cation made to the Supreme Court of the Territory for a stay of execution while the appeal was pending. But this was denied on the ground that the matter had passed out of the jurisdiction of the Court. A telegram was sent to Justice Miller of the Supreme Court of the United States, and he replied that he had no jurisdiction in the case. The Acting Governor was appealed to for a reprieve but in vain. The matter was again brought before the attention of the Supreme Court of the Territory, by several leading attorneys of this city, who considered that under the circumstances, the execution of the prisoner would be nothing less than judicial murder. But the Court still claiming they had no jurisdiction, denied the application for a stay of execution and recommended that the Executive grant a reprieve.

These are most remarkable proceedings. The prisoner stands in risk of his life because of the course of the Territorial Supreme Court. The question of guilt should not figure at all in this investigation. A principle is involved apart from any feeling for or against the murderer. It can be made as applicable to an innocent person as to a guilty one. Supposing an innocent man has been convicted and takes an appeal, but the Court will not grant a stay of execution pending the appeal, and the man is put to death pending proceedings that might have cleared him. Would not that be judicial murder? Well, the same principle is involved in any case, and it seems absurd to a common mind that an appeal should be granted, and the appellant be punished for the offence with which he is charged before he can obtain the benefit of the appeal.

The course of the Court is the more extraordinary from the fact that in two instances before, in the same case, a stay of execution had been actually issued, and the prisoner kept in custody until the appeal was heard and determined. If the Court had power in the two previous instances, why not in the third? We do not think there was ever such an absurdity practised in a Court before. It was clearly shown by several members of the bar that the Court had control of its process, and that the right of a stay of proceedings in the cases for which Congress had provided an appeal, had never been denied till now.

Of course there are two sides to this question. It is argued that the law is defective; that while it provides for the appeal, it does not directly provide for the stay of execution pending the appeal. But the power is undoubtedly in the Court to grant the stay, for it has been exercised many times, and there is ample indirect authority for it in the laws of the United States. It is not denied that a stay of proceedings may issue pending an appeal in civil cases, and by parity of reasoning the rule will apply in criminal cases. Section 1049 of the Revised Statutes of the United States provides that:

"Whenever a judgment of death is rendered in any court of the United States, and the case is carried to the Supreme Court in pursuance of law, the court rendering such judgment shall, by its order, postpone the execution thereof from time to time and from term to term, until the mandate of the Supreme Court in the case is received and entered upon the records of such lower court. In case of affirmance by the Supreme Court, the court rendering the original judgment, shall appoint a day for the execution thereof, and in case of reversal, such further proceedings shall be had in the lower court as the Supreme Court may direct."

This does not directly govern Courts in the Territories, but the Organic Act has the following as its closing clause:

"And be it further enacted: That the Constitution and laws of the United States are hereby extended over and declared to be in force in said Territory of Utah, so far as the same, or any provision thereof, may be applicable."

But putting aside all these considerations and citations, which of course admit of dispute, what is the plain and evident intent of the law providing for appeals to the Supreme Court in cases of bigamy, polygamy and death sentences? Is it not to save the accused from punishment until the court of last resort has reviewed the case? Surely no one can deny this proposition. How absurd, then, and wicked, and destructive of natural and legal rights, to deny the only means by which the law can be made to have effect. Is not such denial, to use a favorite expression with a certain class, nullification of the law, full and complete?

The shifting of the responsibility upon the Acting-Governor we view as a piece of cowardice, that is in the highest degree censurable. It was a matter for the Court, and the Court alone, to determine. It was a judicial proceeding. It was not a case for the exercise of judicial clemency. It was a matter of right. Innocent or guilty, the prisoner Hopt had the right to all the safeguards which the law provides in such cases and to every legal remedy. The law places the power to stay execution in cases of appeal, if at all, in judicial hands. and it is something foreign to the duties of the Executive. But we consider that Acting-Governor Thomas did exactly right under the circumstances. If he had not interposed, the responsibility would have been thrown upon the Marshal, who being duly notified of the appeal to the Supreme Court of the United States, would have bean placed in a very trying position, the responsibility for Hopt's death being forced upon him.

