

The marriage is announced of Whitelaw Reid editor of the *Tribune*, and Tennie Mills, daughter of D. O. Mills, of California.

A billiard match in New York on Saturday night, between Schaeffer and Sexton, resulted in a victory for the latter in the 120th inning.

The publication of Carlyle's "Reminiscences" has been postponed. No date has been fixed for the publication of Froude's "Life of Carlyle."

The Catholic Orphanage, at Hyde Park, Scranton, Penn., burned early last night; fifteen children were taken out dead and two missing.

Princess Augusta Victoria, bride-elect of the eldest son of the Crown Prince, arrived at Berlin and was received by the Emperor yesterday.

A dispatch from Newcastle, Natal, says: It is reported that Wakerstrom was captured by the Boers and subsequently retaken by the British.

It is thought by provision merchants that the recent embargo placed upon American pork by the French government will be only temporary.

The hay and grain warehouse of Moore & McLaren, San Francisco, burnt early this morning. Loss \$20,000. One employee, who slept in the establishment, perished.

A farmer was found beaten to death, at Cadanstown, King's County, Ireland. He was one of a large number who had been going to various houses demanding arms.

The religious ceremony of marriage of Prince William and Princess Augusta was performed last evening in the chapel of the Royal Castle at Berlin.

The Somerville, England, Club for women exclusively, will open on Tuesday next with 1,300 members, ranking from peeresses to seamstresses.

Notwithstanding the last week's success, the embarrassments of the British government thicken. Prospects of this week's business are extremely confused.

There was a great popular manifestation yesterday in Paris in honor of the birthday of Victor Hugo. Louis Blanc delivered a panegyric on Hugo at Trocadero.

The committees on conference on the post office, legislative, executive and judicial, and District of Columbia appropriation bills, all reached final agreements Saturday.

A dispatch, dated Sunday one o'clock, says firing increased, and at 2.20 it became evident that the British had lost the hill. There is no doubt General Colley is killed.

The Sprague case opens at Kingston, R. I., on Friday. The law for bids the parties to the suit appearing as witnesses. A wholesale grocer furnishes Sprague with funds.

The Cincinnati Opera House festival closed Saturday night. The seven performances brought receipts of \$60,000, and there were 33,000 admissions to the seven operas.

A Newcastle, Natal, dispatch of yesterday says a severe engagement took place to-day between the Boers and Gen. Colley's force and the latter was driven from its position.

Mrs. Gladstone attended the Queen's drawing room, and Her Majesty expressed a desire that Gladstone would not endanger his recovery by a too early return to Parliament.

It is stated that Garfield will not call an extra session of the Senate until after the election of a successor to Carpenter. This is taken as a certain hope of the republicans to control the organization.

The president elect will leave Mentor to-day, at one o'clock p. m., and go by the Lake Shore road to Ash-tabula, in a special train. He will reach Washington early Tuesday morning.

Gov. Porter, of Tennessee, said the people of the south look upon Gen. Garfield as a broad, liberal-minded man, who will conduct his administration on broad, conservative principles.

It is learned that the President has decided to issue a proclamation to-morrow convening the Senate in special session, at noon on the 4th of March, for the purpose of considering executive business.

The coercion bill prevents the further prosecution of the League course regarding evictions; and it is

thought that all classes of farmers, but those who cannot pay, will now be forced to submit to the demands of landlords.

THE MANDAMUS CASE.

