

heulty. For, in the first place, a license prevents the multiplication of cheap and low drinking-places; in the second place it puts a price of drams above the reach of a large number; and in the third it makes those who will sell or buy the stimulant contribute to the public benefit by adding to the public revenue. Luxuries should always be placed in preference to necessities, and the great majority of mankind will not claim that liquor is absolutely needful.

The policy here defined has been adopted in this Territory. If this had been or was expected to be a "Mormon" community, prohibition might have been made the law. But with a mixed population, containing persons who had formed a habit of using intoxicants, it is considered impossible to prevent the sale and use of liquor. Therefore our Legislature, in granting power to the County Courts to regulate the liquor traffic, did not intend it as far as prohibition. Some of the municipalities have received the power and have exercised it to advantage where the population is most entirely "Mormon," but in Lake City, for the reasons here advanced, has not been so endowed. The question here arises, how far Salt Lake City authorized by its charter to interfere in the liquor business? From the ruling of Judge Hunter in favor of the liquor dealer, no sold without a license, in defiance of the ordinance of the city, it might be supposed that the municipality only had power to "regulate" the traffic. His decision is that the amount required by the ordinance—\$1,000 per annum—is a tax, and that it is invalid on the ground that the city is not empowered to tax, but only to license liquor selling; that where an amount is required in excess of a reasonable compensation for the issuing of the license and the securing of efficient police regulations, it becomes a tax and is therefore not collectable. But the city has power by its charter to do something more than "regulate" this traffic. It has power to "restrain" it, and one of the measures necessary to restraint is a high license fee, which is recognized nearly all over the Union.

The Charter of Salt Lake City empowers the City Council, "To license, regulate or restrain the manufacturers, sellers or venders of spirituous or fermented liquors, etc." In what way can the City Council lawfully "restrain" these dealers, except by a high license, limiting the hours of sale and similar regulations? Judge Hunter says \$1,000 per annum license fee amounts to a tax. Will His Honor be kind enough to define the limit where a license fee ends and a tax begins? It appears to us, and we think it has been so judicially decided, that a license and a tax are essentially different. A tax is levied on property assessed according to its value. A license is a privilege granted on certain conditions and for a fixed amount. It authorizes the performance of an act which without it would be illegal. The amount of the fee to secure the license does not change its character. It is not any more a tax if the fee is a thousand dollars than if it is but one dollar. No special right or privilege is extended for the payment of a tax; a license does extend a special right or privilege, and is in the nature of a contract, which a tax is not.

In order to establish the pecuniary dividing line between a license fee and a tax, the Judge would have to exercise legislative functions which are not included in the powers of the judiciary. The Legislature has conferred restraining and licensing authority on the City Council, and the limits of their powers must be defined by law, not arbitrary opinion, and as a legislative body, large discretion is given to them, which they should exercise within reasonable bounds for the public welfare. They have imposed a high license in accordance with public sentiment, not so high indeed as a majority of the citizens desire, but within the limits which their discretion has deemed advisable, with a due regard both for public sentiment and the rights of the persons licensed.

It is a deplorable thing when the highest powers in the State lend themselves to measures against public policy and the peace and good order of the community. It is generally conceded that intemperance is one of the greatest foes to true progress and the public welfare. At the last session of the Legislature, a moderate and equitable bill was passed for the regulation of the liquor traffic in the Ter-

ritory. It was well considered and debated, and was sent to the Governor as a measure necessary for the public weal. It was vetoed in the interest of the liquor dealer and against the interest of the Territory. The ordinance fixing the liquor license fee in this city, at \$1,000 per annum, has been in force for several years; has been twice sustained by Judicial ruling of the Third District Court; has been instrumental in closing up the worst liquor holes that were open in town, and maintaining a certain degree of respectability in the places licensed, and now a Judge of the same court rules in favor of a person who defied the law by selling without a license, sets him at liberty and decides squarely in opposition to his predecessors.

We should not be considered captious or presumptuous in taking issue with Judge Hunter on this question, for both Judge McKean and Judge Schaeffer sustained the point that he has ruled against. And it appears to us that when there is a doubt as regards the powers and jurisdiction of municipal bodies, that the decision should lean towards the maintenance of public order and the checking of admitted evils, rather than in the direction of those who defy the law and in doing so stand up for no laudable principle, but take a position in favor of disorder and public demoralization.

Of course in the *habeas corpus* case the proceedings were summary and admitted of no appeal. We hope that some case will arise by which the soundness—or rather palpable weakness—of Judge Hunter's opinion will be tested. The Supreme Court of the Territory should be appealed to on this important question.

