disputatious. But when those who are so zealous for the enforcement of one particular law are themselves evaders or ignorers of other laws, we expect to be found on the side of those who are singled out for attack and against the lawless pretended champions of the law.

ZEAL BEYOND LAW AND DISCRETION.

THE prosecution in the Rudger Clawson case, failing to bring any direct evidence whatever against the accused, endeavored to prejudice the minds of the jury because certain witnesses were not produced. It was assumed that they were concealed, spirited away, or to use Mr. Varian's stale plagiarism, "gone where the woodbine twineth," sent by "the underground railway." Passing by the absurd position that the non-production of witnesses by the prosecution should reflect unfavorably upon the defendant, we here wish to venture the suggestion that it is quite possible the prosecution were not so anxious about procuring those witnesses as they wished to appear. And we are supported in this opinion by the fact that some witnesses alleged to have been non-come-at-able were seen on the streets of this city at the time of their alleged "mysterious disappearance."

A great fuss was made in regard to *one* witness who was subpœnaed, and who after the Marshal and his deputies had exceeded their duty in a pretended search for him, one impudently invading his domicile, quietly walked into court and was there served with its process. Every day when it was pretended he could not be found, he was on the streets here and at his regular place of business. These are facts that can be proved beyond dispute, and if this was the case in this instance it may have been in others.

We wish here also to inform those of our readers who may not understand the law, that no officer, be he United States Marshal, or county sheriff, or city policeman, has any right to force his way into a person's house to hunt for a witness. There is a right way to serve a subpœna, and every other way is wrong. If an officer knows that a witness in a civil case has concealed himself in a building or vessel so as to prevent service upon him, the officer may make an affidavit of the concealment and of the materiality of the evidence of such witness, and *on obtaining an order of Court*, the United States Marshal, or Sheriff of the county, may break into the building or vessel where the witness is concealed. But in the ordinary service of a subpœna such violence is unlawful, and the provision that authorizes the force permissable under an order of court, is part of the civil code only. There is nothing in the criminal procedure of this Territory that permits forcible entrance into any premises for the service of a subpœna. An officer who thus exceeds his duty stands in the same position as a private individual. If he attempts to force his way into a house he may be treated as a burglar or any other interloper.

We do not wish to throw a straw in the way of any officer in the lawful discharge of his duty. But we wish our people to understand their rights, that they may not suffer themselves to be walked over by men who desire to gain a little cheap notoriety and to manifest their zeal in the anti-"Mormon" cause, which is really far more lawless than that which it aims to suppress.

LET THEM DO THEIR OWN WORK.

THE following correspondence will be of some interest to many of our readers. It is between the "Liberal" candidate and the candidate of the People's Party for the office of Delegate in Congress from Utah:

OGDEN, Oct. 17, 1884.

Hon. John T. Caine, Salt Lake City, Utah:

Dear Sir.—I hope to devote some of the time from now till the day of the election to a joint discussion, with you, of the issues relating to the political affairs of Utah.

I will send you from time to time notice of my appointments. I will cheerfully divide the time with you or with any accredited representative of yours, at any meeting that I address. I ask you to give me the same privilege at your meetings.

I particularly desire to hold a joint meeting with you at Ogden, and one at Salt Lake City, you opening at one and I at the other meeting.

My proposition to divide the time with you at my meetings is independent of your acceptance or non-acceptance of the other propositions above.

If you desire to accept the foregoing offers, please communicate with me so that we can arrange the details.

Respectfully,
RANSFORD SMITH.

SALT LAKE CITY,
October 20th, 1884.

Hon. Ransford Smith, Ogden City:

Dear Sir:—I am in receipt of your favor of the 17th inst., in which you expressed a desire to devote some of the time from now until the day of election, to a joint discussion with me of the issues relating to the political affairs of Utah.

I cannot conceive of any good which could result from such discussion, and as it has been the custom of the speakers of the Liberal party to turn all so-called political discussion into wholesale denunciation and abuse of the church of which I and the bulk of the people of Utah are members, and having no reason to believe that you would pursue a different course—judging from your address before the convention which nominated you—and having no disposition to invite my friends to attend meetings to hear themselves abused and their religion misrepresented by persons who cannot or will not understand it, I must respectfully decline your invitation.

