

## LOCAL AND OTHER MATTERS.

**SABBATH MEETINGS.**—Yesterday morning the congregation was addressed by Elder C. W. Penrose; in the afternoon Elder Joseph F. Smith occupied the time.

**PRESIDENT AND PARTY.**—The following telegram was received from Provo, per Deseret Telegraph line, this morning:

PROVO, U. T.  
Deseret Evening News.—Spirited meetings were held here on Saturday and yesterday, which were well attended. The speakers enjoyed excellent liberty and valuable instruction was given, which will be profitable to the people. On Saturday morning President Geo. A. Smith, and Elders Geo. Q. Cannon and Wilford Woodruff addressed the congregation; in the afternoon President Joseph Young and Elder John Taylor delivered discourses. On Sunday morning the time was occupied by Elder Orson Pratt and President Geo. A. Smith; the afternoon by Elder John Taylor and Presidents Joseph and Brigham Young. The house was crowded to its utmost capacity yesterday, and general rejoicing and gladness prevailed.

**THEATRICAL.**—On Saturday night there was a good house, and the playing throughout seemed to give general satisfaction. A splendid bill is in preparation for Wednesday night.

**PROBABLY DROWNED.**—Our readers will have seen occasional notices, for the past day or two, of the wreck of the steamer *Cambria* off the coast of Donegal, Ireland. The sad intelligence reached here on Saturday that Bro. James Hague, Sr., and wife, old and well known residents of this city, who left here on the 23rd ult. to visit their friends in England, were among the passengers on the ill-fated steamer. The news created a very sorrowful impression throughout the city, but the hope was strongly cherished that the intelligence was not true.

Immediately on receipt of the tidings that the *Cambria* had been wrecked, Mr. Hague's family here telegraphed to the agent of the Anchor Line, at New York, to ascertain whether Mr. and Mrs. Hague were among the passengers on the *Cambria* and received an affirmative reply; and their names will be found in the list contained in the dispatches published in today's News. There is barely a possibility that other survivors of the catastrophe besides Magarland, the only survivor from the wreck mentioned, may yet turn up; but this is not very probable. The news is a heavy blow to the family and friends of Mr. and Mrs. Hague, as it will be to many a home which the sad affair has made desolate.

Brother and Sister Hague were highly respected residents of this city, and the entire community will be with their family in their sorrow and bereavement.

**BORN.**—In Salt Lake City, Sunday, Oct. 23d, 1870, to the wife of Major C. H. Hempstead, a son, 13th Ward.

**ARRIVED.**—We understand that the following officials of the U. P. R. R., arrived in town on Saturday night: Mr. Sickles, the new Superintendent of the line; Mr. C. M. McAllister, Assistant General Superintendent; and Mr. Fillmore, Superintendent of the Laramie and Utah divisions.

**CONFERENCE AT BIRMINGHAM.**—In the Birmingham (England), *Gazette*, of September 26th, we find an account of a Semi-Annual Conference of Latter-day Saints, held there on the day previous to that date. The statistical report was read, which showed that the number of branches comprising the Birmingham Conference was twelve, number of elders, eighty-seven; of officers, 173. The total number of members, including eight removals to other conferences, 111 emigrations, twenty-eight deaths, was 725; total number of members, 173. Elders, 88; Elders Free, George W. Groo, Alma Eldredge, A. P. Shumway, George C. Bywater, R. F. Neslen, Benton, Shipp and Horace S. Eldredge were the speakers during the Conference.

**THE TWO DAYS' MEETINGS.**—The question is asked by many as to the nature of the meetings to be held on Saturday and Sunday next. We believe they will be preaching meetings, which the people generally will have the privilege of attending, and will be expected to do so.

**RUMORED MURDER.**—There is a rumor in the city to-day, which we fear is founded in fact, that Bro. Hiram Thorpe, of Cache Valley, was murdered some days ago, while on the way from California to his home. The particulars of the occurrence we have been unable to learn, but the rumor is supposed to have been a travelling companion, whom the Cache Valley authorities have in custody; the object of the foul deed, the obtaining possession of money on the person of the deceased.

