## EVENING NEWS APOSTLE F. M. LYMAN

Surrenders Himself to the Custody

of the Marshal.

At 10 o'clock this morning Apostle

Francis M. Lyman appeared at the office of United States Marshal Dyer,

and surrendered himself into the cus-

tody of that officer. This course ,was

pursued because it was understood

FIVE INDICTMENTS,

Wednesday, . Wecember 12, 1888.

FBAGMENTS.

ELDER WM: M. PALMER'S lecture in the Twenty-first Ward will take place this evening at 7:20.

that ap indicament had been THE funeral of the late Sarah A. found, accusing him of having Pollock will be held tomerrow, at 12 lived with more than one wife. A few o'clock, from the Fourteenth Ward minutes after 10, Apostle Lyman, Assembly Rooms. Friends of the family are invited. accompanied by Marshal Dyer and Attorneys LeGrand Young and Jas. H.

TODAY the suit of the Wasatch Mining Company vs. Joseph A. Jennings took seats. In a short time the Diset al. was being heard before Judge Henderson; it is not likely to be contrict Attorney entered and stated that cluded until tomorrow.

2 ----THE "MORMONS."

An Unprejudiced View of the Leg-Islation Against Them.

vogue. As the United States Supreme The courts of the nation are determined, it seems, to rob the people of method, on the present occasion four Utah of their legitimate rights. When of the indictments were set aside. The courts are resorted to to further a parperiods covered by them were Feb. 1 tisan scheme or interfere with the reto June 30, 1883; July 1, to Dec. 31 ligious ireedom of a people, the prin 1883; Jan. 1 to June 30, 1884; July 1, to ciples upon which this government was founded, and upon which it is maintained, are ruthlessly and criminally ignored. But it seems to be a fact Blundell, S. P. Lassater, Janet Delawhich is painfully apparent, that the mere, Edna Lyman and Charles R. people of Utah have no rights-McBride. The indictments were reeither political or religious-which meddlesome cranks and partisans being foreman of the grand jury at the are bound to respect. The men time who crossed the lonely prairies like

Mr. Lyman was arraigned on the the Pilgrims crossed the sea, and fifth indictment, alleging that, from blazed their way through an unknown wilderness, laid the foundation for a January 1, 1885, to June 30, 1885, he great and prosperous state-laid lived with Mrs. Rhoda Lyman and leep and strong-and with energy and Mrs. Clara Callister Lyman as his perseverance rarely if ever equalied in the annais of bistory, tolled and delved that they and their kin might enjoy the wives, contrary to the provisions of section 3 of the Edmunds law. To the tion. Section 16 commences the problessings of religious belief, and the inquiry of the clerk, "Are you guilty prosperity brought about by their own thrift and industry, in their own way, or not guilty?" he replied, "Guilty." Mr. Young stated that they would and under their own roof-trees. In olden days fire and sword were brought into use to drive from the like the sentence postponed till after New Year's.

ery of

heart of man the belief implanted therein by the convictions of his own conscience and the dictates of heart and brain. A glance at the his-The District Attorney did not object, and Judge Sandford fixed on January 14 as the date for passing judgment.

tory of the past, down through the long years of crusades and assassinations, tells how the land was drenched with the blood of The defendant then gave \$1500 bonds for his appearance at the time named, men; women and children, whose lives were given for their religious opinions. anc left the building.

Yet, we ask, have we a single record that tends to show that persecution and tyranny ever changed the epinion THE DECISION. of one single human heng? Year by year, century by century, the star of hope grew brighter; dog-mas gave way before the piercing rays The Ogden City Division Question Determined. of human advancement, and out from the darkness and unholy obscurity of bigotry came the shining stars of hu-THE TERRITORIAL STATUTE SUSTAINED. man freedom, whose welcome glow covered the earth with a mantle of glory, and enslaved mankind was at The People Must be Allowed to Vote on Re last set free and permitted to worship God in their own numble masner. Now, after centuries of religious liberty, do the law-makers of this country believe that they can regain, incorporating.