The question here arises, what could have been the motives governing the Court in this extraordinary course? Can it be doubted, that if there had not been an intense popular feeling in favor of the execution, the stay would have been granted as in former cases? Pandering to popular passion is execrable in a Court. The judicial mind should be lifted far above the clamors of a crowd. No considerations but those of law and justice and duty should influence the bench. Almost everybody desires that Hopt should suffer the extreme penalty. But he should not be slain from revenge or any malicious motive. He must be executed lawfully, or not at all. He deserves an ignominious death, but he is still in the hands of the law, and the law must be vindicated in every particular or his killing will be murder. The demands of the populace should make no mark on the minds of the judges.

Another reason that, it is thought, had an effect upon the decision of the Court was the possibility of another reversal of its rulings. By far the great majority of cases that have been appealed to the Supreme Court of the United States from this Territory have been reversed. This does not speak very highly for the learning and judgment of the judiciary of Utah. The possibility of another proof of their unwisdom may have had some effect in the decision, to prevent any further investigations in the Hopt case. Where so much feeling and prejudice and bias exist as have been exhibited in Utah courts, it is not at all mavellous that errors prevail. And we may not reasonably expect that the decisions of our Federal judges will stand the test of the higher court, while such antagonisms as exist here are permitted to weigh upon the judicial mind.

The action at the mass meeting today was, in our opinion, characterized more by unreasonable sentiment than cool and consistent argument. Particulars will be found in our local column. It was claimed that a stay of execution would encourage mob violence; that there was no real cause of appeal in the Hopt case; and that the law should take its course without any reprieve. The fallacy of all this is perceptible at a glance. For fear of mob violence a judicial murder is to be committed. If there is no real cause of appeal, then Hopt's doom is certain, in a short time. And how can the law which provides for appeals take its course if you kill the appellant?

We hope there will be no more excitement over this affair. We are surprised that public men should take part in any proceeeings looking to the destruction of that protection which all accused persons have the right to demand. We believe in Hopt's guilt. We join in the wish that he may be made to suffer death for his crime. But we do not imbibe the spirit of vengeance which prompts the passionate cry for his execution while one legal right is left to him unexercised. We ask the public to remember that if his right of appeal may be rendered abortive on such flimsy pretexts as have been advanced, the life of an innocent man may next be sacrificed, or some person accused of crime by a packed grand jury and convicted by a packed petit jury, may be slain or imprisoned pending an appeal, which the law provides for but which a prejudiced judge may completely nullify. Is it not better that a guilty person shall evade for a time the just penalties of the law he has broken, than that a principle shall be violated which may involve the lives and liberties of many innocent persons? And does not common sense declare that if Hopt has the right of appeal, which no one can deny, he has the legal right to live until that appeal can be adjudicated? To grant a convict an appeal and kill him before the appeal can be determined, would be a travesty on law and a mockery of justice, which we hope no person outside of the Supreme Court of Utah Territory will have the idiocy to advocate or defend. Let Hopt linger on till his case is fully decided, and let no mob feeling be encouraged among the usually law-abiding people of Utah. He will surely suffer for his crime, and "vengeance is mine" is the declaration of Deity. Let patience and common sense prevail.

THE REPRIEVE, THE MASS MEETING, AND THE SHERIFF.

THE course of Acting-Governor Thomas in the Hopt case is to be highly commended. We consider that he did right in refusing to grant a reprieve to the prisoner when first appealed to. and that he did just as right in granting the respite, when the responsibility for the vindication of United States law was shamefully shifted upon his shoulders by the Supreme Court of this Territory. Public sentiment demanded the murderer's execution; the Court recommended executive clemency. He stood between two fires. It was a critical situation. Good judgment and prompt decision were necessary. His personal convictions were evidently not favorable to the culprit, and the course of the Court was inconsistent; refusal to interfere would have been applauded by the populace. But the stern fact remained, that the law of the land gave the prisoner the right of appeal, that his execution would make void that right and nullify the law, and that no power could interpose to save the life and the legal right of the accused save the hand of the Executive. Governor Thomas stood by the law in the face of the popular sentiment, and performed a brave act, in which he is sustained by the most thoughtful people, and will yet receive the approval of the multitude. At the mass meeting the hope was expressed that he would "have nerve enough to say that the law shall be vindicated." He had the necessary nerve, and the law has been vindicated though not in the sense that the meeting intended to convey.

