

you. Gentlemen, you are excused as unworthy to sit on a grand jury. Next time you come before the court and are questioned as you were in this case, as members of the grand jury, answer frankly and honestly, and if you go on the grand jury you must be governed by your oaths. Mr. Moritz, Mr. Davis and Mr. Clayton, you may retire; you are discharged from this grand jury.

This afternoon Mr. McKay made an argument in support of the proposition that the court had power to fill the vacant places in the grand jury. He read from the decision of the Supreme Court in the Clawson case, affirming the legality of the open *venire* process in obtaining a petit jury, and contending that it was within the power of the court to adopt the open *venire* course in the present instance.

At the close of his remarks, Mr. McKay moved that an open *venire* issue, and the court ordered that it be for six names, and be returnable forthwith.

This proceeding was followed, as the 200 names on the jury list were exhausted.

Upon the return of the open *venire*, J. S. Scott, J. T. Clasby and A. Gebhardt were selected to fill up the grand jury.

Thus it was made possible to send a man to prison for the term of his natural life and fine him in a sum that could not be met by a millionaire, for a simple misdemeanor, solely because he happened to be a "Mormon." From that time forward, until the Supreme Court of the United States interfered, for a single offense of unlawful cohabitation, by the segregation process, men were sent to the penitentiary to serve terms on all the way from one to seven indictments or counts, and were under fines in keeping with the same process.

Thus scores of men were subjected to illegal imprisonment because the Chief Justice, in a persecutive spirit, departed from the requirements and purpose of the law, and there is no knowing how long this great wrong would have continued had the parties thus unlawfully punished been unable to reach the Supreme Court of the United States. That tribunal, in its decision, when the subject was brought before it, asserted that all the authorities, without a single exception, were opposed to the position taken by the courts below. This decision of the highest tribunal in the land caused a regular jail delivery of persons illegally incarcerated in the penitentiary.

Let the proceeding above quoted be looked at from another point of view, and its aspect is no more inviting. For what reason were three grand jurors expelled from the pan-

el? Because they declined to do an illegal act, their position being practically sustained by the Supreme Court of the United States. The vacancies thus unlawfully created were filled by open *venire* process. Taken as a whole, the proceeding has no parallel in civilized jurisprudence.

In what position did the decision of the Supreme Court of the United States, declaring unlawful the action of the local courts in segregating the offense of unlawful cohabitation, place the district attorney and the judge? It placed them in one of two lights—that of a vindictive District Attorney and a prejudiced court, or officials who were ignorant of the law. The latter theory is not a feasible one.

Like Banquo's ghost, the apparition of a vindictive district attorney and prejudiced court will not go down. It pops up in the courts ever and anon, as some person who did not formerly expect a fair trial comes into court with three or four indictments or counts over his head for the same offense, and the court dismisses all but one, the others not having been the off-shoots of a fair prosecution and an impartial court. This has been exemplified at every term of court since the jail delivery created by the decision of the court of last resort in relation to the continuous character of the offense of unlawful cohabitation.

Should the administration make a change in the chief justiceship of Utah, and wish to put a man in the position who will not be governed by the law, but show an unworthy example by going outside of it, then Charles S. Zane is the person wanted. If it is the intention to administer the law according to its spirit and intent, he is the antipodes of the man for the place. We are sustained in this position by no less an authority than the Supreme Court of the United States.

The reason why many of the non-"Mormon" citizens are opposed to the appointment of Charles S. Zane for Chief Justice of Utah, is not because they favor the "Mormon" people, the position being the other way, but they say they want no color given to the cry of "persecution."

For all men must repent and be baptized, and not only men, but women, and children who have arrived to the years of accountability.—*Doe. and Cov.*

## OFFICE SEEKING.

THE way of the office-hunter is hard. It is particularly so when he is seeking to displace another for his own occupation and emolument. Workmen have an expressive but vulgar name for a creature who, being out of a job, sneaks around an employer and by hints, insinuations or direct accusations, endeavors to procure the discharge of an employee that he may jump into the vacated place. In our opinion that name and title are scarcely vigorous enough for persons who are now endeavoring to obtain, from the new Administration, offices that are not vacant and which cannot legally be made so except "for cause."

It is to be expected that when an incumbent resigns or his term of office is about to expire, there will be many applicants for the post. That is all right, as politics and prevalent customs go. But it is disgusting to decent people when a scramble takes place among the hungry horde of office-seekers, for a place which is still occupied, and when there is no reason why the term should be shortened. There are some offices in this Territory in the gift of the Government which are likely to receive a change of incumbents. It is to be hoped that suitable men will be chosen in the change. Republicans will, of course, take the places of the Democrats who resign, or are removed, or whose terms have expired. Efforts to obtain the appointment for these, if properly put forth, are legitimate.

But there are others, the judgeships, for instance, that are of a different character altogether. A Chief Justice, or Associate Justice, for a Territory is appointed for four years. That is his legal term. It is not stated in the law that he shall hold it "subject to removal by the President." Section 1864 of the Revised Statutes of the United States provides:

"The supreme court of every Territory shall consist of a Chief Justice and two Associate Justices, any two of whom shall constitute a quorum; and they shall hold their offices for four years and until their successors are appointed and qualified."

By recent act of Congress an additional Associate Justice has been appointed for Utah, whose term of office is the same as the others. The Revised Statutes also provide for a Governor, a Secretary, an Attorney and a Marshal for each of the Territories, and in every one of these provisions the term of office is for four years "unless sooner removed