EVENING NEWS.

Published Daily, Sundays Excepted,
AT FOUR O'CLOCK.

PRINTED AND PUBLISHED BY THE
DESERET NEWS COMPANY.

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Thursday · Oct. 21, 1886

PEOPLES PARTY TICKET.

Election, Tuesday, November 2, 1886

FOR DELEGATE TO THE FIFTIETH CONGRESS,

JOHN T. CAINE.

THE PERSONIFICATION OF ARROGANCE AND IGNORANCE.

We are impelled again to advert to the conduct of Commissioner McKay. We feel free to say that his manner of conducting proceedings in his court has no parallel on earth in a civilized community. As a matter of course his insults are directed toward those whom he imagines to be completely in his his power—attorneys who are defending "Mormon" clients and tender women and children who appear in the capacity of witnesses.

On Tuesday, in a case in which the Commissioner acted in the dual capacity of court and prosecutor, he grossly snubbed a respectable attorney, and inferentially treated a decision of Chief Justice Zane to which his attention was being directed, with contempt. "Look at me"! is a common gruffly expressed imperative command of the official braggart, addressed to modest lady witnesses. He appears to forget that ladies are reticent about taking in so much burly beauty as nature has lavishly bestowed upon his Falstaffian highness, and that their eyes are not legally or otherwise at his disposal.

We have endeavored to pacify those who have felt grossly outraged at the insults of this official ignoramus, whose pretensions and puffy pomposity would —aside from the injury they inflict on the feelings of the victims to whom they are exhibited—be proper food for merriment. We have shown the necessity for the exercise of patience and charity on the ground that the gentleman may not be able to control his disagreeable proclivities. Some men are natural born gentlemen and some do not occupy that status either by birth or education. Men generally act out their natures. These apologetic qualifications we have heretofore tendered are by this time, however, well-nigh exhausted. If the Commissioner has not laid the last straw on the camel's back of patience, he is getting pretty near to the point of putting it there. In place of apologizing in his behalf we are more or less tempted to ask some pointed questions in reference to his frequent abuses of power.

Suppose it be admitted that the enormous bulk of legal proceedings against "Mormons" in the courts is for the purpose of solving a popular question, can any one tell, how much the speed of the solution will be accelerated by such unseemly doings as those referred to? Does it add anything to the dignity or efficiency of the crusade, or does it weaken it?

Would it not be as well to have a democrat in the position of the person under consideration, even if one of that political complexion should be selected who is only two and a half degrees above the brute, rather than to have it filled by a republican whose conduct does not indicate that he occupies even that meagre degree of elevation?

The reason for these interrogations is that the disgust created by some of the spectacles in the aforesaid Commissioner's Court is not confined to any one class of the community.

THE EASTERN QUESTION.

The latest advices from Bulgaria are far from assuring to lovers of peace. While the arbitrary demands of Russia are being acceded to on the surface—and this accomplished through strategy and overshadowing might—there is manifest a feeling of resentment to such present assumption and threatened future absorption of the insignificant principality on the part of some of its statesmen, who doubtless foresee the result of the great boa constrictor whose head is in St. Petersburg and whose tail is in Constantinople tightening its folds about them. Small as is the country in point of area, limited as is the population and meagre as are the resources, there is still something worth having, and those who have it propose to place it under no incumbrances other than such as the force of circumstances imperatively demands. Being compelled to yield to the enforced abdication of Prince Alexander, they have still left the right of choosing his successor by representation, and to this end a body styled the Great Sobranje is elected, whose duty it will be to definitely settle the question as to the personnel of the coming Prince. Of course the influence that will be brought to bear from all around the little monarchy will be sufficiently stringent to well-nigh if not entirely destroy every vestige of independent action on the part of the Sobranje; but it will go to the world as their deliberate preference, no doubt.

It is a peculiar commentary on human affairs, this Pan-Sclavonic agitation from first to last. It is and has been a grasping for power and extended rule all along, men in the inferior ruling stations acting merely as figure-heads at home and acted upon as puppets from abroad. It is quite probable that some foreign prince, whose only title to greatness is having been born in a certain family and whose only indications of aristocratic blood are a feathery moustache and a pair of epaulettes, will be given the post of doubtful honor; Bulgaria will take him because she has to do so or fight, and she can't fight even if she can protest.

ADVANCE INFORMATION, OR DICTATION?

The *Tribune* of this morning contains the following significant item:

"Although Girthe, [Groether] the cohab and polygamist, was not bound over on the charge of polygamy in conjunction with unlawful cohabitation, he will be indicted on that charge all the same."