**DECEASED.**—On the 22nd inst. in the 9th Ward of this city, of smallpox, Charles William, aged 2 years and 5 months. The funeral took place yesterday afternoon.

On the 19th inst. at Richville, Morgan Co. U. T., Mary Ann, wife of Charles Hooper, aged 4 years, 11 months and 14 days.  
Deceased joined the Church in Northamptonshire, England, in 1850, emigrated in 1851. She lived and died a true believer in the principles of the everlasting gospel.  
[Affid. for place copy]

**ARRIVALS AT THE TOWNSEND HOUSE.**  
October 23rd.  
S. A. Raymond, San Francisco.  
Mrs. H. J. Rogers and daughter, Cheyenne.  
Miss H. Rogers, Michigan.  
J. E. Viles, Albany, N. Y.  
Edward Vandervliet, San Francisco.  
G. W. Clark, Cheyenne.  
G. W. Merrill and wife, San Francisco.

October 24th.  
A. J. Fitzgerald, Ogden.  
J. H. Johnson, Nevada.  
S. G. Sewell, Corvallis.  
Joseph Williams, Denver City.  
H. P. McCluskey.

**ESTRADES.**  
CAME to my place, on Friday last, a Spaniard, dark, dark, no brand or mark. The owner is requested to prove property, pay charges and take them to the LATHAM, 4th Ward.

## JUDICIAL RULING.

TERRITORY OF UTAH, THIRD DISTRICT COURT.

Paul Englebrecht, Christian Rehenke and Frederick Lutz, Plaintiffs, against Jeter Clinton, J. D. T. McAllister, Andrew Burt and others, Defendants.

Opinion of Chief Justice James B. McKean.

The plaintiffs bring this action against the defendants under the New Civil Code of Utah, and charge, in their complaint, that on the 27th day of August, 1870, in the city of Salt Lake, the defendants did unlawfully, wilfully and maliciously destroy a large quantity of brandy, whiskey, wine and other liquors, with the vessels containing them, &c., the property of the plaintiffs, amounting, in value, to the sum of \$22,589.75; and the plaintiffs demand judgment against the defendants in a sum equal to three times the value of the goods, to wit: in the sum of \$67,769.25. They base their claim upon Sec. 102, of "An Act in relation to crimes and punishment," (see Laws of Utah, page 59), which reads as follows: "If any person maliciously injure, deface or destroy any building or fixture attached thereto, or wilfully or maliciously injure, destroy or secrete any goods, chattels or valuable paper of another, or maliciously prepare any deadfall, dig any pit or set any gun, or arrange any other trap to injure another's person or property, he shall be imprisoned not more than one year, or fined not exceeding five hundred dollars, or both fined and imprisoned at the discretion of the Court; and is liable to the party injured in a sum equal to three times the value of the property so destroyed or injured, or damage sustained in a civil action." The complaint is verified. The defendants, Clinton, Needham, Ashman and John Y. Smith, unite in an answer which contains a specific denial to each allegation of the complaint. The defendant McAllister answers separately and denies specifically each allegation of the complaint; and then alleges, in substance, that on the said 27th day of August, 1870, he was City Marshal of the said city, and seized and destroyed the said property in due form of law, and by virtue of a warrant, lawfully issued to and commanding him so to do, setting forth in his answer the substance of said warrant, and denying that he did such act unlawfully, wilfully or maliciously.

Burt, and all the other defendants, unite in an answer in which they specifically deny each allegation of the complaint, and then allege, in substance, that McAllister was such City Marshal, etc., and that by command, etc., they aided him as a posse committatus, and deny that they did so unlawfully, wilfully or maliciously.

The plaintiffs demur to all those portions of McAllister's and Burt's answers after the specific denials to each allegation of the complaint, on the grounds, substantially, that defendant Clinton, the Alderman, who issued the warrant, had no jurisdiction or authority to issue the same, and that the warrant was void upon its face.