Following is the decision of Judge through the instrumentality of our Henderson in the celebrated Hays test courts of justice, what the bigots of eld were forced to surrender to the case, which has been the subject of establish that fact; so that the common lively discussion for a week past in council when they are petitioned for reinexorable demands of Christian umanity under the leadership of legal and political circles. It was de-

ject. In some states it is beid that the Again, the most material difference between this act and the charters of institution prescribing the form of enacting clause must be followed the cities before existing in this Interally, and that any departure from territory, is the principle contained in it invalidates the act; in others, sections 16, 17, 18 and 19 of article 1. that the constitutional provision. The legislature was careful to provide is but directory, and if sub-stantially followed it is sufficient. I have not been able to examine the text of all the cases upon this subject, but one which is quite in point [Cape Gir-provided that the innabitants might ardeau vs. Riley, 52 Mo, 424; also vote upon the shadow while they asreported in 14 Am. Rep., 427] is at sumed to provide the substance for band. In that case the constitution of them. There is still another test Missouri provided what the style of which to my mind is conclusive of the laws of the state should be, and what the legislature intended. No the court had before it an act in which casual reader of this act, when he the court had before it an act in which casual reader of this act, when he the entitling clause was omitted; but reads in section 6 of article 1 the provision that when the common counthey held that the provision of the cil of a city call an election to deterconstitution was merely directory, and that the want of an enacting clause mine the question as to whether in would not invalidate it. The question shall be reincorporated under this act

Moyle, entered the court room and is one that is not free from doubt, and I have not had the time and opportun-ity to examine it as exhaustively as should be done if this case was ment that it was supposed by the legthere was an indictment of the kind wholly turn upon it; 'but from the exto amination which I have been able to stated, but he had not been able to find it. Clerk McMillan made a further give it, I am of the opinion that the search, which resulted in the discov-

found at the time the infamous Zine city, which by its counsel has appeared and participated in this argument, is, Dickson segregation scheme was in that the fair construction of the act Court effectually abolished that grants the authority assumed to the common council. And this depends wholly on the question as to whether section 18, of article 1, applies to the city of Ogden or as to whether it applies only to cities which are incorpe-rated or are reincorporated under the act. The act in question is one pro-Dec. 31, 1884. The witnesses ex-examined by the grand jury were Clara corporation of cities, and incidentally Callister Lyman, Alice McBride, James amending the charters of cities already in existence. The act bears evidence of hasty if not careless construction The first five sections of article 1 are general in their nature, and provide ported Jan. 25, 1886, Charles Read the manner in which territory not already incorporated in any civy may

incorporate under the act. Sections 6 to 9, inclusive, provide the manner is which cities may reincorporate under the act. The balance of the sections of this article to 14 are of a general nature. Sections 14 and 15 previde that the municipal corporations now existing in the T. rritory and those thereafter organized are divided into classes according to populavision in the act relating to municipal government. It is an entire change of subject, although not separated and divided by being set apart in a separ-ate article; but sections 16, 17, 18 and legislature itself for all the purposes to which this act refers to them, 19 all relate purely to city government, and they are the important sections of but for no other, and it depends in no the act; they are the sections which

incorporation have judicial knowledge

wise upon what the Common Council establish the rule of electing in certain may or may not do. In taking a census of the city and ascertaining the number of inhabitants they merely classes of the cities certain of their officers by districts or wards. This court held upon a matter reascertain a fact which assigns the city by operation of law to one or other of cently before it that section 14, of article 1, referred to cities already the classes; and when they become reexisting and not incorporated or reincorporated, then such provisions of incorporated under the act, that this act are made applicable to cities it was the duty of the Common Counincorporated and reincorporated un der it as are applicable to it in addicil to take the steps necessary to ascertain the class to which the respective tion to those which are made applic cities in the Territory belong. I am contirmed in the opinion that I then able whether they are incorporated or not, and the sections here in conhad-that that section applies. By section 6 of article 1 it is provided that troversy in my judgment are among when the inhabitants of a city petition them

This being the result at which this the common council to take steps to court arrives, it becomes wholly im-material to discuss the other subject as REORGANIZE UNDER THE ACT, to whether this ordinance in various the council shall call an election for that purpose and give notice of the class to which it would belong if re-incorporated. That action certainly is this view, there is no authority in this to be taken before the reincorporation, and the class to which the city belongs city to register voters in precints and wards, and the plaintiff only complains that he has not been registered must be determined. Section 14 pron the Second Ward of this city, the vides for that, and provides that the registrar offering to register him as a voter of the city at large; and this is SOLOMON BROS. 704 60 MAIN STREET. all that he is entitled to. The motion to quash should

DAILY WEATHER BULLETIN. At Salt Lake City, Utah, on December 12, 1888. Observations taken at 8 a.m., 78th Meridian time, at all stations.

