

dren to raise the small but necessary means for such a purpose.

Praying that God may inspire both Superintendents and Teachers, as well as Bishops and parents, to continue their diligent watch-care over the rising generation of Utah, in which your humble servant desires to participate,

I remain as ever, in behalf of the Sunday School Union,

GEORGE GODDARD,
Ass't Sup't.

LOCAL AND OTHER MATTERS.

FROM WEDNESDAY'S DAILY, SEPT. 17

City Council.—Council met last evening, as usual, Mayor Wells presiding.

A. H. Raleigh was sworn in Alderman of the Third Ward, and H. Dinwoodey councillor.

Petition of J. J. Atchison and others, asking for covered flumes in the ditches on Second East Street, where it is crossed by First South St., referred to committee on streets and alleys.

A paper from J. P. Meik, practical homeopathist, was read, stating that the board of examining physicians, composed entirely of allopathic professionals, had refused to grant him a license, because unable to answer the questions put to him. He desired to be examined by a board composed of homeopathists.

Dr. S. B. Young, secretary of the Board, who was present, said the applicant had been examined upon the elementary principles of medicine and surgery, without regard to method of practice. The matter was referred to the committee on municipal laws.

Petition of A. Hardman, asking for the opening of Ninth South Street, between Third and Fourth West Streets, referred to the committee on streets and alleys.

Committee on streets and alleys reported favorably on petition of H. Wagner and others for flumes to be placed along the sides of Second South St., between East Temple and First East Streets; report adopted.

Several bills were presented and allowed.

FROM THURSDAY'S DAILY, SEPT. 17.

Accident.—Last night, as the half past six o'clock train was coming in from the South, a young man, named Butcher, who lives in the 6th Ward, and is employed by the railroad company, was uncoupling the cars, his foot was caught between the buffers and very badly injured. Dr. Anderson was sent for, but could not very well then determine the full nature of the injury, as the foot and ankle were terribly swollen. He was taken home in a carriage, suffering from the most acute pain.

Attempted Burglary.—On Tuesday night burglars attempted to break into the house of Widow Pettit, 15th Ward. The would-be robbers cut a pane of glass from one of the windows, reached in and removed the fastener. Luckily, in the act of pressing back the sash, they knocked over some bottles and other articles, making a noise which awoke some of the inmates of the house, and causing the burglars to decamp, and it was lucky for them that they did, as they awoke a gentleman, a relative of Mrs. Pettit, who was asleep in an adjoining room, and who was in a position to give the intruders a warm salute from a shot-gun.

Narrow Escape.—Day before yesterday a team, belonging to Mr. Gardiner, got frightened and broke loose from a post, to which they were fastened, at the residence of Mr. Heath, 6th Ward. The animals ran northward, knocking down the picket fence at Mr. Dumball's corner. They ran into the garden, just shaving a knot of children, who were at play, and bringing up suddenly by the wagon jamming between two trees. One of the children was a little daughter of Brother Knox, she who was run over and severely injured some weeks since. This time the wagon only missed her only by an inch or two.

Third District Court in Chambers—Peremptory Mandamus Issued in the Tooele Cases.

After the opening of the Third District Court in chambers, this morning, his Honor, Judge McKean, said that, near the close of yesterday's proceedings, Judge Sutherland, of counsel for the defense in the case of Chamberlain versus Rowberry and Warburton,

made a motion to quash an order recently made by the court to the U. S. Marshal, directing the latter to proceed to Tooele, take possession of the county records, seal and other property, and hold the same until further instructions, and until the matter for a peremptory mandamus could be heard and determined. His Honor said that there were reasons for believing in the existence of a plot to secrete, steal or destroy the property in question. The fact that the Marshal had gone to Tooele, taken possession of the clerk's office and the papers that were therein at the time, and that during his momentary absence he was locked out; and also the fact that it had been given in evidence during the mandamus proceedings that the papers, etc., had subsequently been removed to the residence of Mr. Warburton, showed that the allegations, based on an affidavit, on which the issuance of the order to the Marshal was based, were well grounded and the motion to vacate the order was therefore overruled.

The Court then took up the case of the application of Mr. J. Chamberlain for a peremptory mandamus to compel John Rowberry and Richard Warburton to give up to his custody the records, papers, seal, furniture, etc., belonging to Tooele County, Chamberlain claiming to be the County Clerk of Tooele, appointed by L. A. Brown, Probate Judge.