There are a few points presented for consideration in the above, and they are of more consequence than would appear from a cursory reading. In the first place, if the writer speaks advisedly, the grand jury should be overhauled and re-arranged; for in that case, there is a leak in the craft somewhere. The inquisitors are not supposed to give information on any subject, either as to what they have done, what they are doing or what they intend to do, and while we are not desperately enamored of that body, we still are willing to believe that the paper quoted has become so addicted to drawing on imagination and presenting its vagaries as facts, that it has done so in this instance. If that be the case, a kind of dictatorial arrogance is shown. It is equivalent to informing the grand jury that work which the Commissioner declined to set on foot for them, they can take take up and conclude without such initiatory process, and that they *must* do it. Besides, if its reporter had correctly presented the evidence, it would be shown that the charge of polygamy in this case could not be maintained, unless, indeed, the law of limitation is ignored, as many other safeguards of human liberty have been here so often.

The fact that the *Tribune* is represented in the grand jury room in the person of its business head and occasional reporter, renders the squib in regard to Groether's case all the more significant. We do not say this because we believe Mr. Lannan would be any more unfair as a juryman—pure and simple—than his colleagues in that capacity. On the contrary we doubt not that he is as well-disposed as any of them, and probably more so than some. His position in connection with a paper that charges, indicts and often convicts people in advance, is, however, most anomalous, in view of his being a component part of the inquisitorial body. His own paper necessarily places him before the public in a very questionable light.

O. P. ARNOLD SENT TO THE PENITENTIARY.

The Result of his Endeavor to Obey the Edmunds Law.

Motion for a New Trial Overruled.—Fifteen Months' Imprisonment, $450 Fine and Costs — Bail Pending Appeal Refused.

To-day the motion of the defense for a new trial, in the case of the United States vs. Orson P. Arnold, was taken up in the Third District Court. Nearly two years ago the defendant was arrested and indicted by the grand jury for unlawful cohabitation with his wives Alicia Arnold and Fanny D. Linnell Arnold. On April 13th, 1885, he pleaded guilty to the charge, promised to obey the law in future, and was released on payment of a fine of $300.

In May, 1886, he was again arrested, and a three-count indictment charging him with a similar offense with the same women as his wives, was found against him. The first count covers the period from May 1, to July 31, 1885; the second from Aug. 1, to Dec. 31, 1886; and the third from Jan. 1, to May 11, 1886. At the September term of court he was tried and the jury gave a verdict of guilty on all three counts. His counsel moved for a new trial, on the grounds that the evidence was insufficient to warrant a conviction; that the verdict was contrary to the evidence; and that the court misdirected the jury in the matter of law.

In support of the motion for a new trial, Mr. Rawlins argued that, as two elements were necessary in this class of cases, the marriage status and marital association, there must be some proof in support of each, or a verdict of guilty could not be found. Evidence of mere association was insufficient to convict. The evidence in this case had all been to one effect, and the jury had no right to come to a conclusion opposed to the whole evidence, or to cast aside all the testimony of the witnesses and proceed without. As to the marriage status, which existed prior to April 13, 1885, it ceased at that date, as the parties had agreed to discontinue that relation, and the defendant had promised to obey the law. Subsequent to that time the relationship had never been resumed, and the manner of living had been changed, the defendant remaining with his legal wife. The public declaration of the defendant was that he would conform to the law, dissolve the relationship which formerly existed with the polygamous wife. The evidence showed that that relationship had never been resumed. The registration of the polygamous wife as Mrs. Arnold, at the hotel in Ogden, was no evidence of "holding out." There was no deception practiced, and the parties occupied separate rooms. There had been no acknowledgment of each other as husband and wife.

The District Attorney had argued that the alleged marriage must be declared a nullity. This proposition, though not recognized by the court, had its effect on the jury. The position of the District Attorney was utterly absurd. The idea that a man to place himself outside of the charge of criminality, must invoke the aid of the arm of the government, was foolish. The idea that a man could not place himself in harmony with the law of the land, without outside assistance, would make the law ridiculous, and go to show that it was not founded on reason and justice. A man should not be required to ask the government, or any agency thereof, for the privilege to be innocent. He ought to be able to do that within himself. The law had made the

DEFENDANT'S CHILDREN LEGITIMATE,

that punishment might not fall on them. It did not deprive them of a mother's care, or deprive their father of the privilege of visiting them. The father owed to his legitimate children certain duties; among these he was not required to take them from their mother's care. The controlling power of a father was still due them: it was his duty to give them social and domestic care, to administer to their material comfort. He should not be compelled to leave to others the performance of that duty which the law enjoined on him and him alone. He could care for support and visit his children, in the presence of their mother. To say that he could not attend to this duty personally, was to cast them adrift. This case was very different to one where a man claimed both of the women as his wives, thereby giving out the ostentation of a polygamous household.

