THE EVENING NEWS.

Thursday, . . . May 21, 1874.

COURT PRACTICE IN THE TERRITORIES.

SUPREME COURT OF THE UNITED STATES.

No. 139—October Term, 1873.

[CONTINUED.]

In the case of Orchard *vs.* Hughes (1 Wall., 77) a majority of this court was of opinion that the Territorial courts were subject to the same general regulations in equity cases which govern the practice in the circuit and district courts. That was the case of a foreclosure of a mortgage in the Territorial court of Nebraska, and the court, under a Territorial law, not only decreed a foreclosure and sale of the mortgaged premises, but gave a personal decree against the defendant for the deficiency. We had decided in Noonan *vs.* Lee, 2 Black, 499, that under the equity rules prescribed for the circuit and district courts, such a decree could not be made. The majority of the court now applied the same rule in the case of Orchard *vs.* Hughes, although it was decided by a Territorial court. Following out the principle involved in that decision, we subsequently, in the case of Dunphy *vs.* Kleinsmith (11 Wall., 610,) reversed a judgment of the Supreme Court of Montana, on the ground that the case (being in nature of a creditor's bill, filed to reach property, which the debtor had fraudulently conveyed) was a clear case of equity, whilst the proceedings therein exhibited no resemblance to equity proceedings, there being a trial by jury, a verdict for damages and a judgment on the verdict.

On a careful review of the whole subject we are not satisfied that those decisions are founded on a correct view of the law. By the 6th section of the organic act of the Territory of Montana (13 Stat., 85), with which that of Nebraska substantially agreed, it was enacted, "that the legislative power of the Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act." By the 9th section it was provided "that the judicial power of said Territory shall be vested in a Supreme Court, District Courts, Probate Courts, and in Justices of the Peace," and that "the jurisdiction of the several courts herein provided for, both appellate and original, and that of the Probate Courts and Justices of the Peace, shall be limited by law; *Provided*," that "the said Supreme and District Courts respectively shall possess chancery as well as common-law jurisdiction."

Now, here is nothing which declares, as the process act of 1792 did declare, that the jurisdiction of common law and chancery shall be exercised separately, and by distinct forms and modes of proceeding. The only provision is, that the courts named shall possess both jurisdictions. If the two jurisdictions had never been exercised in any other way than by distinct modes of proceeding, there would be ground for supposing that Congress intended them to be exercised in that way. But it is well known that in many States of the Union the two jurisdictions are commingled in one form of action. And there is nothing in the nature of things to prevent such a mode of proceeding. Even in the Circuit and District Courts of the United States the same court is invested with the two jurisdictions, having a law side and an equity side; and the enforced separation of the two remedies, legal and equitable, in reference to the same subject-matter of controversy, sometimes leads to interesting exhibitions of the power of mere form to retard the administration of justice. In most cases it is difficult to see any good reason why an equitable right should not be enforced, or an equitable remedy administered in the same proceeding by which the legal rights of the parties are adjudicated. Be this, however, as it may, a consolidation of the two jurisdictions exists in many of the States, and must be considered as having been well known to Congress; and when the latter body, in the Organic Act, simply declares that certain territorial courts shall possess both jurisdictions, without prescribing how they shall be exercised, the passage by the Territorial Assembly of a code of practice which unites them in one form of action, cannot be deemed repugnant to such Organic Act.

(TO BE CONTINUED.)

MINING STOCKS.

AFTERNOON BOARD.

San Francisco, May 2?.

165 Valley, 10¼; 10¼
670 Hy, 24; 23½; 23½, s 30; 24, b 30; 23¾, 22; 23; 23, s 5
100 Eureka Con, 20¼
120 Hocher, 8, 8¼; 8¼
830 Panacea, 1½
200 Flar, 2½; 2¼
100 Bowery, 3c
700 Belmont, 5½, s 5; 5¾
200 B Peak, 12½c
150 Ingomar, 13½c
100 Chf Hill, 60c
20 Patch, 3
400 Rbl South, 7½; 7½, b 10
300 Quintero, 20c
755 Indept, 50c
145 Bellevue, 1½
2130 Newark, 1½; 1½; 1½
350 Charles Mill, 5
630 Rbl North, 2½
100 North Belmont, 25c
285 Ku Klux, 5½; 5; 5, b 10; 5½
550 Watson, 6; 6, b 30
225 O Chariot, 15
600 South Chariot, 12; 12½
30 Ida Elmore, 95c
2200 War Eagle, 4½; 4½; 4¾, b 30; 4½; 4¾
511 O & C, 23; 22½; 23, b 30; 22½; 23
130 Alpha, 11
195 Savage, 76; 75½; 76; 74½
2075 Ophir, 16½; 15½; 16, s 10; 15½; 15½; 15¾, s 90
760 Empire Idaho, 12; 12½, b 30; 12½; 11½
300 R Jacket, 2; 2½
370 Con Va, 75; 75, s 30; 73½; 75¼; 75, s 50
120 H & N, 41; 41, s 30
440 Imperial, 49c; 49c
110 Challenge, 62½; 62
100 Cala, 40, b 30; 39½
85 Overman, 20½
490 Belcher, 80½; 80; 80½; 70, s 90; 80, s 50
20 C Point, 60½

