—

"Salt Lake, March 3.—Governor Axtell, it is reported, says he has forfeited the respect of the President, and his removal is expected. He repudiates the republican party and openly denounces Grant's administration as venal and corrupt."

Scandinavian Public Hall.—We learn that the Scandinavian Saints of this City are, with the consent of the First Presidency of the Church, taking steps towards building a public hall, to be used by them for religious meetings and other purposes. It is designed to obtain the necessary funds by donation. One special use to which it is intended to put this hall when erected is to provide welcome in it to this City for newly arriving Scandinavian emigrants with that warm hospitality so proverbial with the people of that nationality.

Home Made Brooms.—Mayor Wells has lately had some broom-making machinery made, by Brother Phares Wells, and has established a small broom factory, in his new brick building, in the rear of his residence. The machine is an excellent one, being well and strongly constructed; the broom corn is probably as good as is grown anywhere else, and is produced on the Mayor's own farm. The major portion of the twine, too, that is used for binding the brooms, is home-made, and much stronger than the imported. It is manufactured by Brother Peter Gray, of the 11th Ward. Brother James T. Wilson, of the 2d Ward, who has made brooms for about ten or a dozen years, is the party who is making them, and he turns them out in the most dexterous and workmanlike manner. We saw him make one to-day, strong and substantial, all complete, in the short space of ten minutes.

For durability those brooms, we should judge, are much superior to the imported ones. If you want a good broom, buy a home-made one.

Pueblo and Salt Lake Railroad.—On Wednesday last Messrs. R. B. Carr and John D. Perry arrived in this city for the purpose of consulting with the directors of the Pueblo and Salt Lake railroad. A conference was held, at which a proposition looking to the ironing of the Pueblo and Salt Lake line by the Kansas Pacific was discussed, but there being but a minority of the directors of the Pueblo and Salt Lake in the city, no conclusion could be arrived at at present. The best possible feeling prevailed during the conference. The Kansas Pacific representatives left for Denver on Thursday morning. —*Colorado Chieftain*, March 4.

DIED.

At Bountiful, Davis Co., March 5th, JOHN McINTOSH, aged about 82 years.

Deceased was born in the highlands of Scotland, whence he emigrated to Canada in the year 1824; in the latter place he became a member of the Church of Jesus Christ of Latter-day Saints, being baptized in the year 1836 by John E. Page, laboring there; in 1851 he came to Utah, staying a year or two in Salt Lake City, when he moved to Bountiful, where he resided till he died. For twelve years preceding his death, he had the entire charge of the Tabernacle at Bountiful, which place he ever kept clean, warm and comfortable for the Saints to worship in. He is thus known to many who respect him for his fidelity.—*Com.*