This brings us to consideration of a communication in the Salt Lake *Herald*, of present date, and signed S. A. Kenner, in regard to our remarks concerning the mass meeting. It is there stated that our article "reflected strongly on the motives and utterances of those composing the mass meeting;" it is argued that "the impulse which brought the meeting together could scarcely have been unreasonable or inconsistent as the NEWS charges;" that "to claim that if the Governor had not interfered he would have been a party to a judicial murder is to make assertions bordering on the imbecile;" and that our article was "written more for effect than actual use." In reply to this We shall simply say that there is not a line in the article under consideration which "reflected on the motives" of "those composing the mass meeting;" that we said nothing whatever about "the impulse which brought the meeting together;" that we did not intimate that "if the Governor had not interfered, he would have been a party to a judicial murder;" and that our article *was* written for "actual use," and that use was to have an "effect" on the public mind; we happen to know that our effort was not made in vain. The rest of the communication is chiefly made up of wandering remarks, based more or less upon the inaccuracies we have quoted. Let our article and the communication be compared, and we shall be quite willing for any intelligent reader to decide which writer has made "assertions bordering on the imbecile."

We will add, that the NEWS has not said that citizens "have no right to question the correctness of such conclusions, and even protest against such conclusions being arrived at"—whatever that may mean, and where Mr. Kenner obtained the idea that the NEWS "accused those who did so of being wrong on that account"—another rather obscure expression—we are at a loss to discover. We have not disputed the right of the people to peacefully assemble and express their views on any subject. The gentlemen who spoke at the mass meeting have not been assailed by the NEWS at all, nor has their right to approve or disapprove of anything been called in question. But Mr. Kenner seems to forget that when men express opinions in public, those opinions may be discussed in public, and that a newspaper has just as much right to differ with them as they have to dissent from others. We devoted but one brief paragraph in our editorial to the mass meeting. We simply named the three chief points in the arguments used, and gave three brief replies. Not more than twenty-five lines were devoted to the meeting and its action; its motives and rights were not hinted at.

We did not intend to make anything but a very brief reference to the communication in the *Herald*, but as Mr. Kenner has disputed the right of the Governor, "directly or indirectly" to interpose his reprieve "if the Supreme Court could not stay proceedings," and has asked for "light," we will try to shed a little on the subject, refraining from any reflections like his on the "deranged condition" of any individual interested in the question. The right of the Governor is conferred by Section Two of the Organic Act, which says: "He may grant pardons for offences against the laws of said Territory, and reprieves for offences against the laws of the United States until the decision of the President can be made known thereon; and shall take care that the laws be faithfully executed." It is to the last phrase in this sentence that we chiefly desire to call attention And we ask how the law giving the right of appeal to Hopt could have been "faithfully exeeuted" if he had been shot while his appeal was pending? We take the ground that the Governor has the power, and it is made his duty, to use the Executive authority in behalf of any citizen whose legal rights are in jeopardy, when no other department of the local government can or will intervene for his protection. It appears that the three judges of the Supreme Court, who had doubts about their own powers in the premises, had no doubt whatever about this prerogative of the Governor. But these are matters about which citizens have the right to differ, although they should have the grace not to become discourteous with those who dispute their conclusions.

Since noticing this matter we have received a copy of the Ogden *Herald*, of Friday evening, which contains a communication on the Hopt case from the pen of the same writer, and several dispatches of a sensational order, which, we have ascertained, were also sent from this city by Mr. Kenner. Here are two of them:

Hopt was led out to be executed and made his death speech, protesting his innocence to the last. Not until he was through with his address, during the delivery of which he maintained unflinching firmness, was Acting-Governor Thomas' order for a stay of proceedings, read and the prisoner led back to his cell.