Mr. Maxwell and Mr. Baskin for the demurrer.

Messrs. Snow and Hoge and Mr. Miner opposed.

McKean C. J. The code provides that "the answers of the defendants shall contain: First, If the complaint be verified, a specific denial to each allegation of the complaint controverted by the defendant &c." "Second.—A statement of any new matter or counter claim constituting a defense, in ordinary and concise language," (Sec. 46.) It also provides that "the defendant may set forth by answer as many defenses and counter claims as he may have," (Sec. 49.) It further provides that, "the plaintiff may within the number of days," etc., "demur to the same for insufficiency, stating in his demurrer the grounds thereof," (Sec. 50.)

"Sham and irrelevant answers and defenses, and so much of any answer as may be irrelevant, redundant, or immaterial, may be stricken out on motion, and upon such stricken out, the Court in its discretion, may impose," (Secs. 50 & 51.) A motion, not a demurrer, is the remedy for these last named defects.

The counsel for the plaintiffs claim that the judgment rendered by defendant Clinton, the Alderman, was clearly without jurisdiction; that the warrant issued thereon to the City Marshal, McAllister, was clearly void upon its face; that they are no protection to any of the defendants, and that those portions of the answers in which the judgment and warrant are set up as defenses, are demurrable and should be stricken out for "insufficiency."

Few principles are better settled than that if a Court act without authority its judgments are not merely voidable, they are void; and the magistrate who renders the judgments, and all officers and persons who aid in executing them, are liable as trespassers; and any person aggrieved thereby may sue and recover the full amount of the damages sustained by him. (3 *Hilliard on Torts*, 184, 185, note A, 188-4-5; *Hurd on Habeas Corpus*, 165, 182-3; 1 *Chitty on Pleasings*, 78, 183; *Black v. Sayre*, 17 *Yerm.* 606; *Cable v. Cooper*, 15 *Johns*, 157; *Seydant v. Egan*, 18 *Johns*, 444; *Pratt v. Gardner*, 2 *Quincy*, 58; *Dyer v. Schenck*, 35 *Wend*, 448; *Safford v. Low*, 30 *Mass*, 165; *Stanton v. The People*, 35 *Ill.* 30.)

If this action had been brought to recover only the value of the goods destroyed, and if the judgment and warrant were void, and the defendants trespassers, as claimed by the plaintiffs, upon which question it is not necessary now to express an opinion, the plaintiffs' demurrer must inevitably have been sustained; for, in that event, no matter how innocent might have been the intentions of the defendants, neither a void judgment, nor a void warrant, nor both together, could protect them.

But the plaintiffs have chosen to bring an action to recover a statute penalty, and demand a judgment in a sum equal to three times the value of the goods destroyed. In such an action it is not sufficient to allege that the act complained of was unlawful; it is necessary to allege, and the plaintiffs do allege, that the act was "wilfully and maliciously" done. This brings directly in issue the intent of the defendants, and any defense which they may have against the charge of

wilful and malicious intent, may be set forth in their answers. (Code, Secs. 48 and 49.) Even though the defendants were now to admit that the judgment and warrant in question were void, and hence no protection to them if they were sued in trespass for the value of the goods, still, may they not plead in this action for the statute penalty, and prove before the jury, as bearing upon the question of intent, that they acted by mistake under a void judgment and warrant? I think they may. The defendants insist, however, that the judgment and warrant were valid. If in this they are right, they may make the most of them as a defense, on the merits, still they may make the most of them as a defense against the charge of wilful malice.

The warrant was issued only against Englebrecht and his property, and it is alleged that the property destroyed belonged to all the plaintiffs as partners. But all the plaintiffs rely upon the same charge of wilful and malicious intent, and the defendants may rely upon whatever defense they may have to meet this charge. If the defense is good in law, the Court may so hold; if it is good in fact the jury may so find. The converse of the proposition is true. Without passing upon the question of the validity of the judgment and the warrant, it is sufficient to say, that they may be relied upon for whatever they may be worth, at least upon the question of wilful and malicious intent. The demurrer must be overruled.

