DESERET NEWS:

WEEKLY.

TRUTH AND LIBERTY.

WEDNESDAY, - June 23, 1875.

CHATTERING IN MEETING.

In yesterday's NEWS a correspondent complained of bad behavior in meeting at the Tabernacle on Sunday, and that by a person claiming the title of reverend, a quarter in which we might naturally not be expected to look for such conduct. A reverend, certainly, should feel himself in duty bound to reverence any place of worship, especially during the time and progress of worship. Otherwise he sits in the unenviable "seat of the scorner," and may also be written down a very ill-bred person, lacking in refinement, courtesy, Christian spirit and even common decency.

It is seldom done, generally speaking, and it is not in very good taste, for persons to get up in meeting and walk out during service. But there may be circumstances under which that is justifiable and necessary. In such case every half well bred person will retire "decently and in order," as everything should be done, making as little noise or stir and attracting as little attention as possible, so that those who remain to worship may not be disturbed therein. But talking in meeting, to annoy others, is perfectly inexcusable. A decent regard for the feelings and especially the religious convictions, rites, and ceremonies of others, is an unfailing trait in every cultivated, properly brought up, or sensible person, and reverend gentlemen ought to be all of these.

In case of persistence in such ill-mannered conduct there are several remedies, such as an open rebuke by the officiating speaker, an intimation by the usher of a breach of propriety, and, lastly, if milder measures fail to silence the offender, an irresistible invitation to walk out.

No one is obliged to go to meeting. The going is entirely optional. But when persons do go to meeting, they should muster sufficient good sense to behave themselves decently while there. If not, they should be corrected and taught the lesson that a house of worship is not a place for the display of bad manners and indecorousness.

DIDN'T KNOW IT WAS LOADED.

ANOTHER of those most distressing and fatal events resulting from the careless handling of fire-arms, occurred at Boston, Mass., May 31. As Miss Laura Isabella Whittier, eighteen years old, was standing with her sister in the drawing room, Mrs. Thomas Banford, a friend and boarder, stepped softly into the room with a pistol, which she did not know was loaded, cocked the weapon close behind the ear of Miss Whittier, and, with the intention of giving her a momentary fright, pulled the trigger. The pistol exploded, and the bullet penetrated the brain of Miss Whittier, who fell dead without a word. Several physicians were called in, but without avail. The young lady was engaged to be married shortly. Mrs. Banford sank into a condition bordering on insanity.

This terrible accident occurred through ignoring the very first rule to be observed in handling firearms—never to point them at any person, whether they are loaded or not. If this simple and sensible rule had been observed by Mrs. Banford, her friend, Miss Whittier, might still have been living, even though the pistol had been discharged unexpectedly in the act of giving the girl a momentary fright. We believe it is made a crime, in some portion of the Union, except under special circumstances, to point a fire-arm, loaded or unloaded, in jest or earnest, at any person. It is a good law, and ought to be universal.

THE WATER BELOW.

THERE is a water source below as well as one above or upon the surface of the earth, and the question has been sprung whether in many instances the subterranean source is not the most certain, most abundant, and most easily available. San Francisco and other portions of California are contemplating some gigantic and very expensive schemes for furnishing water for domestic and agricultural uses, and a San Francisco paper suggests that the subterranean supply has been too much neglected and might frequently be made more cheaply and more satisfactorily available than the supply above ground, by means of artesian wells.

The outlay for large and long canals is very great, and they cost considerable annually to keep them in repair, when they have been successfully made. Here are some suggestions from the S. F. *Chronicle*—

"We are of opinion that a simpler and cheaper expedient should first be thoroughly tested in all parts of the State where irrigation is needed. From the geological and topographical character of the State, we are driven to the conclusion that there is plenty of water under our feet, which could be brought to the surface by artesian wells, of which a sufficient number might be sunk to irrigate all our valleys. The process would not be very expensive—that is when compared with that of constructing canals—and would not require the creation of incorporated companies. The sinking of an artesian well would be a mere neighborhood undertaking, in which the farmers would be required to invest little else than their own labor.

"But is the water to be generally reached by this simple process? We know that it has succeeded in many localities, and that there have been few failures. In San Jose valley and the lower part of Los Angeles valley, as well as in San Bernardino, artesian wells are very numerous and furnish abundance of water for all purposes. We know also that in many other localities plenty of water has been found, although flowing wells have not been struck. So far as mere experiment has gone, therefore, everything indicates the probability of success. But even experiments, valuable as they are in a practical question like this, fall very far short of the favorable evidences furnished by the topographical features of the State.

"It is then evident that an immeasurable amount of water finds its way below the surface of our valleys, beneath impervious strata, forming a network of living streams which have somewhere an outlet yet undiscovered by man. It is known that such streams do exist in countries far from mountain ranges. In Southern Algeria, in the edge of Sahara, artesian borings struck streams abounding in fish of hitherto unknown varieties. From the mud volcanoes of Central America fish of several varieties have been often thrown out. Such facts are evidences that subterraneous streams, perhaps equal to the grandest on the surface, flow in silence and darkness beneath the ribs of the solid earth. In our valleys the problem is to tap these streams, which every analogy in nature proves to exist.