The city is now, 3 p. m., in a ferment of excitement and violence is apprehended.

4. p. m.—The worst is expected from the populace which grows hourly more menacing. Threats of an imitation of the Cincinnati riots are heard here and there, and the danger increases as the talk waxes warmer.

We need not inquire whether these untruthful and inflammatory dispatches were "written more for effect than for actual use," or whether they are "dress parade" fabrications; nor intimate anything in regard to the "deranged condition" of their author and his ability to "regulate the governmental system without delay;" and yet he cannot reasonably object to o ur quoto tion of his own phrases in reference to the NEWS.

Seriously, we think it was wrong to deceive the Ogden *Herald* and still worse to deceive the public by sending over the wires such exaggerations, which do a great injustice to the peaceable and law abiding people of this city. There was no such excitement as that described on Friday afternoon. There was no danger; there was no serious menace. In fact the absence of any real excitement or mobocratic feeling, was cited by intelligent citizens as proof that the speakers at the mass meeting were mistaken in arguing that the granting of a reprieve was favoring mob law. Hopt was not led out to be executed, but the news of the expected reprieve reached him by half past seven o'clock in the morning, the reprieve itself being officially issued by 11 o'clock. Charity suggests that the author of these dispatches in the Ogden *Herald*, and of the letter in the Salt Lake *Herald*, was slightly unbalanced by the spirit of the mass meeting, or some other exciting cause, and was "not himself at all."

We deeply sympathize with Sheriff Turner, who has suffered so much from the delays in the Hopt case, and the slow and irritating movements of law towards the ends of justice. He has exercised great forbearance, borne up with strong fortitude, expended much money that ought to come out of public funds instead of his private purse, and acted throughout the trying circumstances that have attended this deplorable affair in a manner to evoke universal admiration. We think his calling of the mass meeting was a mistake. But even there he expressed his desire that the law should be vindicated and that mob violence should not be encouraged. He has acted bravely and well, and we endorse the expressed desire—coming from many quarters—that something more substantial should be done to show the public sentiment, now only manifest in words. If he had not spent time and money and devoted his great abilities in this line to the capture and conviction of the murderer, no one believes that Hopt would now be in custody awaiting the death penalty that will yet overtake him. It is but a question of a little more time, a few months' delay in this tedious case, and retribution will surely come. And when the law is vindicated and justice satisfied, it will be conceded by all that the result has been mainly accomplished through the perseverance and persistent determination of Sheriff Turner. And now let patience have its perfect work. We heartily echo the sentiment, "Let the law take its course." And as the law gives the culprit the right of appeal, give him liberty to live until the appeal is heard. And let no one try to advocate such a rendering of the law against the guilty as may at some other time be turned against the innocent, and establish the absurd and dangerous precedent of carrying out a sentence while the convict is availing himself of a legal right of appeal, which common sense declares carries with it security against the execution of the sentence until the appeal is determined.

PROTECTION WANTED FOR INFIDELS.

THE PRESBYTERIANS BROKEN LOOSE ON THEM.

THE GODDESS OF LIBERTY DEFACED AND THE NATION DISGRACED.

Editor Deseret News:

In his answer to one of the questions asked by Mr. Joseph Cook of Boston, the Reverend Doctor R. G. McNiece, makes the following statement: "With a brave and efficient governor, and with American Courts, we have not been able in the rural towns to prevent the midnight stoning of the windows in the houses occupied by our teachers and ministers. Life has been thus endangered again and again. Our school houses and churches have been repeatedly injured and set on fire."

How much of truth there may be in the assertions quoted I do not pretend to affirm, but that the tone of the statement is intended

FOR EFFECT

I am sure, and as usual should have passed over the reading of the article without further thought, but for the followfng facts:

The Liberal Institute stands in close proximity to the Presbyterian church, and adjoining it, is the

COLLEGIATE INSTITUTE.

