

EDITORIALS.

THAT ARTICLE ON JURIES.

As our readers are aware, in our issue of Tuesday evening, an article appeared under the caption "Juries," in which we endeavored to briefly explain some of the rights as well as the duties of both judges and juries in the trial of causes. The views then enunciated were chiefly drawn from the writings and opinions of men eminent in the law, in fact of some who are regarded in all English-speaking countries as among its most brilliant expounders and professors. So far as these latter are concerned we presume they will be received and pass among all members of the legal profession, whether lawyers or administrators of the law, as current coin of sterling worth; and as for any opinions that we may have expressed individually on this subject in the article referred to, we certainly have nothing to retract, believing that justice and equity and a correct construction of the maxims and axioms of the science of the law itself would fully sustain the position we assumed.

We should not have referred to this subject again, at all events at present, had it not been for a circumstance which occurred yesterday in the Third District Court, when a legal gentleman, noted as a prominent member of the anti-Mormon ring hereabouts, and, we believe, one of the principal counsel against this city in a notorious barlot case now pending in the Third District Court, took occasion to call the attention of the Chief Justice to our article on juries, and asked permission to read it to the Court. Permission was granted and the article, or such portions thereof as were required were read by the gentleman, who, we are informed, expressed the opinion that the design of the NEWS in its publication was to induce juries to disregard the instructions and to act independently of the Court in finding verdicts; and as a consequence of its publication he should decline to have the case, the one mentioned above, tried by a jury.

As to the gentleman's opinions concerning our motive in publishing the article in question, he has a perfect right to them, and we are indifferent as to their character; but for the purpose of correcting him we will say, *en passant*, that, in writing and publishing it, we had neither the design nor the desire to influence or induce juries to act independently of, or to disregard the instructions of the court in finding verdicts. We will now, however, proceed to explain the motive which prompted its publication.

It is conceded that a public journal is one of the most efficient instruments in educating the popular mind, and one of the main objects which a journalist who honors his profession has in view, is to lay the truth and nothing but the truth before the people. It will not be disputed, we think, that in the selection of jurors, no particular regard is had to their educational qualifications, the only thing insisted upon by the law, in Utah, so far as this is concerned, is that they shall be able to read and write the English language. It is not a supposable case that all who possess these qualifications, and who may be accepted to serve on a jury, are fully posted as to the rights, duties and privileges of jurors; and to our mind, no further proof need be given on this point than the fact that juries, not unfrequently, return verdicts of guilty or not guilty, for or against, according to the *ipse dixit* of a judge, who constitutes himself jury, or sole judge of the facts as well as of the law, and orders a verdict accordingly, which, in our judgment, no judge has the right to do, for a so-called trial by jury is thus rendered a mere farce and mockery. And in penning the article which appeared in the NEWS of Tuesday evening we but carried out what we consider to be the legitimate exercise of our functions as a journalist, in endeavoring to instruct or educate the people—from whom juries are drawn—upon a few

points regarding the rights and duties of those who may be called upon to act in that very important capacity, and we entirely disclaim any other motive whatever.

We think the preceding is sufficient reply to the legal gentleman above mentioned, and also to most of the remarks made in reply by the Court. There is one point, however, in the remarks of his honor to which, however much our native modesty shrinks at the idea, we feel bound to reply, not so much in justice to ourselves as to some of the members of the bar in this City, upon whom we can state positively, so far as the DESERET NEWS is concerned, an unfounded imputation was cast by the Court.

His honor said, in substance, that it was not possible to conceive that either of the counsel engaged in the cause—that of Kate Flint vs. Salt Lake City—was guilty of writing the NEWS article, or had a helping hand in it; yet it was evident that some one other than a layman had something to do with it. In this respect we most respectfully beg leave to assure his honor that he was mistaken. The article in question was neither written, nor in the least degree inspired, by any lawyer. We do not pretend that the ideas there embodied were not the result, in great part at least, of the perusal of legal and judicial literature, but beyond this the article in question was an entirely unprofessional production.

As to the remarks of the Court in reference to lawyers who try their cases in newspapers—if such there be in this city or in this Judicial District—we consider them worthy of the fullest endorsement by every fair-minded and honorable member of the community. Any member of the bar who, before or during the trial of a case, would endeavor to shape public opinion through the columns of a newspaper, is guilty of unprofessional conduct which is deserving of the severest censure; and we would respectfully suggest to his honor the propriety of appointing a committee of members of the bar whose honor and integrity are above suspicion, to investigate this charge, that if there are or have been any guilty of such an unlawful-like course the censure they deserve may be meted out to them. Such a proceeding, we think, could not but meet the hearty support of every honorable lawyer in the Territory.