I have the honor to remain,
Very respectfully,
JOHN T. CAINE.

The object of the "Liberal" candidate is evident. He wants notoriety. Audiences of the dimensions that could be drawn together by the People's candidate would give his opponent opportunities that he knows he cannot gain on his own merits. Outside of two or three towns in this Territory, Mr. Smith could not collect audiences larger than a corporal's guard. How much wisdom would there be in giving him the benefit of the influence of the People's Party and candidate! And Mr. Caine's objection is true beyond dispute from any respectable source. Mr. Smith has presented himself before the public as the champion of that party and platform which seek the overthrow of Republican Government in Utah, the disfranchisement of its citizens and the establishment of a despotism such as cannot be found upon the face of this free land. And the chief feature of this movement is abuse and misrepresentation of the Church to which most of the people here belong. This was the principal subject in the so-called convention at which Mr. Smith was nominated, and in the speech of acceptance which he made at that meeting. His animus has been exhibited on every possible occasion. And his assurance in asking Mr. Caine to get him audiences at which he can hurl his "Liberal" epithets against the Church and creed of his opponents, is simply one more piece of that collosal impertinence for which the clique Mr. Smith represents is notorious.

Even if the so-called "Liberal" party was of dimensions sufficient to give it any importance, its blackguardism and entire departure from the methods and the language which characterize a respectable campaign, would preclude any association of representatives of the People's Party with its abusive and whisky-soaked stump-speakers. And as the defeat of the "Liberal" candidate is admitted in advance by his own supporters to be assured, would not a wordy war, the result of which is already certain, be a piece of consummate folly and a wicked waste of time on the part of the candidate whose victory is certain? And when it is known what kind of verbal missiles would be thrown by a party that deals in invective and revel in ribaldry and abuse, will it not be generally conceded that Mr. Caine's view that "no good could result from such a discussion" is both correct and sensible. If "Liberal" stump-speakers want to gather crowds and give vent to their anti-"Mormon spleen, let them do their own work in collecting them.

THE BAIL QUESTION.

THE attempt on the part of the prosecution in the Rudger Clawson case, to prevent the defendant's admission to bail pending an appeal to a higher court, appears malicious yet ludicrous to common minds. It is very evident that Congress, in providing that a writ of error from the Supreme Court of the United States to the Supreme Court of the Territory shall lie in criminal cases where the accused shall have been sentenced to capital punishment or convicted of bigamy or polygamy, intended to protect the citizens of Utah from persecution at the hand of over zealous officials. The convict is to have the benefit of a review of his case before a court supposed to be thoroughly competent and impartial.

The object of the appeal, for that is the nature of the proceeding, is to save a defendant from imprisonment who has been unlawfully convicted. To deny him bail then, pending the appeal, would be to turn the law into a burlesque on both justice and common sense. Of what avail would it be to grant an appeal to a man condemned to death, if you kill him while the appeal is pending? And on the same ground, of what use is an appeal in a polygamy case if the defendant suffers the penalty of the law before it has been finally decided that he is guilty? Mr. F. S. Richards put this matter clearly before the court, and it is to be hoped that the desire to punish defendant's for this particular offense will not be allowed to override the clear intent of the law of Congress.

POLITICAL TRICKERY IN IDAHO.

POOR SINGISER's chances for re-election in Idaho seem slimmer than ever W. S. Taylor has come out as an independent Republican candidate, and will, no doubt, poll a good many votes in the north. Then the Oneida County soreheads who have organized as the anti-"Mormon" party, while making up a mongrel ticket for local officers, have put the name of the Democratic candidate at the head. This is curious company for "honest John Hailey," but it takes so many votes from Sinfiser in the south and renders his defeat doubly certain.