Of late the Liberal Institute has been but seldom used, and the other day when the idea of having Mr Massey lecture there was conceived the place was found to be in a

TERRIBLE CONDITION.

owing to the depredations of youngsters who attend the school over which the Reverend Doctor and his fellow-signer to the Cook document,

PROFESSOR COYNER,

have spiritual and temporal supervision It is the universal verdict that nearly all the outrages which have been committed by way of breaking windows and otherwise injuring the building have been committed by the mischievous urchins who attend this school.

Now, suppose that the

FREE-THINKERS

who own and frequent the Liberal Institute, were to write to some representative radical, and tell him (for the purpose of having him tell everybody else) that although we have a "brave and efficient governor" and "American courts," we have not been able to keep the windows in the Liberal Institute from being broken! It is an awful thing is it not? Especially, as we are well aware that our "brave and efficient governor" swore he would protect every church window in the Territory!

We come now to a serious point, and one upon which the fate of our nation even may hang. We refer to the fact that the rebel hosts of this "Christian school" have

INSULTED THE NATION

deliberately, by throwing more than a score of rocks and other missiles through a painting of the *Goddess of Liberty*, which adorned the Institute!!! Seriously, now, is it not the duty of the free-thinkers to

CALL ON GENERAL McCOOK

and ask him to stop these outrages, which we poor infidels are compelled to suffer at the hands of this rising generation of Christians? The "brave and efficient Governor" should return at once or send on several boxes of glass, and a sufficient quantity of

"LOYAL PATRIOTISM"

to patch up the Goddess.

The "American Courts" ought to be made to pay the expense of repairing the Institute; for according to the Rev. erend Doctor, they were joint contractors with the absent and deficient Governor, who pledged himself to prevent the breaking of windows in Utah.

We all know that windows should not be broken, either in a Christian or an infidel church edifice, but because the Christian boys broke these infidel windows, there is no necessity to go into hysterics about it, or for the unbelievers to ask, "What would we do if the Governor and Judge were [Presbyterians] under the control of the priesthood?"

IRREVEREND.

"Doing a Grand Work For Me."

In sending for a new supply of Compound Oxygen, a gentleman at Walnut, Iowa, says:

"I cannot get along without it, *as it is doing such a grand work for me. You would not believe me to be the same miserable men I was a year ago to see me now. I am gaining so fast. I weigh more now than I ever did in my life before*, but I still have pains through my lungs when I do any work; but other ways I am feeling as well as ever I did.

Our "*Treatise on Compound Oxygen*," containing a history of the discovery and mode of action of this remarkable curative agent, and a large record of surprising cures in Consumption Catarrh, Neuralgia, Bronchitis, Asthma, etc., and a wide range of chronic diseases, will be *sent free*. Address Drs. Starkey & Palen, 1109 and 1111 Girard St,, Phlada.

All orders for the Compound Oxygen Home Treatment directed to H. E. Mathews, 606 Montgomery Street, San Francisco, will be filled on the same terms as if sent directly to us in Phila.

LOST.

ON THE 13TH OF MAY, 1884, A YEARling COLT, black or brown, rope on its neck. When last seen was with a grey horse. The finder will receive Ten Dollars reward by returning to

MR. A. OLSON,
d s & w 1e 19th Ward.

ESTRAY NOTICE.

I HAVE IN MY POSSESSION:

One brown Mare, about one year old, white in forehead, branded 3M on right thigh.

One bay Mare, about 1 year old, white in forehead, branded 3 M on right thigh.

One yellow Mare, about 8 years old, hind feet white, blazed face, blind in right eye, branded JB combined on its side and vented, on left thigh.

One chestnut sorrel Horse, about 8 years old, white on right hind foot, branded J 2 and x on left shoulder.

If not claimed and taken away within ten days from the date hereof, will be sold to the highest responsible bidder, at the Brighton estray pound, on Monday, June 23d, 1884, at 10 o'clock a.m.

THEO. McKEAN, JR.,
District Poundkeeper,
Brighton, June 11, 1884.