"Suppose, since there are so many objections to having the State extend its aid to canal projects, the Legislature were simply to offer a liberal bounty to the discoverer of artesian water in any valley where it had not hitherto been found?"

These observations would apply in part to Utah, where many canals have been dug, and where some expensive ones have not proved very successful.

It is true, attempts have been made to bore artesian wells in this vicinity, but the attempts have not been successful, nor have they been very thorough, there being a widely prevalent belief that the sinking of such wells would not be a success in these valleys. This may be true, or it may not. But it would certainly be worth while to make a thorough experiment at some suitable point, and have the question settled one way or the other.

SPONTANOUS COMBUSTION.—The Tuolumne, Cal., *Independent* presents a case of spontaneous combustion—

"Last Saturday, Judge Mackey, of Merced, discharged one of his hired men, who was a confirmed drunkard. The man stayed in Merced City until the following Monday, when he departed for La Grange, taking the precaution to take a gallon of gin along. Nothing was seen of him after this until Wednesday, when two small boys, living just outside of La Grange, ran into their father's house in great alarm, saying there was a man on the road who was burning up. Such proved to be the case. The unfortunate man, by his excess in drinking had destroyed his vital energies, and chemical agents had obtained the ascendancy, so the hydrogen of alcoholic drinks had combined with the phosphorus of the body, forming phosphuretted hydrogen, which ignited spontaneously, and the wretched man died a most appalling death."

The Sacramento *Record-Union* says—

"The most eminent authorities are still in doubt as to whether what is called spontaneous combustion of the human body is possible, and it will not therefore do to dogmatize upon the *modus operandi*. That there is plenty of evidence in behalf of the reality of the form of death is however certain, and when so distinguished a chemist as Le Cat positively declares that he has satisfied himself, by personal examination in a case which occurred in a house where he was living, that spontaneous combustion does occur, it is not so easy to accept the equally positive denials of the opposition party, even though so high an authority as Liebig be on that side of the opposition.

"Two of the best authenticated cases happen to be those of a young man and a young woman, neither of whom were intemperate, nor fat; of them it is recorded that 'with nothing like the premonitory symptoms of disease, flame was communicated to their fingers and increased upon them, playing about one or both hands, and setting fire to cloths used to envelop them. Immersion in water did not readily extinguish the fire; and even after it was thus made to disappear, it would again break out spontaneously. The effect did not extend beyond the hands. The fire being extinguished, the burns were finally healed after the loss of the epidermis and many of the nails."

While we have never witnessed anything like spontaneous combustion of human kind, we may confess that we have seen a few persons who would receive a portion of their deserts if they were to expire that way.

HEAVY LAW FOR BURGLARS.—The New York *Sun* justly advocates severe punishments for all burglars found armed with deadly weapons—

"The shooting of Mr. Shute of Brooklyn in his own house in the night by an armed burglar who had invaded his premises for the purpose of robbery, affords another argument for the enactment of a law providing that all criminals who may be arrested in the act of burglary, or attempted burglary, having deadly weapons upon their persons, shall be imprisoned for a term of fifteen or twenty years. When a criminal goes armed to commit a burglary, the possession of a pistol or other deadly weapon affords clear evidence of his intention to do murder if he should be interfered with in the execution of his felonious purpose, and find it necessary to kill in order to escape the penalty of his crime; and he should be dealt with accordingly. The strict enforcement of such a law as we have suggested would have a salutary effect."

A GOOD IDEA.—An exchange says that an industrial school is to be established near Aurora, Ill., at which the instruction will cover everything necessary for the education of the farmer and mechanic. There will be enough literary training to enable the scholar to understand and appreciate current literature. The course will include chemistry, especially as applied to agriculture and the mechanic arts, natural philosophy, demonstrating those portions which bear upon the matters pertaining to the machinery of the farm and workshop, and the hydraulics, etc., so necessary in a slightly watered country. Especial attention will be given to botany, and demonstrating gardens and nurseries will doubtless form a portion of the system.

That is the right kind of an education, instructing a youth in the real business of life, instead of merely the theoretic technicalities of what is generally understood to be scholastic learning.

THE REYNOLDS INDICTMENT QUASHED.

OPINION OF THE SUPREME COURT.

In the Supreme Court of Utah Territory, June term, 1875.

The United States, Respondent, *vs.* George Reynolds, Appellant.	Opinion of the Court.

Appeal from the 3rd District Court. Boreman, Justice, delivered the opinion of the Court.

The appellant was convicted of a violation of the statute of the United States of 1862 against polygamy. The appellant assigns as error the rejection of evidence offered by him to show that plural or polygamous marriage was part of his religion. This objection of the appellant, is, as we conceive, based upon neither reason, justice nor law, and therefore we dismiss it without further notice.