As for the course which has been pursued in conducting the DESERET NEWS, we can say with all truthfulness, that it has been our aim to refrain from giving place to any remarks in our columns which would in our judgment tend in the least degree to prejudice a case or to influence the verdict which might be rendered; in fact, our uniform course, before or during the trial of a case, has been to preserve a guarded silence in reference thereto except so far as the facts which have transpired in court in its investigation. And in conclusion, we desire to assure his honor—and in doing this our only object is the exoneration of gentlemen of the bar upon whom suspicion may rest—that the various articles which have appeared in our columns from time to time, which may have seemed to give evidence of some slight acquaintance with the principles of law, have been, in every instance, the productions of the editorial staff of the NEWS—the hands and brains of laymen.

THE PRESIDENT'S PARSON AND HIS IMPORTED GOODS.—This is how the San Francisco *Chronicle* talks about the great Washington theological inspector of consulates and his thirty cases of seized goods—

"The Rev. J. P. Newman, a fluent orator and a great gun in the Methodist denomination, preached for some time in Washington, and was chosen chaplain to the Senate several years ago. During this period he became a great favorite with the President, and when he began to complain of failing health and to talk about foreign travel, as the thing to 'build him' up, Ulysses appointed him inspector of United States consulates abroad, with a handsome salary, and all expenses paid. We are not prepared to state precisely the nature of the duties devolving upon the Inspector of Consularships further than traveling about, seeing the world and enjoying himself. These duties Dr. Newman has faithfully

discharged, and his health seems to have been so far restored that he has begun to think of going into the mercantile business on his return to the United States. In anticipation of opening a bazar for the sale of curios, etc., he has been laying in a stock of foreign goods and forwarding them to New York. But owing to his neglecting the formalities of paying duties on his imports, we learn from yesterday's dispatches that thirty cases of these goods were discharged from the ship *Kate Kearney* from Hong-kong on Saturday, and seized by the custom-house officers."

Can't the President save his ecclesiastical friend and pastor by a nod or a wink, or, even in this rev. gentleman's case, must the doctrine be enforced that America expects every man to pay his duties?

GENERAL PEACE AND CONTENT.

—On the occasion of the recent visit of the Prince and Princess of Wales to Birmingham, England, the Mayor, Mr. Chamberlain, in proposing the Queen's Health, said—

"In the history of a reign now extending over thirty-seven years there had been no period when peace and content have been more general throughout the length and breadth of her Majesty's dominions, and no time when her Majesty's popularity had been greater or more fully assured. In former reigns, and in other countries, it has sometimes happened that the constitutional conflict and changes which are always going on have involved the head of the State in occasional unpopularity and difficulty; but here in England the monarch is acknowledged to be above all parties, while belonging to none, and the throne is recognised and respected as the symbol of all constituted authority and settled government. The Queen has established claims to the admiration of her people by the loyal fulfillment of the responsible duties of her high station, and at the same time the nobility of her domestic life has endeared her to the nation. The care and solicitude she has manifested in the happiness of her subjects cause her name to be honored at all times, and among all classes and ranks of society."

LET HIM EXPLAIN.—The Cleveland *Plain Dealer* takes that thirty-case seizure in this way—

"How is this? Thirty cases of goods belonging to the Rev. J. P. Newman, from Hong Kong, per steamer, seized at the New York Custom House on Saturday! Who is Newman? Why he is the chaplain of the Administration—the pampered gent upon whom Grant bestowed a roving and exceedingly fat commission to 'inspect' American consulates in various parts of the world—a plethoric sinecure of consequence to nobody but the Reverend Newman. This seizure shows that J. P. is even of a more thrifty turn than the public had supposed. Of course the Administration will not let its spiritual adviser suffer inconvenience from so small a matter as violating the revenue laws of the country. The Administration has none too much religion at best, and it won't do to let those Custom House pagans in New York treat Grant's moral purveyor with impunity."

It is to be hoped that our contemporaries will not get too excited over this ecclesiastical misadventure. Wait a little, till the rev. gentleman rises to explain. He will no doubt do so as satisfactorily as he explained away Bible polygamy. He may again lug in Lev. 18, 18, or some other but equally happy quotation by way of authority. If he should not, then there may become basis for deprecating this 30-case case as another unhappy instance of parsonical peccability. But first let the President's favorite pastor explain. He is mighty handy with words in a poor cause.

ABOUT COLORADO AND NEW MEXICO.—The Washington correspondent of the New York *Herald* says—

"The first important political act

of the Senate, it is understood, will be the favorable consideration of the House bills providing for the admission of New Mexico and Colorado. Both Territories have a large republican preponderance, and their admission would add to the Senate four republican senators and to the House two republican members. It is thought by the Senators now in Washington that the republican party should commence "hedging" for their present and future protection, and while at the last session the Eastern Senators were jealous of adding members to their body by the admission of the sparsely settled Territories, yet the recent democratic successes have begotten a wholesome conviction in the minds of the leaders of the party that no advantage should be lost."

The Missouri *Democrat*, a republican paper, has the following sensible remarks on the same subject—

"The proposition to admit Colorado and New Mexico at the present session of Congress, should neither be urged nor opposed on the ground that it will add to the republican strength in the Senate. Either those Territories are so settled, and have such established governments, that they ought to be admitted as States without regard to their political bearings, or they are not so settled and governed. If they are fairly entitled to admission, political questions aside, no party can gain anything by excluding them, and if they are not entitled to admission on their merits, the republican party cannot afford to be regarded as creating rotten boroughs for political reasons only."