War Department, Signal Service,

WIND.

E Light Clear

Weath

LEP T Change of Alt Viter. Viter. Viter.

Minimum. Direction. Force in Miles Per Hour. 32 S E Light Clear 30 S W Light Clear 26 S L S CPdy 44 S Light Fair 16 S W 6 Clear L. City .. Ielena..... Ft. Ouster. \*16 Win'em'eca Rawlins W. 28 -2 w Light Cl'dy or not, they shall give notice of the Signal Service reports taken at 11 a. m. class to which the city will belong if s Light Fair N Light Clear Calm Clear Calm Clear S Light Clear Calm Clear reincorporated, will doubt for a mo-. L. Uity

gden ... tockton islature toat the class to which the Bingham . Park City. city belonged was one of the things that the electors should TOV0 .... want of an enacting clause does not invalidate the act. The next question in order is the CONSTRUCTION OF THE STATUTE. The contention on the part of the city, which by its counsel has appeared Gardel Lake Park. Salt Lake City, Barometer 30.18. P. H. FITZMAURICE, Serg't Signal Corps pend somewhat apon the question as to which class they belonged; and yet,

FULL LINE CHINESE AND JAPAN ese Goods, Chinaware, Silks, Silk Handkerchiefs, Novelties, Toys, etc. f the construction which is contended tor by the city in this case is correct, then there is not one provision of this TSUE YUEN OHUNG. act, from first to last, which recognizes No. 30 Commercial Street.

any differences but what already ap-piles to every city in this Territory. Not a single reference can be found in the act to the subject of the classifica tion of cities or the difference in their management but what already applies f the contention of the city is correct. **IT IS PLAIN** to me and it must be to every casual reader of this act that the question

SO

Pears' Soap Fair white hands. upon the reincorporation, as to which class the city would belong, was one of substance. I am clearly of the opinion that it was never intended by the legislature that sections 16, 17, 18 and 18 should apply to cities already incor-porated until they took the necessary **Bright clear** complexion steps under section 6 to reincorporate. In the argument some stress was laid upon the fact that the common council Soft healthful skin. of the city had already taken the steps provided for in section 14 to have the lass of the city determined, as though "PEARS'-The Great English Complexion SOAP,-Sold Everywhere." it were in the province of the council itself to say whether these sections should apply or not. The language of section 14 absolutely classifies the cities. They stand classified by the legislature itself for all the nurrouse

NO. 70 MAIN STREET.

JAMES W. EARDLEY,

Lumber, Lath, Shingles,

DOORS, WINDOWS,

F.AUERBACH&BRO Notice of District School Meeting THE PROPERTY TAX PAYERS RESI-THE PROPERTY TAX PAYERS RESI-dent in the Eighth School District, City and County of Salt Lake, Territory of Utah, affe hereby notified that it is necessary to raise funds to build a schoolhouse in said District. That an approximate cost thereof has been made by the School Trustees of said District as follows, to wit: For erec-tion of schoolhouse, four thousand dollars. That it is estimated by said Trustees that one per cent on the assessed value of the taxable property of said School District will be necessary to raise said amount, and the said property tax payers are notified that a A MERRY CHRISTMAS said property tax payers are notified that said property tax payers are notified that a meeting of the property tax payers resident in said District will be heid at the District School House, in said District, on the 19th day of December, A. D. 1888, at 7.30 p. m. of said day, for the purpose of voting on the matter of the rate per cent of tax to be levied on the taxable property in said Dis-trict to raise said amount for the purpose hereinbefore stated. A HAPPY NEW YEAR creinbefore stated. Our Display of Articles Suitable for Holiday Pres-EUDOLPH ALFF, C. D. WHITTEMORE, S. W. ALLEY S. W. ALLEY. School Trustees of District No. Eight. Dated December 3rd, 1888. 3t ents is Immense. The Useful and the Ornamental are represented HENRY WAGNER "en masse." 66 61. SALT LAFE CITY. CALIFORNIA BREWERY.