As to asking the court to decree as a nullity a polygamous marriage, when both parties knew it was void, and the law did not recognize it,

NO REASONABLE COURT

could entertain such a request. If one of the parties had been inveigled wrongfully into an illegal status, the court could give the deceived person relief. In this case the defendant had no power, and would not have been permitted by the Court to do as the District Attorney demanded. The jury had, however, paid attention to the attorney's argument rather than the Court's charge relative to this. In view of the District Attorney's argument before the grand jury the Court should have instructed them not only that a divorce in this case was not necessary, but that it was a circumstance which they had no right to consider as bearing on the guilt of the defendant. Under these circumstances the defendant was entitled to a new trial.

The evidence had shown that he had only visited and administered to the necessary wants of his children. He had occupied no position that would shock morality or decency. There was no testimony to controvert this statement. The defendant had done everything that he could lawfully do. His public declaration in regard to his polygamous wife was of just as much force as if, in reference to his legal wife, a divorce had been granted, yet, in the latter case, if the defendant had visited his sick children, though in the mother's custody, would the law punish him? It certainly could not be so inhuman. No sane person would consider this a continuance of the marriage relationship. With reference to the registration at Ogden, the most reasonable course to expect was that the mother of defendant's children should be called "Mrs. Arnold." That was the name by which she was known, and it was a matter over which the defendant had no control. He had no right to designate her by any other name, and thus brand his legitimate children with infamy. If the defendant was guilty under the circumstances shown by the evidence, then

NO MAN WHO PROMISED TO OBEY THE LAW COULD BE INNOCENT.

The jury evidently did not comprehend the case when they came to the conclusion they did.

As to his visits to his children, the defendant must be allowed a reasonable latitude under the law. The court had said he might do this, and nothing transcending this could be pointed to by the District Attorney. There was affirmative evidence on the part of the defendant that he kept within the bounds of duty.

Mr. Varian argued against the motion for a new trial, stating that so much had been said in reference to the legal duty of men in the position of the defendant, that further discussion of it by the attorney for the government was unnecessary. When the defendant promised to obey the law, he promised to conform to that law as construed by the courts; he promised that he would so regulate his conduct that the ultimate end sought would be attained. He might conclude for himself what he would do to show to the world that the polygamous relationship had ceased, but it was

AT HIS OWN PERIL,

and he could not complain, if, when the case was again considered by a jury, it was decided against him. He must, to avoid this, accomplish the ultimate end. He should not make his visits to his children a cloak to cover an illegal relationship with their mother.

The situation was a harsh one, it was true, but they were themselves responsible. They should bear the burden when the consequences followed their own acts. When the jury considered the evidence, they must have started with the proposition that the defendant had promised to obey the law when the consequence of his crime had overtaken him. This was a circumstance against him. He had not endeavored to keep the law until it laid heavy hand upon him. The jury had a right to consider whether the line of conduct pursued by the defendant was in good faith with reference to the law, or was in continuation of the former unlawful relation. As to the visit to Ogden, married men do not take women other than their wives on a trip like that. They had gone to Ogden and remained a day. This fact was

A VERY SUSPICIOUS ONE,

owing to the frailties of human nature, especially in the relations of the sexes. The defendant's legal wife was the one who should have accompanied him to Ogden. He would not have taken a woman with whom he had had no marital relationship.

When he had visited the house he had gone into it by the back door. He had also gone out riding with his polygamous wife and his sick child. This fact alone was not sufficient to convict, but in connection with other circumstances, the jury had a right to say it was simply a cloak to cover other association. They had a right to say the explanation of the visits was not satisfactory; that the sickness was not so urgent as to require the defendant's presence with the sick child. The defendant should have shown in a more marked way his intention to obey the law, if that intention was honest. So far as the world was concerned there had been no ceasing to flaunt the existence of a polygamous household. The defendant should have so regulated his conduct that the world could have no doubt of his intentions, and he had himself to blame if he did not. The obtaining of a decree from the Court might even have been insufficient to announce the separation to the world. He could not use such a

DECREE OF NULLITY AS A CLOAK

under which to continue the former relationship clandestinely. The suggestion of the District Attorney was simply an illustration of one of the ways in which the defendant could announce the fact of the separation. Unless the evidence was so glaringly insufficient that the jury could not convict on it, the verdict should stand.

