

Take the picture as a whole, it is a gloomy one, with here and there a glint of sunlight. It strikes the beholder with terror, thrills him with admiration and inspires him with loathing. Certain it is that the light and shadow in striking contrast—the extreme phases of human nobility and depravity—have met at Johnstown and engaged in a struggle for mastery. It is a drama of extraordinary intensity. In these days of disruption and violence, what will be the next occurrence of magnitude? may be justly deemed a question appropriate to the character of the times.

THE PRESIDENT'S POLICY.

THE New York *Times* of June 10th contains particulars of the removal of Judge Sandford because his judicial course in Utah did not correspond with the policy of the President. The *Times* is a leading Republican paper, and, though leaning strongly in the direction of mugwumpery, wields a powerful influence in the country, as its ability is marked and it is widely read and its opinions are valued by prominent people of both parties. It gives the substance of the correspondence between the Attorney-General and the Judge, explains the situation correctly, and after clearly stating the facts makes the following comments, which will produce a profound impression in legal and judicial circles and will not be without effect in the political arena:

"It is disclosed in this correspondence that in the opinion of the President a judge may with propriety carry out, in the discharge of his duties on the bench, a 'policy' defined by the head of the executive branch of the government, and by that head regarded as 'proper to be pursued;' that if a judge does not carry out that 'policy,' whatever it may be, the President can with propriety remove him and appoint in his place a judge who will make the 'policy' his own. It seems to us that this is a new and rather startling doctrine as to the duty of a judge and the powers of a President. It has commonly been held that the duty of a judge is to interpret the law and dispense justice in accordance with its provisions. A 'policy' may be embodied in new legislation, but it is not the duty of a judge to pursue any 'policy' that is not set forth in the laws that he finds to be in force and with respect to which he acts.

We are not informed as to the nature of the complaints against Judge Sandford that have been sent to Washington. Possibly they are to the effect that in certain Mormon

cases he has not exacted the maximum penalty permitted by the laws. It will be noticed, however, that he was not removed on account of these complaints, but because the President has become satisfied, without reference to them, that his administration was not in harmony with a "policy" defused at the White House. This correspondence will be carefully considered by the Senate when it is asked to confirm the nomination of Judge Zane."

The New York *Post* also makes some caustic remarks on this matter. After stating the particulars of the case the *Post* says editorially, concerning the Attorney General's letter to Judge Sandford:

"This is an extraordinary letter to come from such a source. In the first place it contains a reflection upon the Judge's judicial character, which either ought not to have been made at all, or ought to have been stated more specifically. In fact, it is no sooner stated than it is abandoned as not being the real cause for removal, and that cause is then said to be that the Judge's administration was 'not in harmony with the policy' which the President wishes to have pursued in Utah. The Judge was quick to see the weak spot in this statement, and used it with telling force as follows:

Judge Sandford's reply is then given, and the *Post* adds:

"If the Attorney-General cannot do better than this when he is pressed for an excuse for making a removal without cause, he will be much wiser to attempt no excuse whatever, but say simply, what was obviously the truth in this instance, that the removal was ordered because the President desired the place for somebody else."

The Chicago *Times* is another leading journal that discusses this question from the standpoint of the naked facts, which it briefly but pointedly relates and then remarks:

"The right of the President to appoint judges with the design of using judicial power to further an executive policy will be challenged. It does not exist. The attempt to employ it is a gross usurpation of executive power. Judge Sandford's reply was unanswerable."

"This probably is the first instance in the history of the United States that the executive has intimated a right to color and control the action of a federal judge. Its impropriety and illegality are too glaringly obvious to require particular comment."

The Omaha *Herald* of the 12th inst. is another of the influential papers that animadvert on the removal of Judge Sandford and the peculiar manner of it. The *Herald* has for some time been strongly anti-"Mormon," even bitter in its attacks on the majority of Utah's people. Therefore it cannot be said that the comments which it makes

on this matter are through any leaning to our side of the question. The *Herald* gives full particulars of the correspondence between Judge Sandford and the Attorney-General and says:

"The remarkable character of this correspondence is sufficient apology for reproducing it here at length. It is remarkable in that it claims for the President a Utah policy to which the judiciary of the Territory must be subservient. This astounding assertion, boldly put forth, must give good citizens pause. It is the true theory that the judge on the bench is there to administer the law, above the coercion or dictation of any 'policy.' If the holding of a seat on the bench is to be made conditional to the political manipulations of the President then the courts are no longer a safeguard to the people. The constitution of the United States makes the judiciary a distinct and independent arm of the government. President Harrison in trenching upon its prerogatives has subjected himself to impeachment."

Of course there is not the slightest bability of any action such as the Omaha *Herald* suggests. But its remarks concerning the constitutional independence of the judiciary are beyond refutation.

The following sharp editorial paragraph appears in that very conservative journal, the Philadelphia *Ledger*:

"Mr. President, either your attorney-general has made a mistake or you have been led into error—if the published correspondence between the department of justice and Justice Sandford, of Utah, be true. The Judge comes out of that correspondence with far the better credit; so that if there is anything behind of a nature to help the executive—it had better be brought promptly to the front."

The Wilmington, Del., *Journal*, of the 12th inst., also relates the facts in the case, and remarks:

"The question is, what particular policy should the President have concerning Utah to which a Justice of the Supreme Court must comply to hold his position? If there were any charges affecting the honor of Judge Sandford, they should have been published; if there were none he should not have been dismissed. This is certainly a novel idea introduced by Mr. Harrison."

And the Boston *Herald* of the same date has the following editorial, headed "A Poor Excuse," which needs no comment of ours:

"It is only natural that the letter of Attorney-General Miller in removing Chief Justice Sandford of Utah from his position on the supreme bench of that Territory should occasion adverse comment. Mr. Miller said: The President has become satisfied that your administration of the office was not in har-