## Z. C. M. I.

Attention! Attention!

MILITARY MEN READ THIS!

An Immense Lot of

MILITARY CLOTHING,

ALSO

Guns, Sabres, and Military Trimmings,

Of All Kinds, at Astonishingly Low Figures!

At the CLOTHING DEPARTMENT

H. B. CLAWSON, Supt.

d225-14

MARSHAL'S SALE.

PURSUANT to an Order of Sale to me directed, by the Third Judicial District Court of the Territory of Utah, I shall expose to Public Sale, on the premises in the City of Ogden, Weber county, and Territory of Utah, on the 24th day of November, A. D. 1870, at ten o'clock a. m., the following described premises, to wit:

The undivided one-half of a portion of Lot four (4), Block one (1), said Block one (1), North Ogden survey, in Weber county, Utah Territory, commencing at a point in the middle of Mill Creek (a creek crossing State Road), and running south on the east side of said State Road twenty-four (24) rods to the north corner of said Block one (1), thence east seven rods and one-half (1 1/2) rods to the north one and one-tenth (1 1/10) rods to the middle of said Mill Creek, thence following down the middle of said creek to the beginning, containing two acres and eighteen (18) rods, more or less, with what is known as West & Young's Grist Mill. To be sold as the property of the estate of Channoy W. West, deceased, at the suit of William Jennings. Terms of Sale, CASH.

October 22, 1870. U. S. Marshal.

d225-14

John R. Hoole &amp; Son

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Importers, Dealers and Manufacturers of

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d106-3m

Z. C. M. I.

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GROCERY AND HARDWARE

DEPARTMENT!

Eldredge &amp; Clawson Building.

JUST RECEIVED, A LARGE ASSORTMENT

OF

LAMPS,

Very Cheap; a Full Assortment of Henry Dutton &amp; Sons'

CIRCULAR SAWS,

Staple and Fancy Groceries,

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Stoves, &amp;c., as usual, at uniform Low Prices.

H. B. CLAWSON, Supt.

Get the Best, Celebrated, Genuine

CONCORD HARNESS!

All kinds and descriptions of harness, made to order, from the highest quality of leather, and in the latest style, and at the lowest prices.

Genuine and stamped with our name and trade mark. Price lists and circulars on application. Address JAMES H. HILL &amp; Co., Concord, N. H., Sole Proprietors and Makers.

We have arrangements by which goods are delivered by R. K. Fast Freight at lowest rates.

Cheapest Sugar ever sold in the Territory.

JUST received, direct from our Plantation on the Sandwich Islands, a supply of

SUGAR.

Packed in double Sacks, expressly for this Market.

For Sale at the WAREHOUSE, 1000

Over-FULL and style of mounting. Send

arrangements have been made to receive a supply direct from the Plantation every month.

GEO. NEEBKE.

d214-14

## DISSOLUTION OF PARTNERSHIP.

THE FIRM of THIRKILL & EARL, Merchants Tailors, 221 East City of Ogden, has this day been dissolved by mutual consent. All claims against said firm, are notified to call at their old stand immediately and have a settlement.

October 20, 1870. THIRKILL &amp; EARL.

MARSHAL'S SALE!

Territory of Utah, County of Salt Lake, ss.

PURSUANT to the command of an order of sale from the District Court of the Third Judicial District of the Territory of Utah, to me directed, I shall expose to public sale, at the United States Court Room, Salt Lake City, on the 24th day of OCTOBER, A. D. 1870, at ten o'clock a. m., the following described property, to wit:

Beginning at the west side of lot (3) three, in block (57) fifty-seven, Plot A, of Great Salt Lake City survey, at a point thirty-seven feet south of the north-west corner of said lot, thence south, on west line of said lot, (7) twenty-seven feet, thence east one hundred and sixty-five feet, thence north twenty-seven feet, thence west one hundred and sixty-five feet, to place of beginning, with privilege of roadway on the north side of said place of land, together with the household furniture and fixtures.