WRAPPING PAPER, of various sizes, some of the best ever manufactured here, for sale at the NEWS Office.

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148, 150 & 152 Reade St., New York.
Branch Office, 101 Water St., near Wall.

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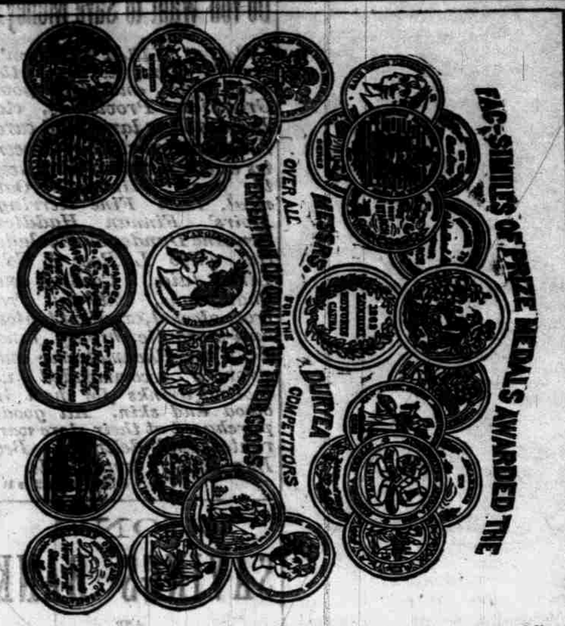
NOTICE TO THE PUBLIC. I HAVE just opened a New Limestone Quarry, which makes it superior WHITE MARBLE. It cannot be surpassed for purity, whiteness, or any other quality by any lime. It is equal to the Cheesman, and by lots between the brooks. Very good for plastering. Just ask my customers.

Depot, City Market Restaurant,

And see. Try it for yourselves.

I will deliver it to any part of the city, or by car load to any part of Utah.

d115 3m G. R. JONES.



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d97 a15 6m eod

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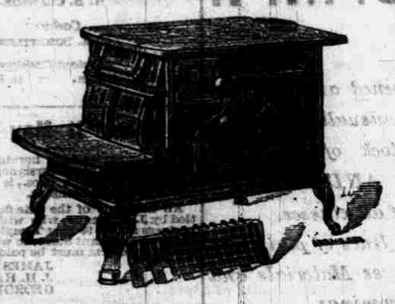

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d245 all w55 6m ea

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Magnificent Cases

OF SOLID WALNUT!

NO PAPIER-MACHE NOR SAWDUST ORNAMENTS

Used in their construction. We have just received another shipment of our

SUPERB ORGANS!

Which we will sell for Monthly Payments, running through

ONE OR MORE YEARS,

And at prices THIRTY PER CENT. LESS than are asked for inferior Organs. Call and compare prices and quality before purchasing elsewhere, and thereby save from $50 to $60.

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d59 tf For Mason & Hamlin Organs.

ALL KINDS OF

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NUTS, RAISINS, FIGS, ETC.

Everything of the Best Quality and Low Prices.

H. WALLACE, First South Street.

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Reliable Testimony!

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BEING very desirous to dispose of all his fine Jewelry, Watches, Clocks, Field and Opera Glasses, Spectacles, etc., etc., offers a rare chance to the public for investment.

This JEWELRY is selected with the utmost care, both for beauty and excellence. The WATCHES are unsurpassable both for strength and good going.

☞ All goods are warranted.

Appended are testimonials from prominent reliable gentlemen well known in the Territory:

"The Watch I bought of you in 1872 goes most excellently, never varies 5 minutes, has never had any repairs to it since I got it, although it has been exposed to very hard usage.