His Honor said he would have preferred to have given his decision in writing, and prepared it carefully, but it was impracticable.

The ruling of Judge McKean was in substance, about as follows:

The complainant, Chamberlain, had presented an affidavit, in which he set forth that he was County clerk of Tooele, appointed to that office by the Probate Judge, L. A. Brown, and that by virtue of his office he was entitled to the possession or custody of certain property, including the County records, accounts, seal, furniture, etc. It was set forth by him that the property in question was wrongfully held in possession by John Rowberry and R. Warburton, and Chamberlain asked for a peremptory mandamus to compel them to yield possession to him. At the commencement of the proceedings on the application for a peremptory writ the defence made a motion to quash, on the ground that they, the defendants, were officers *de facto*, and in their answer they denied that Chamberlain was County Clerk, or that Brown was Probate Judge; they further set forth that Rowberry had been judge for ten years past and Warburton clerk for eight years, and on these grounds claimed the right to retain and hold possession of the property at issue, and denied the right of Chamberlain to a writ of mandamus to compel them to yield it up to him.

The proofs were that Brown produced, in support of his claim to the Probate Judgeship, a commission signed by the Governor and countersigned by the Secretary of the Territory, the very highest proof of title to office in existence.

It is said on one side that this is not a suitable case for *quo warranto*, while the defense assert that Chamberlain's remedy was *quo warranto*, and that he could only obtain possession of the office of clerk by judgment of ouster, under proceedings of that character. The suit, however, was not brought to determine who had a right to the office of clerk, but as to the possession of the property in question. *Quo warranto* must be based on the assumption that Warburton was in the office, which Chamberlain did not recognize. Suppose *quo warranto* proceeding had commenced, based on the assumption of Warburton being in the office, the case would have to be placed on the calendar, and could not be heard for a long time, an appeal could lie from the District Court to the Supreme Court of the Territory and from the latter to the Supreme Court of the United States, and by the time a final decision was reached the term of office would have expired. On the part of the defense there was not the slightest proof that Rowberry had any title to hold the office of Probate Judge, further than that he wanted it. Yet he claimed forsooth that the Court should go behind the Governor's commission, the very highest evidence of right to office, to inquire whether he was entitled to the office of Probate Judge. A more bald and utterly foundationless claim was never set up in the

annals of history. The court was asked to recognize him as an officer *de facto*, simply because he wanted the office, when he was neither an officer *de facto* nor *de jure*; it was the baldest assumption on record.

Governor Woods came here with the commission of President Grant. Suppose his predecessor, V. H. Vaughan, had told him, "I do not believe the President has a right to issue that commission and I will hold on to the governorship and you must obtain a writ of *quo warranto* and on it obtain judgment of ouster before I will surrender the gubernatorial position, I don't believe you are a tax-payer, and you cannot have the office without judgment in the court." What an absurd position this would be, yet it was similar to that of Rowberry in asking the court to go behind the Governor's commission, the highest evidence of office. Suppose Vaughan had said, "I am an officer *de facto*, because, I want the office, and the matter had been brought before me." I should have issued a *mandamus* (here the Judge fairly squirmed with nervous excitement and ill-subdued passion) and if he had not obeyed I would have placed him in jail; I should have fined him; I should have punished him to the extent of my power.

Supposing some gentleman should come to-day, bearing a commission from President Grant as Chief Justice of Utah and Judge of the Third District, and my clerk should hold on to the books, papers, &c., of the Court and, under my instructions, refuse to give them up to him, and tell him he must oust us by *quo warranto* proceedings before we should allow him to take possession.

The Judge here got hotter and hotter, although to the eye he looked as cold as an icicle, and he narrated a little circumstance in which he showed that his opinion of the difference between a State and a Territory was that the latter was rightfully in a condition of vassalage, while a State was not. "Any interference with this kingdom," said he, was denounced as usurpation and persecution, but he, the Court, did not so view it.

The peremptory mandamus asked for by Chamberlain would be granted, and if he didn't get it he should inquire the reason why.