Mr. Taylor, though a Republican, seeking Republican support, ridicules the opposition to "Mormon" votes in this way through the columns of the Idaho *Democrat*:

"'Suppose the Democratic Territorial Convention had indorsed the Col. Wall resolutions'—where would Singiser & Co. been lectioneering to-day? I will tell ye voters:—they would Singiser & Co. would to-day be in the Mormon counties, and here is their speech:

'Fellow citizens of the Mormon faith: How can you support the Democratic ticket? Look at the Wall resolutions! The Democrats are not your friends!' And, people of Idaho, these precious political tricksters and carpet-baggers, would have been too busy at it to have time to blackmail Taylor or other decent Republicans."

The Republicans of Idaho have always resorted to the lowest kind of political tricks in order to work against the well known Democratic majority in that Territory. The latest move is to try and repudiate the registration law, which if enforced, effectually estops the shameful dodges to which they have resorted at former elections. The chief plank in the sore-head platform in Oneida County is the repeal of the registration law which prevents repeating at the polls. Let the Democrats be on their guard.

The following, which we clip from the Idaho *Democrat* of October 22d, shows how the Republicans are trying to revive their old schemes in Boise City:

D. P. B. Pride, territorial secretary, who was kicked out of the land office for crimes worse than stealing, on Monday, the last day for registering voters, entered the office of Judge Haas, registry agent, and wanted him to register a soldier, whom he had brought with him. Haas told Pride that if the soldier would take the prescribed oath he would take his name, otherwise he wouldn't. The soldier refused to do so, and of course was not registered. At this Pride said:

"If you don't take my men I'll count your's out on the returning board!"

He finally talked so loud, made so many threats, and became so insolent, that Judge Haas fired him out of the office. Pride, could he have succeeded in working Haas, intended to register every republican soldier at Boise Barracks. Pride's action was only carrying out the well-matured plan laid several weeks ago, and which Fred Dubois is now attempting in Oneida county.

Republican and Democratic residents of Idaho; you have opened this country, reared families, and resided in peace in it the best portion of your lives, and expect to end your days in it; do you propose to permit such practices to obtain here? Do you propose to let a handful of non-resident thieves introduce a system of corruption among us that will tarnish the fair fame of our Territory?

Let the honorable citizens of our neighboring Territory answer these questions emphatically at the polls on Tuesday, Nov. 4th.

LOCAL NEWS.

FROM FRIDAY'S DAILY, OCT. 24.

THE CLAWSON CASE.

A JURY OBTAINED.—EXAMINATION OF WITNESSES IN PROGRESS.

Our report of proceedings in the Clawson polygamy case closed last evening while Mr. C. S. Varian, assistant prosecuting attorney, was putting to James Fitzgerald, a juror, the questions as to his belief in the rightfulness of polygamy and plural cohabitation. The juror answered these satisfactorily (in the negative) and the prosecution passed him. He was afterwards peremptorily challenged by the defense and excused. Mr. Barnett, Mr. Denhalter and Mr. Fowles were then examined by Mr. Varian and passed by him. Mr. Bennett entered a challenge against Mr. Fowles for actual bias; sustained. This now left five in the box.

Mr. Bennett now objected to the last three jurors, and the previous three being sworn and interposed individual challenges on the ground that these jurors were not on the jury list of 200 names for the year 1884; nor put in the jury box, nor drawn therefrom; but that each of the jurors was selected and summoned by the United States Marshal for Utah Territory on an open venire. Overruled.

Mr. Bennett objected to the jury being sworn. Overruled.

The following additional names were then drawn from the box: John Cunnington, R. Alff, Jas. Clasby, J. B. Griffin, Wm. Bredemyer, Phil. Kipple and John Knapp.

Mr. Cunnington was excused on the ground that he had formed an unqualified opinion as to the guilt or innocence of the defendant.

Mr. Alff and Mr. Clasby excused on the same ground. Mr. Griffin passed for cause. Mr. Bredemyer the same. Kepple said he had formed an unqualified opinion as to the guilt or innocence of the defendant, and was excused. Mr. Knapp was passed for cause.

Mr. Bennett interposed the same challenge in the case of these jurors as in the case of the three above named.

Mr. Varian then examined the jurors. He also passed the jurors for cause.

Mr. Bredemyer was excused on the peremptory challenge of Mr. Varian. This left seven in the panel box. Mr. Bennett objected to the two last jurors being sworn. Overruled.