EIGHTH SCHOOL DISTRICT.

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A N D -----

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We Never Misrepresent ! We are Never Undersold !

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Martin Luther? Laws can be framed, and, to the shame of our law makers, have been framed, which deprive man of liberty and property for his relig-ious belief; but statutes cannot now,

ner never could, change either the religious or political opinions of man; in fact, persecution in the name of either church or state only intensides such a belief, and just as long as it is persisted in will tend to give standing to a creed, which, if not in accordance with the propriety of good morals and security of good government, must fall in the sink of obscurity and perish. Creeds, dogmas and men can only be judged by the results accomplished. Crime cannot run rampant and prosper under the very eyes of a watchful and intelli-gent community: neither can doctrines gent community; neither can doctrines be taught under like circumstances, which are foreign to and detrimental

to our system of gavernment. Hence re believe that any and all legislation tending to interfere with the political or religious opinions of men is in con-tradistinction to a republican form of government, and cannot, or should not, ind a permanent place on our statute books.—Arizona Gazette, Des.

## 20th Ward Lecture Series.

The first ientare of this sesson's series, under the suspices of the Twen-

tieth Ward Institute, will be delivered in the schoolhouse of that ward tomorrow (Thursday) evening by 'Elder Wm. M. Palmar, Subject-Intidelity. The lecture will commence at 7:30; all are invited.

**Relief** Societies.

the defendant to be registered as a The Quarterly Conference of the Re- qualified voter of the Second Ward, and demanded that he be registered as lief Society will be held in the Foursuch, offering proof that he was duly qualified; that the defendant refused teenthWardAssembly,Rooms on Thursday, Dec. 20th, commencing at 10 a. m. o so register him, but offered to regis-

and 2 p.m. A representative from ter him as a voter in the city. The defendant now moves to quash this writ. The plaintiff claims that the present, either the President or one of her Counselors, if possible, otherwise some officer adthorized to make a verbal report of the condition of the Society. Some matters of importance said act gives authority to the council

will be presented for the consideration of the conference, and it is expected President Zina D. H. Young and her void; for the reason that it contains no Counselors will be present. A cordial enacting clause whatever. Second-That if said act is valid, invitation is extended to all interested t does not authorize the ordinance in benevolent work, and especially to in question. the Bishops and presiding authorities. Taird-That said act is invalid, be-

By order of Mrs. M. Isabelia Horne, President of the Relief Society of the Salt Lake Stake.

Judge Henderson heard the following cases at Ogden yesterday : The People vs. John Kelly and John Andrews; burglary; verdict of guilty.

Sentence set for Dec. 13. \* A'dam Eccles, Niels Poulsen, Solo-

mon Clark, Wm. Howell, Charles Kent and Ambrose Hull were admitted to citizenship. Maty Eskelson pleaded not gulity to

fornication C. D. Hays vs. Geo. L. Corey; motion to quash writ, of mandamus granted.

People vs. Wong Bing; assault with deadly weapon; ples of not guilty. People vs. Mark Hall; murder in the M. Bybee, and stabbed him, inflicting

livered in open court at 8 o'clock last long and could give the notice. Besides night, and is given below in full: this, there are various sections of this THE OPINION.

In the District Court of the First Judi-clai- District of Ulah Territory, Weber County. C. D. Hays, plain-tiff, vs. Geo. L. Corey, registrar of Oyden City, Weber County, Utah, defendant defendant. sued his proclamation assigning the

city to the second class, and it is now This is a hearing upon a motion to quash an alternative writ of mandamus heretefore issued out of this court. The plaintiff is a resident and qualified claimed that it becomes a city of the second class for all the purposes men-tioned in the act, and that Section 18 of article one applies. There is no elector, residing in the Second Ward of the city of Ogden; the defendant is doubt but that the city is a city of the second class, as classified in Section 14, for the various purposes enacted utable commission. The writ alleges that the City Council of Ogden City, on the 23d of November, 1888, duly by this statue that are made applicable to cities already existing without re-incorporation. But it does not neces-

passed an ordinance, section 2 of which eads as follows: "Sec. 2. There shall be held in said city, on the second Monday in Febru-ary, A. D. 1889, and biennially there-after, an election for the following second class is applicable. So the question recurs: Do sections 16, 7, 18 and 19 refer to and are they made applicable to cities now incorporated but not reincorporficers, viz.: A mayor, a recorder, a reasurer, an assessor and collector, and a marshal, to be elected by the ated under the act? The first mention in this statute of cities alelectors of the city at large, and two ready incorporated is in section 6 of councilmen and one justice of the peace, by the electors of each municiarticle 1. That section relates purely

pal ward; whose term of office shall be two years, and until their succes-sors are elected and qualified to office. Every legally qualified and duly regis-tered voter shall be entitled to vote ONLY IN THE WARD

in which he resides."