Mr. Snow had remarked yesterday that courts were not responsible for the effects of the carrying out of the law, and that if the peremptory mandamus should be issued the most serious consequences would ensue in Tooele. Perhaps Mr. Snow's remark was taken to mean more than was implied, but we had learned in this country not to be timid. A return of the Marshal had shown indications of violence. We could afford to wait, but we could not afford to wait too long, and we could not afford certain parties to go too far; neither would it do for attorneys to advise how far they should go. The peremptory mandamus was granted.

Mr. Hagan reminded the Court that he had omitted, in his ruling, the matter of costs for Chamberlain. The Court said he had overlooked that, and granted damages for plaintiff for \$450.

Judge Sutherland deemed it due to make an explanation regarding the removal of the records, &c., from the Clerk's office.

The Court said he did not mean to censure Judge Sutherland, as he did not consider him capable of such an act.

Mr. Sutherland further said that, in justice to his client's he felt it necessary to say that the property alluded to had been removed at his suggestion, in consequence of a well founded rumor that an armed mob of miners were about to attempt to obtain forcible possession of the books, &c., and they were only removed for safe keeping, and not to resist any process of the Court. The populace were not always willing to abide by the law.

The Court remarked, venomously, that the populace generally were inclined to be law-abiding, excepting when misled by unprincipled leaders.

After a few remarks, in which Counsel for the defense assured the Court that there was no intention on the part of their clients to resist legal process, the matter was dismissed for further consideration.

FROM FRIDAY'S DAILY, AUG. 18.

Firemen's Excursion.—The time for the Firemen's excursion to Pro-

vo has been unavoidably changed to Wednesday morning next, instead of Tuesday as previously announced.

Information Wanted.—William Rank (or Rack), of Pecatonica, Winnebago county, Ills., is desirous to obtain information concerning his uncle, Robert Gibson, who, he states, left that place for Salt Lake, shortly after the settlement of this valley.

Recovering.—The Ogden Junction, of the 17th, says that Lorin Wheeler, under the skillful attendance of Dr. T. E. Brown, is rapidly recovering from the effects of his terrible accident. He is around town every day, and smiles cheerfully, though he keeps his mutilated hand in a sling.

U. N. R. R.—The *Montanian* of Sept. 3 says—

"We have received a letter from one of the Directors of the Union Pacific Railroad, bearing the date of the 24th ult. He thinks that Richardson will not extend the Utah Northern toward Montana unless the Territory aids the enterprise."

From St. Louis.—We had a pleasant call to-day from Mr. A. J. Kershaw, of St. Louis, who is well known to a large number of the citizens of this Territory.

"Gone from our Gaze."—We understand that B. Lyons, the pump, piping and chandelier man, has gone to Idaho, or somewhere else, and waited "not for the order of his going." The Rumsey & Co. eastern pump and gas fitting house have seized on to the remnant of the stock, but is it probable they have not got the "lion's share."

Jefferson Mines, Montana.—The latest advices from the Jefferson River Mines is of a very encouraging character. The claims opened are paying from \$30 to \$50 per day to the man. W. L. Carter sold a third interest in discovery claim on Wednesday of this week for \$1,500 in cash, and the company is putting in a steam pump.—*Madisonian*, Sept. 5.

A Similar Case.—In the Third District Court yesterday, after the rendering of the ruling in the case of Chamberlain vs. Rowberry and Warburton, a similar one, in which J. M. Lynch, claiming to be Sheriff of Tooele County, is the applicant or affiant and Sheriff W. H. Lee defendant, was taken up. Lynch presented, as evidence of his title, a commission from Gov. Woods. Counsel for the defense objected to the introduction of the document as evidence, as the statutes did not make it necessary for the Governor to Commission a Sheriff. After discussion the motion was sustained, and an effort was then made to get an abstract of the election returns said to be in possession of Secretary Black, now in the east, pending the obtaining of which the case was adjourned till next Tuesday.