The following five additional names were then drawn from the box: W. L. Pickard, L. Ordner, M. Thomas, A. Podlech, Gustave Schulte. They were immediately excused on the ground that they had formed an unqualified opinion as to the guilt or innocence of the defendant.

Five more names were then drawn from the box as follows: A. C. Brixen, W. H. H. Bowers, William Clays, S. Hanak and E. B. Wilder.

It was discovered thet Mr. Hanak was not a taxpayer. He was therefore excused.

The name of Thomas Carter was then drawn from the box.

Mr. A. C. Brixen, Mr. Clays and Mr. Carter were excused for having formed an unqualified opinion. Mr. Bowers was passed for cause. Mr. Wilder the same. The prosecution being satisfied with these two last jurors, they were duly sworn.

Three more names were drawn from the jury box as follows: Charles Ormond, Thomas Dimond and J. H. Burton. Mr. Ormond was excused as a non-resident of the district. The name of C. J. Carmen was substituted. Mr. Dimond was also excused as a non-resident, and the name of M. McKimmins was substituted. On examination all three were excused for having formed an unqualified opinion as to the guilt or innocence of the defendant.

Three other names were drawn from the box, viz. S. C. Ewing, Geo. Decker and Jas. Ashman. Decker was excused, as he was not a taxpayer. The name of A. Gurwits was substituted. Mr. Ewing was excused for having an unqualified opinion. Mr. Ashman the same. Mr. Gurwits the same.

Three other names were therefore drawn from the box, viz., James Sherlock, J. C. Conkling and J. Pease. Mr. Sherlock was immediately excused on answering that he had no taxable property in the Territory. The name of S. J. Nathan was substituted. Mr. Pease was excused as a non-resident.

The fifty names in the box being now exhausted, the court ordered another open venire for twenty-four names.

Mr. Conkling and Mr. Nathan were both excused for having formed an unqualified opinion on the guilt or innocence of the defendant.

This left nine in the box with three peremptory challenges yet to be exercised. The jurors were put in charge of the Marshal and the court adjourned till Friday at 10 a.m.

Friday, Oct. 24, 1884.

Six minutes past 10 o'clock was indicated by the dial in the Federal Court room this morning, as Marshal Ireland pronounced the traditional "Hear ye, hear ye;" and the tribunal of the Third Judicial District was announced to be in session. The nine jurors obtained yesterday were called and found to be present, and drawings were then made from the open venire of twenty-four names issued last evening, and made returnable at 10 .m. to-day. The panel was first challenged by the defense on the same grounds as the open venire of yesterday, with the additional ground that the second open venire was still out when this third open venire was issued and returned; but the challenge was overruled.

John Bastian, A. Bechtol and Fred. R. Madeira were drawn and called up. Mr. Bastian had heard something of the case both from conversation and from being present in the court two or three times, but did not know that he had formed or expressed an opinion as to its merits. He was challenged for implied bias and excused.

Mr. Bechtol had heard of and read a little of the case, and had formed and expressed an opinion concerning it. He accepted hearsay evidence.

Mr. Varian: "Are you in the habit of doing that?"

Witness: "I don't know that I am."

Q.—"You want to get off don't you?"

A.—"I would like to."

Pros.: "Well, now, just banish that thought from your mind. Would you be guided by sworn testimony in this case, in preference to rumor and hearsay evidence?"

Witness: "I believe I would, but it would require evidence to remove my present opinion.

Pros.: We deny the challenge.

Judge Zane: "Is it a fixed opinion you have?"

Witness: "It is not much of an opinion either way, but it would require different evidence to what I have heard, to remove it."

Court: "He does not seem to have a fixed opinion. The objection is overruled."

Excepted to by the defense and witness challenged for actual bias. Overruled.

Mr. Madeira had formed an opinion from reading the *Tribune* and *Herald*, and it would require a great deal of evidence to remove it. He was challenged and excused. Mr. Bechtol was then sworn, making ten jurors obtained thus far.

J. W. Mason and John McTiernay were then drawn. Mr. McTiernay was objected to and excused, because wrongly named, his right name being James McTiernay. C. T. Stevenson was called to take his place.