LOCAL AND OTHER MATTERS.

FROM FRIDAY'S DAILY, MARCH 11

Horse Thieves.—The Milford *Sentinel* of the 6th says:

"Jot Travers, one of the owners in our Southern Stage Line, reports an increase of horse and cattle thieves in this part of Zion, and has been the loser of a large band of horses. We think that it is about time the authorities that be, put a stop to this kind of work and protect the property of those who are heavy taxpayers."

Case of Suicide.—The following special to the News was received yesterday at 1.20 p.m., but was crowded out of our columns last evening:

Ephraim, Utah,
March 10th, 1881.

Nells Hanson, from Elsinore, Sevier County, shot himself this morning about 10 o'clock. He has, for some time, been subject to fits of insanity to such a degree that his family feared to have him at home. His brothers induced him to come and stay with them here in Ephraim, and have done all in their power to make his stay as pleasant as possible. This morning he visited some of his acquaintances, and under pretence of having seen a mink outside, which he wanted to shoot, got hold of a gun and went outside and shot himself through the head, causing death almost instantly.

From Tennessee.—We had a pleasant call this morning from Elders Franklin Spencer and G. W. Bean, of Richfield, Sevier County. The former returned last evening from a mission to the Southern States, accounts of which have reached us from time to time and been published in the columns of the News. He left here on the 14th of October, 1879, and has spent most of the time in Tennessee. About five weeks he spent in gathering genealogical data in Kentucky, Ohio, Indiana and Illinois, in which work he was very successful. He speaks encouragingly of affairs in Tennessee, where a radical change has taken place favorable to spreading the gospel and the conversion of people to the truth. The spirit of persecution has abated to a remarkable extent, and the spirit of inquiry increased correspondingly. Our readers will remember many interesting statements which have appeared occasionally, connected with labors of Brother Spencer and other Elders in the Southern States mission, which it is therefore unnecessary to repeat at this time. He returns in good health, and will leave for home shortly. Brother Bean is up to the City on business, and will go back to Richfield in company with Brother Spencer.

FROM SATURDAY'S DAILY, MARCH 12.

Not Started.—A private telegram received to-day from Hon. George Q. Cannon states that he is detained in Washington on important business, and will not be home for several days.

BOARD OF TRADE.

Report of Meeting held in the Council House, March 12, 1881.

The roll was called; quorum present.

The chair stated the object of the meeting, which was to effect a permanent organization.

Moved and seconded, that we proceed to elect officers of the Board, and that they be elected by the body of the house.

W. W. Riter moved an amendment, that a committee of seven be selected by the chair to appoint officers of the Board. The amendment was carried. The following were selected as the committee on nomination: W. W. Riter, D. O. Calder, W. H. Rowe, Geo. H. Taylor, Wm. Naylor, Elias Morris, James Crane.

The committee reported the following names which were presented:

For President—Angus M. Cannon.
First Vice-President—D. O. Calder.

Second Vice-President—Joseph E. Taylor.

Secretary—John Nicholson.

Moved and seconded that the report of the committee be received. Carried unanimously. The nominations for officers were presented to the Board separately and unanimously sustained.

Geo. Romney, Chairman,
R. V. Morris, Secretary.

After the foregoing organization was effected the chair was taken by Vice-President D. O. Calder. The resignation of A. N. McFarlane member from the 21st Ward, was accepted, and Herbert J. Foulger was elected to fill the vacancy thus created.

It was decided to have 250 copies of Preamble and Articles of Association printed. It was also resolved that the secretary act as treasurer until otherwise directed by the Board.

During the session, which lasted about two hours, various speakers addressed the assembly. The meeting adjourned till the last Saturday in March. According to the Articles of Association, the Board will hold its meetings on the last Saturday of every month. A meeting may be called by the President and five members but the presence of at least one-third of the members, is necessary to the transaction of business.

RESOLUTIONS OF RESPECT.

At a meeting of the board of directors of the Salt Lake Foundry and Machine Co., held March 10, 1881, it was

Resolved, That as death has taken from our midst our esteemed and beloved president, R. B. Margetts, that we tender our heartfelt sympathy and condolence to the bereaved family for their loss.

Whereas, He was an efficient officer and a staunch supporter of home industries, we greatly deplore his demise.

Be it resolved, That a copy of these resolutions and the proceedings of this meeting be transmitted to the family, and printed in the leading papers of this city.