Mr. Rawlins, in his closing remarks, said that because the defendant had pleaded guilty to an offense should have had no weight with the jury on a subsequent charge. The law left room for repentance. He had been punished for his offense, and that account was settled. He promised to conform to the law, and the law should encourage him to keep the promise. The object of punishment was to obtain obedience to law, and that object had been gained in this case. The jury had no right to conjecture that the defendant's acts were a cloak to cover something unlawful, when there was

ABSOLUTELY NO EVIDENCE

to justify that conjecture. The jury were not permitted to take evidence that meant one thing and say that it meant the opposite. If the prosecution had shown that there had been masquerading under a cloak on the part of the defendant, there might be roam for conviction. But this had not been done. As to the defendant's visiting his children and going into the house at the back door, the evidence showed that that was the usual way of entrance for all who went there. The proposition of the defense that Mr. Arnold had not transcended his legal duty, had not been controverted. All of his visits had been open and above board. The claim that the defendant could not complain if his acts did not satisfy the law, was unjust. The mere suspicion that there was something hidden was not sufficient to convict. There was no evidence that Mr. Arnold pretended to anybody on earth that he was not conforming to his agreement with the court. In fact the contrary was shown beyond doubt. The assertion that it was improper for the defendant to invite a lady not his wife to Ogden, was fully explained by the evidence, and the defendant had proper business there. The suspicions of the public were insufficient to constitute guilt. The mother of the defendant's children was entitled to considerations which a woman who did not occupy that position was not entitled to. There was no significance to this class of actions, in the light of reason, when taken in connection with the circumstances shown.

THE MOTION OVERRULED.

The Court, in ruling on the motion, said that the principal reason given in asking for the granting of the request was that the evidence was insufficient to justify the verdict. There was no controversy about cohabitation with the first wife, but the question was as to the cohabitation with Fanny, the second wife. The issue, then, was, Did the defendant associate with Fanny under the semblance of marriage? or, Did their association indicate to the world that it was as husband and wife? The defendant had been married to Fanny according to the forms of the Church law a number of years ago. He cohabited with her for considerable time, and several children were born to them. After a year before the indictment was found the defendant pleaded guilty to another indictment for a similar offense, and promised to obey the law, stating that he did not desire to do anything more than care for and support his children. He and his first wife lived in one part of town, and the second wife in another part. He had been in the habit of visiting his plural wife, sometimes with his son and sometimes alone. The neighbors saw him passing in and out frequently. He was there once a week, more or less. He also

TOOK DINNER WITH THE CHILDREN

in that house. He had gone in and come out of the house late at night, when his child was sick; on one occasion of this kind he stayed all night. He took the plural wife and his children out riding, and also took her home from the Theatre once, and to Ogden with him once. At the latter place registered her name as "Mrs. Arnold." Their rooms were adjoining, and were connected by a door. In explanation of these acts the defendant claims to have visited his children. His calls at night were when the children were sick, and the driving out was for the benefit of the child. The question was whether this was sufficient explanation of his association with his plural wife, in the light of polygamous marriage which existed. The result of their former association threw its effect over the whole proceedings, and the inquiry arose what did people think of it? The jury must have found that there was no reason for his frequent visits. There was no excuse for his taking the plural wife to Ogden, and his actions there were suspicious. Their rooms were connected by a door.

HE LED HIMSELF INTO TEMPTATION;

there is no question of that. The opportunity was so good, he would have to have been as good as Joseph to have resisted the temptation. This visit and others furnished so many opportunities, and the inclination and disposition to take advantage of them, as evidenced by the marriage originally, were doubtless still with him. He said in court that his promise to obey the law did not change his inclinations. The jury doubtless thought the old habits and inclinations were still on him. I am not prepare to say the jury erred. It was not necessary for him to do as he did. If a man could do this, any man could hold out the indication of a polygamous marriage and go unpunished. He should have been very careful. His actions convinced the jury that he was associating with her as his wife. He must not act so as to lead to that conclusion.

Reference had been made to the hardships that would follow if he was not allowed to visit as the defendant had done. All punishment carried with it

DISTRESS AND EVEN AGONY.

If a man, in anger, committed manslaughter he and his family suffered. The suffering of to-day in polygamy and unlawful cohabitation was that the woman of the next generation might be free in the enjoyment of the sanctity of the monogamous home. The blessings to follow outright the agonies of to-day. The immediate results must not be looked at. If slight punishment would not do, the law in all its power and vigor must be applied. These remarks had been made because reference had been made in the arguments to the sufferings to follow such an interpretation of the law. The motion for a new trial was overruled.