Mr. Mason was questioned and said he had just returned from a five weeks absence in Alta, and had read but one paper in that time, and heard little or nothing of the trial, and was conscious of no bias. He was passed. Mr. Stevenson had heard the case discussed and had formed and expressed an opinion as to guilt or innocence, which could not be changed very well. He too was excused on being challenged. Mr. Mason passed as to polygamy and cohabitation, and was sworn, making eleven jurors passed.

J. L. Dickinson was drawn, and being questioned, admitted having read and heard of the case and formed an opinion as to its merits, but had no prejudice that would affect his judgment in the presence of sworn evidence. Challenged for implied and actual bias, successively. Both challenges overruled. Further questioned, he said he was not a Mormon, but his wife was brought up as one and had relations in the Church; he lived opposite Governor Murray in the Seventh Ward, and did not believe in polygamy or plural cohabitation. Challenged peremptorily by the defense and excused.

William Showell was called, and claiming his privilege as a U. S. mail messenger, was excused.

W. A. Pitt had "most decidedly" ormed and expressed an unqualified opinion, and was excused.

J. M. Richardson was excused for the fame cause. William E. Jacobs had sormed and expressed a qualified opinion, which it would require strong evidence to remove. Challenged for implied bias; challenge denied and overruled. Challenged for actual bias; challenge sustained and juror excused. James Anderson was excused for a similar reason. James Glendenning had not formed or expressed an opinion and was not conscious of any bias, and did not believe in polygamy or plural cohabitation. Excused on ground of non-qualification as to residence.

Thomas Smith had heard but little and read nothing of the case, and had not formed or expressed any opinion; he said he did not even know of the late trial till the day before it went to the jury. He passed as to polygamy and cohabitation. Challenged as to non-residence and challenge overruled. Juror W. H. H. Bowers was challenged peremporily by the defense; objected to as the juror had been sworn, and objection sustained. The panel of the jury was challenged by the defense. Challenge overruled. Mr. Smith was sworn and the jury was then complete. They now stand as follows:

J. J. Farrell,
P. E. Fitzgerald,
Charles Connor,
Charles Barnett,
Henry Denhalter,
J. B. Griffin,
John Knapp,
W. H. H. Bowers,
E. B. Wilder,
A. Bechtol,
J. W. Mason,
Thomas Smith.

The clerk read the indictment to the jury and the trial proceeded.

Miss Alice Dinwoodey was called for the prosecution and testified. Her testimony did not differ from that given by her at the first trial.

Henry Dinwoodey, being sworn, testified. The only new things advanced by the prosecution were to ask this witness whether he did not on a certain day have the defendant deed to him a piece of real estate (the 18th Ward property of the defendant) with the motive of protecting the interests of his daughter, Florence, as against a second wife that defendant had taken or was going to take? The witness admitted the property transfer, but repudiated the motive suggested. He was then asked why he never spoke to the defendant about his relationship with Lydia Spencer, and was requested to swear that he did not refrain from it because morally certain that she was his second wife. He took the informal oath and was then asked to swear that he did not admit before the Grand Jury that that was his motive in keeping silent on the matter. He signified his willingness to swear to this, and Mr. Dickson, his confessor, then desisted.

Court took a recess till 2 p. m.

2 p. m.

Proceedings in the Clawson case resumed with the examination of Henry Dinwoodey, who was again asked to swear that the reason he did not speak to the defendant regarding his relationship with Lydia Spencer was because he knew she was his wife. The defense objected to the question as immaterial and as tending to bring before the jury by indirection evidence which could not be reached directly. The question was withdrawn for the present, and the witness was next asked if his interest in the outcome of this case was not with the defense. He answered affirmatively. The first question was then repeated.

Mr. Bennett again objected to this and likewise to the citation of evidence alleged to have been given by the witness before the grand jury, as it was an improper line of procedure, tending to prejudice the defendant's cause in the eyes of the jury. The rules of evidence, he maintained, should be strictly observed, particularly in a case like this, surrounded as it was by unusual heat and excitement, and the procedure attempted was only allowable in cases of impeachment of witnesses.

Mr. Dickson, in reply, held that they were strictly within the rules of evi-

(Continued on page 652.)