VERY CONSIDERATE.—Utah was not honored by any special allusion in the President's message this session of Congress. But, though not mentioned, it appears that she was not forgotten, not by any means, for the New York *Republic*, which boasts of being an administration organ, in its Washington correspondence, says—

"The message contains no allusion to the Territory of Utah. If found necessary the affairs of Utah will be made the subject of a special message to Congress."

Those of our citizens who may have felt slighted and discouraged, may now take comfort and feel encouraged in the assurance that the Chief Magistrate of the Union still keeps an eye on Utah, and will talk vigorously to Congress about her when he considers there is any necessity to do so, and he will do it in a special message. This is a great honor, certainly, for this remote part of the Union to have a special message to Congress solely on her account and altogether of and for and about and concerning herself. Verily, "like as a father," &c., so does the great father at Washington care for his Utah children. "Let us have peace," leaving the creation of that contingent of a necessity to those who desire it.

THE SIZE OF IT.—The *Pioche Record* hits the nail on the head in the following—

"Governor Garland, of Arkansas, was accused by the Clayton-Dorsey gang of concentrating troops for a possible unlawful purpose. In reply to a telegram inquiring into the facts of the case, the Governor says, 'I am not concentrating troops to defy the country or congress, as charged, nor for any other purpose. I am not concentrating troops at all, there being peace and quiet throughout the State.' That is the very thing that makes those villainous carpet-baggers mad. It is because of that very quietude which cuts the ground from under their feet."

THE ORTHODOX VERDICT.—Preachers are a peculiar people in matters judicial as well as some others. Judging from the recent Brooklyn and Jersey city cases, the established verdict in ecclesiastical criminal trials is, "Not guilty, but

don't do it again." Perhaps we shall be adjudged guilty of contempt if we further criticize.

HELP FOR THE MARSHALS.—The Washington correspondent, Dec. 8, of the Missouri *Democrat* says the attorney general has prepared a bill for restoring the old system of mileage so far as it affects marshals and their deputies and other officers of United States courts.

LAW CONSTRUCTION.—Here is a nice little circumstance reported in the papers concerning the inequalities and uncertainties of legal construction—

"Of late New York merchants have been complaining the Chicago dry goods men were bringing certain brand of imported goods from Chicago to New York and underselling dealers in precisely the same brands in the latter city. Inquiry by treasury officers has discovered that this arose through the construction of the law by the Chicago appraisers, which imposed much lower rates of duty, and so much lower as to make the shipment to New York remunerative."

Now if cases were before juries in New York and Chicago, and the judges in each court respectively were to charge the juries in such opposing directions in the construction of a point of law, and the juries respectively returned verdicts accordingly, wouldn't it be an admirable way of securing equal and uniform justice?

WASHINGTON, 12.—The train bearing King Kalakaua and suite arrived at Baltimore at 10.20 this morning. Captain Temple, Lieutenants Totten and Emory, and commissioner Carter, of the Sandwich Islands, were in waiting, and were introduced to the King, who seemed in good health. Captain Temple assumed charge of the visitors and the train proceeded for this city. At Wilson's station Secretaries Belknap and Robeson and others got aboard the train, which arrived here at half-past eleven. The party was received at the depot by a battalion of marines and a large crowd, and was escorted to the Arlington Hotel.

The committee of ways and means, this morning, continued the Pacific mail investigation. A telegram was read from Richard B. Irwin, requesting Gardiner J. Hubbard to act as his counsel, and to engage rooms for him for Monday evening. The committee informed Hubbard that he could not act directly as counsel, but that he could suggest questions to the committee. Rufus Hatch was examined by Kasson, and exhibited the original checks for seven hundred and fifty thousand dollars, made to the order of Irwin.

THE GLENDENNING CASE.—The Springfield, Mass., *Republican* talked of the Glendenning case this way before the case was concluded—

"The trial of Rev. J. S. Glendenning, of Newark, goes on this week with closed doors, on account of the necessity of calling more names. Without expressing any opinion as to his innocence or guilt, we must set down Mr. Glendenning as a remarkable illustration of the clerical disregard of the popular notion of safety in the intercourse of the sexes. He says, for instance, that he 'never did anything to give ground for suspicion that he was engaged to Miss Pomeroy,' and yet he testifies that at various times he has given her a locket, a pair of earrings, a chain and a pair of sleeve-buttons; that he sometimes kissed her, addressed her in letters as 'Dear Mary,' and signed himself 'Glen'; had read his sermons to her, and also Burns, Tennyson and other poets, and visited her in the evening two or three times a week from 9 o'clock to 10:30, and once stayed as late as 11, the pair at such times being alone. Mr. Glendenning admits that he showed like attentions to no other lady in his congregation; and yet he has the sublime impudence to say that 'her attentions to me were burdensome,'