THE SENTENCE:

Court—Stand up, Mr. Arnold. About 18 months ago you pleaded guilty to the crime of unlawful cohabitation, and promised to obey the law. You have been convicted again by a jury, and it is the duty of the court to pass sentence upon you. Have you anything to say why judgment should not be pronounced?

Mr. Arnold—Nothing, only I supposed I was obeying the law. That is all I can say. The best I—

Court—Do you say you intend to obey the law in future, as interpreted by the courts, not as you interpret it?

Mr. Arnold—I have done as I understood the law to be construed at that time.

Court—You must understand that you cannot visit your children in the presence of their mother under such circumstances as will indicate that you associate with your second wife as a wife. Will you obey the law as interpreted by the courts?

Mr. Arnold—Well, I promised to do so, am willing to—I have done so to the best of my ability, but anything further I cannot do.

Court—You won't promise to make any changes, then?

Mr. Arnold—I may have made some mistakes—some errors in my judgment that I did not intend making.

Court—Whatever mistakes you have made you have yourself to blame for.

Mr. Arnold—That may be true.

Court—Well, it becomes my duty to pass sentence upon you. The object of the law is not to inflict punishment, but to protect society. It is demanded of the government to make laws, that society might be protected. Those laws must be enforced. You will be sentenced to imprisonment in the penitentiary for six months on each of the first two counts, and three months on the third, and pay a fine of $150 on each count, and the costs of prosecution. That is, fifteen months' imprisonment, $450 fine, and the costs, and will stand committed until the fine and costs are paid.

BAIL DENIED.

Mr. F. S. Richards asked that the defendant be admitted to bail pending an appeal to the Supreme Court of the Territory. This case was an unusual one, it being the first in which a defendant who had promised to obey the law had been prosecuted. It involved the determination of the line of conduct of a man, and what care, if any, he could bestow on his plurisl wife and her children. In view of these circumstances the defendant should be admitted to bail pending the final settlement of the case.

Mr. Varian made no reply, and after a short pause, Judge Zane said the circumstances alluded to were not sufficient to induce the Court to admit the defendant to bail, and the application was denied.

Mr. Arnold was sent to the penitentiary this afternoon.

BY TELEGRAPH

PER WESTERN UNION TELEGRAPH LINE

AMERICAN.

LATEST BY LIGHTNING.

Off for Richmond.

WASHINGTON, 21.—The President, accompanied by Secretaries Bayard and Endicott and Postmaster-General Vilas, left here this morning on a special train for Richmond, Va., to attend the fair of the Virginia Agricultural Association.

Richmond, 21.—The President and party arrived shortly before noon, and were received by Governor Lee and a reception committee and escorted to the fair grounds, where a salute was fired and the President made a brief speech in response to the welcome tendered.

Blaine's Blaze.

PITTSBURG, 21.—James G. Blaine, accompanied by a number of old school friends and personal friends, left for Brownsville, the home of his youth, this morning. While en route, Blaine will make brief addresses at West Elizabeth and Bellevernon. The party will return to this city to-night, and Friday Blaine will visit Washington, Pa.

A $5,000 Embezzler.

CHICAGO, 21.—Ex-manager Town, of Pullman, was taken before Judge Collins this morning and pleaded guilty to a charge of embezzlement. He was sentenced to five years in the penitentiary and taken to Joliet on the noon train.

Given Up for Lost.

GLOUCESTER, Mass., 21.—The owners of the schooner *George L. Smith*, which sailed for Grand Banks August 14, on a halibut voyage, have given her up for lost. She carried a crew of 14 men. This makes 27 vessels lost, of a total value of $173,000, and 116 lives so far this year, by which 28 wives were made widows and 56 children rendered fatherless.

FOREIGN.

LATEST TRANS-ATLANTIC DISPATCHES.

France Protests.

LONDON, 21.—The *St. James Gazette* says: The French ambassador, under instructions from his government, protested, on behalf of France, against the British occupation of Egypt. The paper adds that France and Turkey are in complete accord in their opposition to the occupation and that Russia supports them.

Russia Headed for India.

LONDON, 21.—A traveler from Bokahara, who has reached Peshawur, on the African frontier, reports that Russia has completed the Merv and Oxus Railway to within five stages of Sarakh. The Russians intend to establish a military cantonment for 30,000 men near Bokahara. Russian officers disguised as merchants are actively engaged in Balahshan inspecting the citadel and passages to India. The traveler also reports that the Czar is displeased at the Ameer of Bokahara for refusing to enlist Russians among his troops.