Signed, ELIAS MORRIS, President.
PHILIP PUGSLEY, Secretary.

HOMESTEAD PATENTS.

U. S. LAND OFFICE,
Salt Lake City,
March 11, 1881.

The following homestead patents have been received at this office and will be delivered to the proper persons, upon the surrender of the duplicate receipts endorsed:

663 Thos. Nicol	1287 John Richardson
1048 Thos. Titensor	1289 Richard C. Orr
1049 Charles Allen	1294 Chas. A. Harper
1050 The heirs of Eli- jah Allen, deceased	1295 Edmund Snyder
1167 Josiah H. Perry	1296 Thos. D. Steven- son
1201 John Wm. Curtis	1297 William Clegg
1228 Algey Ramsdell	1298 Wm. Knighton
1245 Geo. W. Cravenshead	1299 Jonathan G. Kimball
1246 Wm. Stevenson	
1281 Edward W. Dav- enport	1300 Ezekiah Carter
1282 Wm. J. Hill	1301 John Horton
1285 David P. Davis	1302 Geo. Remington
1286 John Fife	1303 Cyrus Talman

H. McMASTER,
Register.

FROM MONDAY'S DAILY, MARCH 14

Theatre Improvements.—The new entrance of the southwest part of the Theatre is nearly finished. A substantial platform of rock and mortar has been erected, and steps will be placed shortly. The doors are being hung this afternoon. The new steps are rapidly being put down in front. All will be in readiness for use by Tuesday evening.

Painful Accident.—The *Sentinel* of the 12th inst. says:

"At Adamsville, March 5th, while baling hay in company with some of the neighbors, a lad on the stack let fall a three-tined pitchfork, which falling about eight feet, stuck the two outside tines between the shoulder blades of a son of Watkins Rees, the middle tine striking the back bone, glanced and passed down between the bones. The injured boy is doing as well as possible."

The Strikers Struck.—Associate Justice S. P. Twiss, in charging the Grand Jury of the Second District, goes after the Silver Reef strikers in these words:

"I am informed, and it is well known to the public, that in one of the mining camps of this district, the laws of the land are set at defiance and disregarded. That peaceable, orderly and law-abiding citizens are driven from their homes and property by persons acting together without authority of law. Such conduct is an offence against law, which provides a punishment for all those who are guilty, and I call your special attention to this matter that the perpetrators of such acts may be brought to justice and the majesty of the law vindicated."

Returned Elder.—We had a call this afternoon from Elder T. W. Heward, of Draperville, who returned last Thursday from a mission to the Southern States, where he has spent the last 21 months, preaching the gospel and baptizing converts. He spent most of the time in Georgia, where he baptized eight persons, his companions in the same places performing the ordinance for an equal number of others. Brother Heward enjoyed his mission, met with a great many harsh threats, but no further ill-treatment, and has been in good health all the time, in fact, he returns feeling better in body and in mind than when he departed hence. He left the mission prosperous and with a fair outlook for the future. He stopped at Kaysville on Thursday and remained there till this morning. He leaves for Draper to-morrow.

First District Jurors.—The First District Court has adjourned until April 12th. From the *Enquirer*, we take the following names of jurors drawn last Wednesday, to serve during the May term of said court in Ogden:

GRAND JURORS.

David H. Stephens, William H. Wright, Abe Kuhn, Alfred Ward, Charles C. Shaw, H. C. Lee, Alma Matthews, Adolph Schausenback, Stephen Schram, Henry Cluff, John Ellis, R. A. Wells, James Mack, Barney Stevens, Isadore Marks, J. Crandall, Rasmus Justesen, Geo. W. Larkins.

PETIT JURORS.

J. L. Dorrity, Wm. W. Funge, J. C. Cunningham, John C. Thompson, E. R. Hadley, Geo. W. Gee, Haskell V. Shurtliff, M. S. Beardsley, Edward Peay, Winfield S. Norcross, Edwin S. Kearsley, Miles H. Jones.