An Ungrateful Scoundrel.—Day before yesterday a fellow giving the name of Stevens entered the office of Bishop Edward Hunter and told the latter he was hard up, wanted work and something to eat, so the Bishop told him he would see about getting him employment, and the kind hearted gentleman also took the fellow home to dinner. On Stevens, if that be his name, representing that he had no lodging place, the Bishop invited him to call and take supper in the evening and stay over night, which invitation he accepted with apparent gratitude. But he never appeared again that day. Yesterday morning the Bishop passed him on his way from the house to his office, but the fellow seemed to avoid him. As soon as the Bishop got fairly out of sight Stevens went to the Bishop's house and said he had just seen the latter, that he was going to work for him and he had sent him to get a pair of blankets and a quilt, which the unsuspecting Sister Hunter gave him and, in addition, let him have his breakfast. When asked why he did not call the night previous he said he had met with his old friend, Col. H. P. Kimball, and he couldn't get away from him.

It is needless to say that the fellow was a bilk, and that he got the bedding under false pretenses, or to allude to the Bishop's surprise to find, when he went home to dinner how he had been deceived.

During the day the Bishop met Col. Kimball, to whom he narrated the circumstance, including the

mention of the Colonel by the fellow as an old friend.

Give me your hand, said Mr. Kimball, to the Bishop, laughingly, and let me tell you my experience in the same line. "That fellow worked a while for me on the railroad, and was known by the cognomen of 'Tom.' He came to me yesterday and asked me for half a dollar, which I gave him. I afterwards drove past him on the street, when he went direct to my house and told my daughter I had sent him for a pair of blankets and a quilt, which she gave him."

"Stevens" or "Tom" represented to Bishop Hunter that he used to live in "Bear Lake City" (we are not aware that there is a place of that name), and that his relatives lived at Franklin. It is to be hoped the ungrateful "bilk" will be caught and found a month's employment on the streets.

FROM SATURDAY'S DAILY, AUG. 8.

Comforting.—Owners of corns, bunions and buggies may take comfort from the fact that some of Supervisor Hyde's men are at work picking up the loose cobbles from the streets.

China Going for "Young America."—Yesterday a Chinaman was fined \$5 in the police court, for "assaulting and battering" a youthful specimen of the genus denominated "Young America."

In Sacramento.—We understand that Dan Frazier, a man who was sentenced to a term of years in the penitentiary of this Territory, some time ago, for horse stealing, and who broke jail and escaped, is in Sacramento, Cal.

Very Sick.—The *Omaha Herald* has a letter from Prof. J. V. Hayden, dated Elk Mts., Col., Sept. 5, and stating that a son of Hon. I. P. C. Shanks, M. C. from Indiana, was severely ill of typhoid pneumonia, and might die at any time. He was completely helpless in camp 100 miles from any human habitations, across two mountain divides, 12,000 feet above the sea, over a terribly mountainous and rugged country. Prof. Hayden had to send 100 miles for supplies, medicines, and a physician.

U. P. Land Claims.—We are informed, by Mr. W. Pettinger, that the attorney and agent of the U. P. R. R. Co., will be at the U. S. Land Office in this City on September 24th. All parties who have made homesteads on the odd sections of the U. P. land would do well to appear at the office at that time and ascertain whether the U. P. Co. will relinquish their claims to the land.

This refers to those bona fide settlers who lived on and were in possession of those lands previous to July 1, 1868, on which date the R. R. grant is held to have taken effect. Those parties should be on hand at the time and place mentioned, with proofs of their occupancy and claims.

The Blanket "Bilk."—The fellow known as "Tom" or "Stevens" appears to be still at work, operating on the sympathies of the benevolently inclined. Yesterday he met a soft hearted lawyer of our acquaintance, it appears there is one, at least, of the profession that way inclined, to whom he pulled an elongated countenance, saying he was hungry, and, as a natural consequence incidental to that condition, wanted something to satisfy the cravings of the inner man. The legal gentleman took "Tom" home with him and gave him his breakfast, and after both had left the house, the gentleman going to his office, "Tom" returned and told the good lady of the house that her husband had sent him to get some blankets, which she unsuspectingly gave him. This makes the fellow's third exploit of the kind that has come to our knowledge within a day or two. Who comes next?

DIED.

In Salt Lake City, on the 14th inst, MARY, wife of Joseph Braithwaite, in the 28th year of her age.

Millennial Star, please copy.

At Williamsburg, N. Y., Sept. 2, of cholera infantum, LIZZIE, daughter of Thomas and Elizabeth Hutchison, aged 1 year, 2 months and 23 days.

In Salt Lake City, Sept. 16th John Robert, son of John and Elizabeth Ann Cowan, aged one year, two months and twenty-seven days.