There are various other provisions of the ordinance dividing the city into wards and providing for the registrathe act are concerned. BUT THE SUBJECT IS DROPPED

tion of electors in the various wards thereof. The petition further alleges that the plaintiff made application to

tions in 14, and there the language is, "the municipal corporations in this Territory now existing," plainly indicating, as plain as language can make it, that intention; but the subject upon which section 24 enters is whoily dropped at the end of section 15, and

ordinance above referred to was passed by the city council in pursuance of chapter 47 of the laws of Utab of 1888, entitled "An act providing for the in-corporation of cities," and claims that

to pass the ordinance. The defendant claims: First-That said act of the legislature is wholly

cause it is in conflict with the act of Congress commonly known as the Edmunds act, and particularly section 9 of said act. The act of the legislature above re-

**First District Court.** 

that this invalidates the act. The claim is that it does not appear upon its face to have been enacted by any authority.

THE ORIGINAL ACT

on file in the office of the Secretary of on hie in the office of the Secretary of the Turritory is signed by the presiding officers of the two houses and by the gevernor in the usual way. Various authorities have been dited to me upon this proposition, and I have examined them with such care as the limited time would permit. There is no doubt that it is the almost universal custom in enacting laws to preface them with

their powers and duties,"there is a re in enacting laws to preface them with enactment of the principle contained in sections 16, 17, 18 and 19 of article statement of the authority enacting. , and this section is one that is made

In England, although not required by any written constitution, it is the al-most universal custom; and in this country nearly all of the states in their expressly applicable by the last section of the act to citles already existing, and at the close of this section is this People vs. Mark Hall; murder in the first degree; ou trial. This is the case in which Mr. Hall, who was then cor-oner of Weber County, had a quarrel with another respected citizen, Wm. officers, or with the manner of se-lecting the officers." Ogden City by ing any form thereof : and yet the prac-

of the class to which the city would be- granted and the writ dismissed. H. P. HENDERSON. act which are made express-ly applicable to cities already existing which recognize the dit-ference between the classes. In the city of Ogden the Common Coun-CITY COUNCIL.

The Session of the City Fathers Last Evening.

The City Council met in regular session at 7 o'clock last evening, Mayer Armstrong presiding.

George Lawrence and Jesse C. Little asked the privilege of stretching a private telegraph line from the residence of H. W. Lawrence to that of Jesse C. Little. Referred to the com-

sarily follow that every provision of this charter referring to ditles of the mitte on streets. H. McCoy represented that he had been unjustly taxed on a \$2009 note and mortgage, and asked a rebate Referred to the committee on license. Thomas W. Jennings and others asked that a bridge be put across the second canal at the intersection of Eighth West and Third North streets. to such cities. The language of the section is: "Any incorporated city or As it now stands, petitioners allege they are put to great inconvenience. town now existing in this Territory." Referred to the committee on streets. Section 7 is upon the same subject. fol-lows it immediately and says: "The mayor of such city Jeseph Bull, Jr., asked the privilege mayor of such city \* \* \* \* \* \* \*\*\* Section 8 is upon the same subject and has like reference, and 9, is the of tapping the water main on First North Street for household purposes. Referred to the committee on watersame, and there ends the subject so far as corporations not incorporated under

works. Joseph Matthews and others asked that the sidewalk on Fourth West, be-tween Second and Tuird North streets, and other matters are legislated upon. which is in an almost impassable con-dition, be repaired. Referred to the We next come to this class of corpora-CEDAR POSTS, Etc. committee on streets.

Frank Foote's petition in reference to license for running sampling mills and an assay office was referred to the committee on license.