To be sold as the property of Frederick Ketch, At the suit of Hooper, Eldredge & Co. Terms of sale CASH.

M. T. PATRICK, U. S. Marshal.

d225-14

Z. C. M. I.

RETAIL Manufacturing

BOOT &amp; SHOE

DEPARTMENT.

At the Sign of BIG BOOT,

WE will make all kinds of LADIES' and GENTS'

BOOTS &amp; SHOES to order.

LEATHER and SHOE FINDINGS supplied to the Trade.

H. B. CLAWSON, Supt.

WRIGHT'S

GENERAL AGENCY

AND

COMMISSION HOUSE.

For the Sale of all kinds of General Merchandise and Machinery, domestic or imported.

Buy and sell Real Estate, Bonds, Mortgages, Mining Claims, etc., etc.

Deeds, Mortgages, Powers of Attorney, and all Legal Papers made out and warranted correct.

AUDITING OF BOOKS, AND COLLECTIONS MADE ON THE MOST REASONABLE TERMS.

GENERAL INTELLIGENCE OFFICE.

One Door West of Kimball &amp;

Lawrence's Store, S. L. City.

Correspond with all the principal cities in the United States. d276-1m

SOUTHERN MAIL

AND

EXPRESS LINE!

Carrying the United States Mail.

Wells, Fargo &amp; Co's Express.

The undersigned is now running a

Daily Line of Stages to Provo

and Tri-Weekly to Fillmore.

On and after JULY 1st, 1870 there will be run in connection, a

Tri-Weekly Line of Stages to St. George and the celebrated

Meadow Valley Mines.

Connections made with Stages for

Tiptic and Sevier Mines, San

pete and Arizona.

The road is newly stocked with Good Horses, and New Coaches. Good Meals and Accommodations, at along the line. Time to St. George and Meadow Valley Mines 4 days 10 hours.

HUGH WHITE,

PROPRIETOR.

OFFICE AT WELLS, FARGO &amp; CO'S,

LAURENCE &amp; CO'S, S. L. CITY.

d276-1m

MUSEUM &amp; MENAGERIE

Half Block East Denver News Office.

Proprietor, JOHN W. YOUNG.

THE Tourist may see the Minerals and Natural Productions of Utah at a glance. The Wild Beasts, Birds and Reptiles of the Rocky Mountains, Wolves, Wild Dogs, Lynxes, Eagles, Serpents, etc., Indian Dresses, and all the curiosities of the West, are here to be seen. Admission 50 cents. Open from 9 a. m. to 5 p. m.

J. L. HANFORD,

Manager.

d276-1m

## PEOPLE'S VERDICT!

Over Half a Million sold and in use!

4,000 made and sold per week!

SINGER'S

New Improved Silent

FAMILY SEWING MACHINES

The Best in the World.

Because all of them are in constant use, while a very large proportion of other makes are not used, owing to their being partially or utterly impracticable.

THE SINGER

NEW FAMILY MACHINE

Has been brought to perfection, regardless of time, labor or expense and is now incomparably the best Sewing Machine in existence.

It is simple, compact, durable, beautiful, quiet, light-running, and capable of performing a range and variety of work never before attempted upon a single machine; using either Silks, Twists, Satins, or Cotton Thread, and sewing with equal facility the very finest and coarsest materials, or anything between the two extremes, in the most beautiful and substantial manner.

The New Improved Attachments for Hemming, (any width) Braiding, Embroidering, Magic Ruffling, Gathering and sewing on (at the same time) Self-Sewing, Cording, Tucking, Quilting, Felling, Binding, etc., are novel and practical, and have been invented and adjusted especially for this Machine.

Folding Tops and Cabinet Cases.