A. C. BROWN,
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"The Watch I bought of you last year has proved to be the best article I ever handled. Having let it lie in the water, once at the depth of six feet, besides a great many other hardships, and stands all with perfect ease, being always right to time.

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DANIEL G. BRIAN,
Paper Mill, Salt Lake Co."

And the like high recommends from Messrs. H. W. Chessire, Salt Lake City; C. J. Lambert, Paper Mill, Salt Lake Co.; G. O. Lambert, *Juvenile Instructor* Office; T. O. Angel, Church Architect, Salt Lake City; Cyrus Dallas, Tooele City; Bishop R. E. Sheets, City; Bishop S. A. Woolley, City; Archibald Gardner, West Jordan; I. M. Stewart, South Willow Creek, and many hundred others.

☞ *Mark the address and call early.*

CARL C. ASMUSSEN,
Opposite Post Office,
d250 1y SALT LAKE CITY.

NOTICE.

U. S. LAND OFFICE,
Salt Lake City, U. T.,
April 8th, 1874.

COMPLAINT having been entered at this Office, by William B. Cole against Franklin Goodspeed, for abandoning his Homestead Entry, No. 1118, dated May 4th, 1871, upon the northwest quarter, Section 3, township 2 south, Range 1 west of the Salt Lake County, Utah Territory, with a view to the cancellation of said entry; the said parties are hereby summoned to appear at this Office, on the 15th day of May, 1874, at 10 o'clock a.m., to respond and furnish testimony concerning said alleged abandonment.

WILLIETT POTTINGER,
Register.

TREES.

50,000 Trees

Of various kinds, for sale.

From 25c. to $1.00 each.

Also Roses, Garden and Greenhouse Plants, at my

NURSERY IN THE SIXTH WARD,

Two Blocks South and Two West of the Court House.

☞ All Trees Warranted true to name. ☜

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NEW YORK TRADE.

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Corner Crosby,
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Manufacturers of

BUILDERS' HARDWARE

45 and 47 Chambers St., New York.

☞ *Sole Agents for National Screw Co's Wood Screws, and Russell, Burdsall & Ward Carriage Bolts.* d84 1y

LeRoy W. Fairchild & Co.,

Manufacturers of

GOLD PENS,

Pen and Pencil Cases,

110 William St., NEW YORK.

Medal for best Gold Pens awarded by Paris Exposition of 1867.

☞ The above goods are sold by James Dwyer, Salt Lake City, and other dealers throughout the Territory.

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Manufacturers and Jobbers of

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314 and 316 Broadway,
S. B. MILLS. New York.

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Spool Cotton

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ARE THE BEST.

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Manufacturers of

Cut, Loaf, Crushed, Powdered and Granulated

SUGAR!

White and Yellow Coffee Sugar, in Barrels, Half Barrels and Sacks.

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Buck and Kid Gloves,

MILLINERY GOODS,

414 and 416 FIFTH STREET,... St. Louis

d145 6m

DODD, BROWN & CO.,

DEALERS IN

Dry Goods and Notions,

5TH and 3D. CHARLES STS.,

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H. B. GRAHAM & BRO.,

No. 213 NORTH SECOND STREET,

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Registered Factory, No. 74, 1st District, MISSOURI.

LIGGETT & MYERS,

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Chewing Tobacco,

Factory and Office,

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Chas. Rueppele & Co.,

MALTSTERS

And Dealers in

HOPS, BARLEY.

And All Articles

For Brewers and Distillers Use.

OFFICE No. 23 SOUTH MAIN STREET,

Between Market and Walnut.

SAINT LOUIS, MO.

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OWENS, LANE & DYER,

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Portable & Stationary Engines,

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Western Foundry,

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STEAM ENGINES

Steam Boilers and Sheet Iron Work, Circular, Mulay and Sash Saw Mills, Grist Mills, Grist Mill Machinery, Shafting and Pulleys, Quartz Mills and Crushers, Gas Works Machinery, etc., etc.

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Manufacturers and Importers of

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And Purveyors of the Celebrated "ELECTRIC RAZOR."

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Specialties:—Chloroform, Ether, Spirits Nitre, and all sorts of essential Oils and Flavors. Also, Printers' Roller Composition.

No. 10 Morgan Levee,

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To their new premises on

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Lewis, Oneida co., "
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