Wm. Thompson entered objections to certain parties making a general section 16 enters upon a wholly new lumping ground of Fifth South, be-tween Fourth and Fifth West streets. and independent subject and matter, deferred to the committee on streets. H. A. Tuckett aud others asked for an extension of the water mains past their residences. Referred to the com-

nittee on waterworks. Residents on and in the vicinity of Fourth, O. P and Q streets asked why the intention of the City Council to ex tend water mains on those streets had not been carried out. Tabled. Several protests against the exten-

sion of water mains were received and

way Company asked toat the \$2000 deposited with the City Council as a guarantee that they would aravel cer-tain streets, be returned, as the condi-tions had been complied with. On motion of Mr. Riter, the petition

that the work that had been delayed mental to the charters of said cities.' But the sections under consideration are not mentioned. The legislative habit in this act, when going from a subject, foreign to this inquiry, to a subject of incorporated cities already by the failure of the city to properly rade the streets be done as soon as the grade has been established. A dozen liquor licenses were grant-

S. W. Darke made a verbal petition existing, of expressing that by reterin benalf of the executors of the estate of Abranam Cook, deceased, asking that a deed be given them to a certain piece of property located on the Jor-dan River. Referred to the Mayor and attorney, with instructions to report on the facts in the case. City Sexton Patrick presented a re-port, showing the amounts appropriat-ed, and asking that that portion of the cenetery grounds now unfenced, be fenced. Referred to the committee on cemetery. benalt of the executors of the estate ring to them as "citles now existing in this Territory," is fairly well estab-lished. Section 18 has not this lan-guage. Again, when we come to sec-tion 1, of article 6, entitled,

The committee on improvements, t whom had been referred the petition of W. E. Creery and others, asking the important proviso: "Nor shall this act in any manner interfere with the ex-isting qualifications of the electors or erection of a couple of street lamps, reported favorably, and the recommen-

The committee on improvements, to its present charter provides that its councilmen and aldermen shall be selected by the city at large. Here is an express declaration in the act itself that it is not intended to change the manner of selecting officers in cities Adopted. The committee on improvements, to



IDEAL BROILING. Brolling can be done in the oven of the Charter Oak Range or Stove with the

Wire Gauze Oven Door, more perfectly than ever the live coals. Ley the steak, chops, ham or fish on s wire broiler or meat rack, placing it in ar ordinary bake pan to catch the drippings Allow it to remain in the oven with the door closed 15 or 20 minutes. No turnius s required. At the end of this time it will be found nicely cooked ready to

THIS IS THE IDEAL WAY TO BROLL MEATS There is no faint of coal-gas or smoke and the meats are more tender and better in flavor than those broiled over the coals in haver that these houses of the over The convenience of healing in the over will be appreciated by every house keeper, and adds another to the Many reasons why the Charter Oak Eange of Store with the Wire Gauze Oven Door should be preserred to all others now in the market the market.

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> For winter. Cold Weather is bound to come. Don't wait. Now is the time to supply yourself with Winter Clothing. We have never been able to show such an immense line of Winter Goods as we are this season. Our line of Overcoats is simply immense. Our \$6.00 Overcoats and \$7.50 Ulsters are not to be equalled in this town for \$10.00; in higher grades, ranging from \$12.00 to \$20.00 are the art of perfection. Our Satin Faced and Silk Lined Fall Overcoats in every shade imaginable, fairly astonishes our customers. No house in the country can show such a line For Young Men, Boys and Children we are always in the lead and show a line that will please everybody. We are unable to specify for want of space. Our three immense floors are filled with Goods from top to bottom, and will be pleased to show you our Great Display, whether you intend purchasing or not.



NEWS & CHARLES



Our Stock in this Department is so well known by everybody that we need say but very little. We never stop getting in New Styles. Always something new to shew yon. is low grades of Suits, such as 5.00, \$6:00, and \$7.50 Suits for men, we will surprise you what you



"OFFICERS:

The Salt Lake & Fort Douglas Railtions of the act commencing with ar-

ticle 4 "are hereby made applicable to all incorporated cities now organized in this Territory, and shall be conferred to contains no enacting clause in this Territory, and shall be con-whatever, and the defendant insists strued to be cumulative and supplewas granted, with the understanding

cemetery. dation was adopted.

tially the last section of the act, pro-vides that the various articles and sec-