New designs of the unique, useful and popular Folding Tops and Cabinet Cases, peculiar to the Singer Machine, are in every variety of Wood, such as black Walnut, Mahogany, Rosewood, Satinwood, and from the plainest to the most elaborate pattern and finish. The Machines themselves are plain or highly ornamental, and correspond to correspond with their tables or cabinets.

In the Singer the work is fed or passed through the Machine in the natural direction, namely, from the operator, permitting her to sit in a better and easier position. In many other Machines the work passes from right to left, or the reverse, compelling the operator to sit in a bent and uncomfortable position, and thus causing weakness of the back, etc.

The Singer uses a SHORT STRAIGHT NEEDLE, which is not liable to break or miss the stitch. Many other Machines use a long crooked needle, which is liable to break and to miss the stitch.

In the Singer Machine the Shuttle is carried, thus avoiding nearly all wear. It requires no oil, and does not soil the thread or goods. The Shuttle is so constructed that, in a race, thus causing great wear, and requiring oil, soiling the thread and goods.

On the Singer, the Tension on both the upper and lower threads is absolutely under the ready control of the operator, thus rendering the Machine always available for good sewing, which is not the case with any other. Many so-called cheap Machines are really worthless, and so are many of their peculiarities and supposed advantages.

The SINGER is the

Oldest Practical Sewing Machine.

Being about twenty years in the market, having been constantly improved by the employment of the most skilled ingenuity of the age and unlimited capital, it is now divided of all unnecessary parts and possesses All the very latest and most improved features. It is the only Machine sold on Honest Claims, as all its parts are Practical and will do all that is claimed for them. Some other Machines are Greatly Complicated, to do Useless and Silly things, and thus are rendered Liable to Constant Breakdowns. The Singer Seldom or Never gives trouble, but is readily and easily managed by those who utterly fail on other Machines.

SINGER'S

New Manufacturing Machines

Claim the same advantages over others of their class as the Singer Sewing Machine. These old and well-tried Sewing Machines are applicable to all kinds of heavy and light manufacturing in Clothing, Leather, etc., and run in the most perfect and reliable manner without trouble to the operator.

Without any previous advertisement, the Demand for the Singer Manufacturing Machines, that we have been unable to retain even the Machine to exhibit. All sold, but a large number are now on the way from New York, and

WILL ARRIVE IN A FEW DAYS.

They will consist of the Different Varieties made by the Singer Manufacturing Company, and we shall sell at Eastern Prices, with addition of Freight only. To accommodate parties who cannot pay all down, we will sell on

EASY MONTHLY INSTALLMENTS

So that all may possess one of these Blessings.

For the convenience of our Patrons we have engaged the services of a gentleman who has had twenty years experience and is one of the most skillful experts in the world in repairing and adjusting Sewing Machines. He will put each Machine in complete and practical running order before it leaves the Institution and will also impart to purchasers all needful instruction so that they can at once commence work.

We resort to no trickery whatever to sell Sewing Machines, but allow their Great Merits to speak for themselves. We can do this, as the demand for them is so great that although the Singer Company make more than one million of Sewing Machines, they cannot nearly fill their orders, and are compelled to still extend their Gigantic Works.

We have been so fortunate as to secure the

General Central Agency,

For this Territory, we extend a cordial invitation to all to come and see the Machines, whether they wish to buy or not. See all others, but do not buy without your examination.

We Guarantee every Machine sold to give entire satisfaction.

THE SINGER

BUTTON-HOLE MACHINE

Is the only Practical one in the World.

OTHER SEWING MACHINES REPAIRED on Reasonable Terms.

MACHINES FOR SALE

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H. B. CLAWSON, Supt.

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10,000 LIGHTS &amp; SASH!

Panel Doors,

WINDOW BLINDS,

ARCHITRIVE MOULDINGS.

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PLANING,

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CIRCULAR SAWS running all the time.

GOOD LUMBER, GOOD WORK

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