As stated in our impression of Monday evening, lack of space prevented our giving a more extended report of the arguments in this case. Suffice it to say, however, that Mr. Brown, in a speech occupying nearly two hours in delivery, ably and exhaustively argued the question on behalf of the people. He took up the points of the demurrer, *seriatim*, the following being a brief resume of his arguments. To the first point in the demurrer, "that it does not appear that at the time of issuing writ of mandamus, Murray was absent or that Thomas was Acting Governor," Mr. Brown contended (1) that it did appear that Murray left this city January 8th, 1881, and that therefore Thomas as Secretary became Acting Governor; that as he became so on the 8th the presumption of law was that that status of affairs continued until the contrary was shown. That (2) as Judge Sutherland had said, "the Courts take judicial notice who is Governor," so they also take judicial notice who is Acting Governor. Thomas is and was such when the writ issued, and the court must judicially notice. And (3) that the title designated Thomas as "Acting Governor," which was a sufficient allegation. The second ground in the demurrer stated "that the suit should be in the name of George Q. Cannon and not in the name of The People in relation of George Q. Cannon. Mr. Brown's answer to this was (1) that the title was so put in conformity to old usage and law; that (2) it was a matter of indifference, being merely a nominal matter anyway; that (3) the practice was as frequently to entitle in that way as any other; that (4) it was amendable [see 68 Practice Act]; that (5) the statute prescribed that defects in title should not annul [Statutes, sec. 505, p. 534]; and that (6) the suit was such that it is in behalf of all the People, all of whom have equal rights in seeing the person who secures the greatest number of votes declared elected, not only those who composed the 18,568, but the whole population of 140,000. [Mr. Brown cited a large number of cases in support of the above propositions.] The next point of demurrer was "that the Act enjoined upon the Governor, by sec. 1862 Comp. Laws U.S., is political, discretionary or judicial." Mr. Brown denied this, and contended that the act, like that of any other returning board or officer was ministerial. [Cited numerous cases in support of this contention.] In reference to argument "that mandamus cannot be issued to command action by the 'Governor,' that all his duties are necessarily political, that he is king, etc.," Mr. Brown replied that (1) whatever conflict of authority may exist on this subject, it is settled in this Territory by the adoption of the California code, where it had been settled by decision before such adoption, that a Governor could be coerced in his ministerial duties by mandamus [cases cited]; that (2) the Governor of Utah is not a supreme executive, independent—but is the mere appointee of the President. He is like a head of one of the departments. The Supreme Court had held in several cases that such an officer can be compelled by mandamus to perform his duties [cited]. In reply to Mr. Van Zile's contention that there is another adequate remedy, and that the writ is discretionary, Mr. Brown maintained that there is no other adequate remedy to obtain the certificate, and that the writ is not discretionary with the court.

Mr. Van Zile followed with the concluding argument. He went over much of the same ground as that covered by Judge Sutherland, directing his argument chiefly to the question as to whether or not mandamus would lie at asked for against the Governor. He maintained it could not, arguing that the duties of a Governor were entirely independent of the judiciary. For these reasons, therefore, they asked that the writ be denied. This closed the arguments in the case.

His Honor said that some of the authorities quoted were very important and he wanted to satisfy himself upon them. To do that he would require a little time to look into the matter, and would therefore take the case under advisement

until Wednesday morning, at 10 o'clock, by which time he would perhaps be able to give a decision.

Wednesday, 10 a. m.

At the opening of the court this morning, Judge Twiss said that in relation to the case of the People vs. Acting-Governor Thomas, he regretted to say he was not fully prepared to render his opinion in the matter this morning, and if it was no inconvenience to the counsel in the case, he would like to defer giving his opinion until Friday morning at 10 o'clock. If, however, this would be inconvenient to counsel, he would then deliver his opinion to-morrow (Thursday) at two o'clock.

Mr. Sutherland: So far as we are concerned your honor can have all the time required.

Mr. Brown: The matter is of great importance to us, your Honor, and that being the case I would prefer that the opinion be delivered to-morrow at 2 o'clock.

Judge Twiss: All right; I will tender my opinion to-morrow afternoon at 2 o'clock.

THE MANDAMUS CASE.

JUDGMENT OF THE COURT.

In the District Court for the Third Judicial District of Utah Territory.

The People of the Territory of Utah, on the relation of Geo. Q. Cannon,

vs.

Arthur L. Thomas, Acting Governor of Utah.

The demurrer of said respondent to the alternative writ of mandate issued and served in this action, having been heretofore argued by J. G. Sutherland and P. T. Van Zile, and by Arthur Brown, attorney for the relator, and the court having duly considered the same, and it not appearing in and by said alternative writ, that when the demand therein mentioned was made, and when this writ was commenced, the respondent was empowered to act and acting in the place of the Governor of said Territory; and it being considered that the duties of the Governor of said Territory, in the matter of declaring who has received the greatest number of votes for the office of Delegate to Congress, are such as to require the exercise of judgment and discretion, and are not merely ministerial, since there is no law, Federal or Territorial, directing upon what evidence the inquiry and decision shall be made; and it being also considered that the Governor of said Territory is the chief officer of a co-ordinate and independent branch of the government, and that this court has no jurisdiction, by mandamus, to control him in the sphere of his executive duties requiring the exercise of discretion; therefore, as the objections raised by said demurrer cannot be removed by amendment, and no motion for leave to amend having been made in behalf of the relator; It is ordered and adjudged that the said demurrer be sustained; that the said alternative writ is not sufficient in law to require the respondent to show cause as therein required, nor to entitle the relator to have and maintain this action for a peremptory writ of mandate, and that the respondent go thereof without day. It is further ordered and adjudged that the respondent have and recover against the said People his costs of this suit.

STEPHEN P. TWISS, Judge.

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