The principal difficulties in the case arise in reference to the constitution of the grand jury which found the indictment upon which this conviction was had. The most important of these objections to the grand jury was that which had reference to the number necessary to constitute a legal grand jury. This indictment was found by a grand jury consisting of twenty-three men. The appellant assigns this for error and claims that fifteen was the proper number to constitute that body.

The Act of Congress entitled an Act in relation to Courts and judicial officers in the Territory of Utah," approved June 23rd, 1874, and which is commonly styled the "Poland Bill," provides (in sec. 4.) for the making once a year of a jury list of two hundred names, from which the grand and petit juries for the District Court shall be drawn; and it requires that when a grand or petit jury is to be drawn for any term, the judge of the District Court shall give public notice thereof, and shall preside at the drawing; and that the clerk shall put the two hundred names on separate slips of paper and place them in a covered box and thoroughly mix and mingle them, and that thereupon the United States marshal shall draw from the "box such number of names as may have previously been directed by said judge," the grand jury to be drawn first; that a venire shall issue and the persons whose names are thus drawn shall be duly summoned before the term of Court; and that "the jurors so drawn and summoned shall constitute the regular grand and petit juries for the term for all cases." It was under this act that the grand jury which found the indictment was procured.

Let us, then, first consider how the law stood at the passage of that act. In the well known case of Clinton *vs.* Engelbrecht (18 Wallace) the Supreme Court of the United States, after referring to the power of the Legislature as extending to rightful subjects of legislation, say, "The method of procuring jurors, for the trial of cases is * * a rightful subject of legislation and the whole matter of selecting, impanelling and summoning juries is left to the Territorial legislature;" and further that "the action of the legislatures of all the Territories has been in conformity with this construction;" and still further, in another part of the opinion, "that the whole subject matter of jurors in the Territories is committed to Territorial regulation."

The general jury laws of the United States are not by express words made applicable to Territorial courts, and if they are to be considered as applicable thereto, it can only be so upon the theory that these Territorial District Courts are United States Courts. In the case of Clinton *vs.* Engelbrecht referred to, Chief Justice Chase, in speaking of such a theory and of the action of the Territorial District Court in selecting juries under the United States jury laws, said, "We are of the opinion that the Court erred both in its theory and in its action;" and in speaking, in the same case, of the Judiciary Act of 1789, he says, "The regulations of that Act in regard to the selection of jurors have no reference whatever to Territories. They were framed with reference to the States and cannot without violence to the rules of the construction be made to apply to Territories of the United States. For similar reasons no act of Congress respecting juries in United States Courts, enacted subsequent to the act of 1789, could be made to apply to the Territorial Courts, unless by some express provision to that effect. It is not shown, nor do we believe that it is claimed, that any such provision exists.

The position of the Supreme Court of the United States, so broadly laid down, as before stated, is, as we conceive, well supported by the reasoning of the same Court in the subsequent case of Hornbuckle *vs.* Toombs (18 Wall).

When the Act of Congress, termed the "Poland Bill," was passed, the Territorial jury laws and the United States jury laws were the same as when the decisions of the Supreme Court of the United States were rendered. We connot therefore, in the face of the opinion of the highest tribunal of the nation to the contrary, say that, at the passage of the Act of Congress referred to, the general jury laws of the United States were applicable to Territorial Courts. The question then arises, did this Act of Congress change the rule? It certainly changed the rule so far as the two acts are inconsistent. It cannot be said that that Act, however, fixes the number necessary to constitute a grand jury. If the number drawn upon the order of the Judge fixes the number, then it likewise fixes the number of the petit jury. The language is alike in respect to both. If this construction be correct, a grand jury of thirty or any other number, less than two hundred, could be a legal grand jury in this Territory. Could Congress ever have intended any such thing? It is but reasonable to suppose that if Congress had intended to have fixed the number, it would have said so, and not left it to vague supposition. The purpose evidently was to allow the Judge to fix the number necessary to be drawn, out of which to make the jury, the jury to be of the number as then established by law.

It is claimed that if the United States jury law be not applicable, nor the number of the jury be allowed to be fixed under the "Poland Bill," yet that the act went far enough to repeal the Territorial law in respect to the number of the grand jury and allowed the Common Law to rise up to control the matter. This position, of course, can only be maintained upon the ground that the repeal is by implication merely, such repeals are not favored and will not be declared to exist except in case of inconsistent or incompatible enactments. We are unable to perceive any inconsistency or incompatibility between the Territorial statute fixing the number of the grand jury and this Act of Congress. The Territorial statute seems rather to fill and supply a place not covered by the Act of Congress. A law which declares the number necessary to constitute a grand jury is not inconsistent with a law which merely tells us how to get the number of jurors out of which to compose the jury. The laws are entirely reconcilable and consistent, and it is the duty of the Court to declare that both of them shall stand.

So far as the Act of Congress goes it becomes exclusive as to all that it properly embraces, and if Congress is to be considered as having in this Act legislated upon the number of the grand jury, then, of course the territorial legislature is precluded from doing so. If that act supersedes the territorial law now on the statute book as to the number of the jury, it would likewise exclude any future legislation upon the subject by the terri-