Death of Samuel L. Evans.—In the demise of Elder Samuel L. Evans, Counselor to the Stake Superintendent of our Sabbath Schools, which sad event occurred at 20 minutes past 4 o'clock on Saturday afternoon, Salt Lake has lost a useful and enterprising citizen, the Church a faithful and upright adherent and the family and relatives of the deceased a thoughtful and affectionate friend, husband and father. The Sunday School cause, which particular department of the Church Brother Evans was specially interested in, will miss his kind face, his wise instructions, and his ever earnest labors in its advancement, and his departure to a better world, though for his own advantage, will naturally be deeply regretted by all who had the pleasure of his acquaintance. He passed away very peacefully, though suffering much during the greater part of his sickness. His disease is pronounced as pneumonia. The funeral services were held at 1 o'clock this afternoon, in the 15th Ward Meeting-House. The spacious hall was filled to overflowing. Bishop Hick-

enlooper, of the 6th Ward, directed the services, during which the choir of that Ward rendered four beautiful songs from the Sunday School books, of whose music the deceased was especially fond. Elder Charles W. Penrose offered the opening prayer, and the assembly was then addressed consecutively by Elder Elias Morris, Elder George Goddard, Bishop L. W. Hardy, Counselor Joseph E. Taylor, Elder Geo. G. Bywater, Elder Wm. Jennings, Bishop R. T. Burton, Elder William Willes, President John Taylor, and President Joseph F. Smith. Counselor Daniel H. Wells pronounced the benediction. The services were of a character to console and comfort the bereaved, and impart unto all instruction in the ways of life and truth, and were listened to with deep interest by the large congregation. The remains were interred in the City Cemetery, being followed thither by a long concourse of carriages containing the relatives and friends of the deceased.

The funeral cortege was headed by the 6th Ward Sunday School Martial Band, bearing a banner appropriately inscribed with the name of and a tribute to the deceased. Forty-nine vehicles followed the hearse to the cemetery.

Samuel Lineam Evans, son of Wm. and Susan Evans, was born August 22, 1823, in Bristol, England and was baptized at Cardiff, Wales, by John Lewis, in June 1853. He presided over the Cardiff Branch for many years until released to emigrate to Zion. He crossed the ocean in the ship *Emerson* in 1863, in the company of which Elder E. L. Sloan was President, and crossed the plains the same season under Capt. Ricks. The first week after his arrival here, he went to work as a stone-cutter on the Temple Block, and about five years afterward went into partnership with Elias Morris, and was junior in the firm of Morris and Evans at the time of his demise.

NOTICE.

TERRITORY OF UTAH, Probate Court for County of Salt Lake. } said County.

IN THE MATTER OF THE ESTATE OF CHARLES F. JONES, DECEASED.

Order requiring Administrators to make Report.

WHEREAS, IT IS MADE TO APPEAR that the Administrators of said estate, Rose H. Riter and John D. Riter, to whom letters of administration on said estate were issued on the seventh day of June, 1880, have not made report nor rendered an exhibit of the condition of said estate, as by law required, it is now hereby ordered that the said Rose H. Riter and John D. Riter, Administrators of the estate of the said Charles F. Jones, deceased, make and file in the office of this Court, on or before the second day of April next, an exhibit showing the amount of money received and expended by them, the amount of all claims presented against the estate and the names of the claimants, and all other matters necessary to show the condition of its affairs, and that the Clerk cause a copy of this order to be served on said Administrators as required by law.

R. SMITH, Probate Judge.
Dated March 5th, 1881.

Territory of Utah,
County of Salt Lake. } ss.

I, D. Bockholt, Clerk of the Probate Court in and for the County of Salt Lake, in the Territory of Utah, do hereby certify that the foregoing is a full, true and correct copy of an order requiring Administrators to make report, as appears of record in my office.

In witness whereof, I have hereunto set my hand and affixed the seal of said Court, this 8th day of March, A. D. 1881.

D. BOCKHOLT,
Probate Clerk.

NOTICE.

In the Probate Court in and for Salt Lake County, Territory of Utah.

JOSEPH SOWDEN, Plaintiff, }
against } In Divorce.
ELIZA SOWDEN, defendant, }

The People of Utah Territory to Eliza Sowden, defendant, greeting:

YOU ARE HEREBY SUMMONED TO APPEAR in an action brought against you by the above named Joseph Sowden, Plaintiff, in the Probate Court in and for the County of Salt Lake, Territory of Utah, and answer the complaint filed therein, within ten days (exclusive of the day of service) after the service on you of this Summons if served within this County, and if not within the County but within the Third Judicial District of the Territory of Utah, within twenty days; otherwise within forty days.

This action is brought to obtain from this Court a decree dissolving the marriage contract existing between said plaintiff and you, and if you fail to appear or answer as by law provided said plaintiff will apply to this Court for the relief prayed for in his said complaint.

In witness whereof, I hereunto set my hand and Seal of said Court, in Salt Lake City, this 11th day of March, A. D. 1881.

D. BOCKHOLT,
Clerk of the Probate Court,
Salt Lake County.