

EDITORIALS.

ABOUT ALIMONY PENDENTE LITE.

HERE are a few brief extracts from the papers concerning alimony *pendente lite*—

From the New York Post—

"After more than six months' deep study his honor Chief Justice McKean, of Utah Territory, has given his decision in the case. * It is embraced in two closely-printed columns of a Salt Lake newspaper, which a correspondent who sends us a copy of it writes that he confesses inability to comprehend. But therein the judge evinces his wisdom. If his opinion were written in the language of the Utes or the Sioux he could not be so successful in disguising his reasoning, those aboriginal tongues not being adapted to the concealment of thought by verbiage. Only one thing is clear, that is, that the plaintiff is to have her law expenses paid and \$500 monthly alimony *pendente lite*. Thus in order to deplete Brigham's bank account does the judge repudiate his own principles and infringe upon the law against polygamy, which he has heretofore so strenuously maintained. By this law a man can have but one wife. * * *

By the law of congress made especially for Utah, and by the common law of the land, any other woman taken by him to his bed and board after his first legal marriage is not his wife. This is the very point that Judge McKean has heretofore considered it his special mission to establish. * * *

"By his decision the judge recedes from his own principles, and may fairly be hailed by the Mormon Church as a convert to the doctrine of polygamy."

From the Chicago Times—

"The proceeding is a somewhat extraordinary one. It is customary, when an appeal has been taken and bonds filed for the faithful performance of the verdict of a court, to hold judgment in abeyance until the appeal is at least argued. This summary method of dealing with the prophet looks very much like persecution, and will awaken sympathy for him instead of aiding the cause of justice."

From the S. F. Bulletin—

"When Judge McKean assumes that this woman is the wife of Young, makes an interlocutory decree granting her three thousand dollars to maintain a suit for divorce, when there never was a legal marriage, and commits Young for contempt because he hesitates long enough to raise the question of the legality of the order, he burns some strange fire on the altar of justice. * * *

"An oblique and cunning interpretation of law which assumes that to be a marriage which was no marriage, * * * is not a straightforward way out of the difficulty. Instead of taking the bull by the horns, it is an attempt to grasp him by the tail."

OPEN ASSASSINATION RECOMMENDED.—The editor of the *Attapas Sentinel* is savage over Sheridan, who, President Grant thinks, is the ablest soldier of ancient or modern times. The *Sentinel* openly thinks the gallant Phil. has lived too long and that "to rid the earth of such a monster as Phil. Sheridan would be a deed for all the world to applaud."

The *Sentinel* man thus further explains himself—

"We don't mean for midnight masked assassins to murder him, but for the people of New Orleans, of Louisiana, rising in the majesty of their might, to slay him on the streets as they would a rabid dog, in the broad open day, with the sunlight of God's heaven shining down upon the act, and growing brighter in approval."

There is no virtue in that kind of business to help either the South or the North.

DID HE GET THEM?—The *Cleveland Herald* is anxious about those cases in the customs, as see—

"The wandering shepherd has returned to his flock. Parson Newman, who has been travelling around the world at public expense, is back at Washington. Did he get those cases of goods through the Custom House?"

EVIDENCE.—The doctrine is stated and sometimes strongly pushed that grand juries must only hear evidence against a person charged, but this doctrine does not meet with universal acceptance. In charging the grand jury for the Second Judicial District of Idaho, Judge Clark thus instructed them—

"The general rule is in United States cases that you should hear no other evidence but that adduced by the Government. This doctrine has been doubted, and I instruct you to the effect that if the case for the prosecution appears doubtful or imperfect you are at liberty to call for such other witnesses as will make out the charge or explain it away."

The proper business of a grand jury is to ascertain whether there is probable cause of criminality, not to try the case, not to hear all the witnesses that can be summoned in any case, not to hear the supposed criminal, nor his witnesses. But if the grand jury hear of a witness who, they are informed, knows important and determining facts connected with the case, do not the interests of justice require that such a witness's testimony be heard, no matter what it is? Otherwise, would not there be a likelihood of many useless, harassing, hurtful trials being commenced, to the good of no one, but to the injury of many? The end of the law is to secure justice, not to encourage vexatious litigation.

It is held that "the jury are the sole judges of the credit and confidence to which a witness is entitled," and that "the best practice is to find a true bill as soon as the jury are satisfied that the defendant ought to be put on his trial." But how are they to be satisfied that a man ought to be put on his trial if they are not allowed to send for and hear a witness who, they believe, knows the exact facts in the case?

In this view the instructions of Judge Clark to his grand jury, as quoted above, appear very reasonable and proper.

MARRIAGE BY PROXY.—The recently promulgated civil marriage law in Germany, it seems, occasions considerable difficulty in more ways than one, judging by the following in the German papers—

"In missionary circles the introduction of the civil marriage law has revealed a difficulty of which nobody had thought. It appears that in many German missionary societies the custom prevails of sending out preferable married missionaries, because good results are expected from the example of Christian matrimony. Now, when the wife of a missionary died during their sojourn abroad, it was usual to select a new wife for him out of the reserve stock in the schools of the society, and send her to him, and in order to simplify matters the marriage ceremony was performed here by procurator before the departure of the bride. When the marriage was wholly in the hands of the clergy they recognized such a ceremony as valid. Since the promulgation of the obligatory civil marriage law a case of this sort arose, but the anxious missionary has not received the wife whom the kind care of others chose for him. For such a marriage must now be celebrated according to secular rites, and when application was made, it was impossible to find an official who could discover any warrant for performing a marriage by procurator."

UTAH MATTERS.—The following appears among the Washington dispatches in the *S. F. Chronicle*—

"Washington, March 16. — The removal of Judge McKean, Chief Justice of Utah, excites considerable

comment, but the President is generally sustained. The immediate cause of his removal was the recent order of McKean threatening to disbar Whitney, an attorney-at-law, who had a personal quarrel with the Judge outside of the Court; but it is also said that McKean's arbitrary acts have caused much dissatisfaction heretofore. A copy of the order threatening to disbar Whitney was sent to the President and is regarded as containing language unbecoming a Judge on the Bench, and more befitting a street brawl.

"There is also a general complaint made against the agent of the Associated Press at Salt Lake, who is accused of transmitting false and partisan reports of the press. The sensational reports circulated by the Associated Press from Salt Lake with reference to Governor Axtell are generally denounced, and are charged to the instigation of a political ring which desires to overthrow Axtell, who nevertheless retains the confidence of the administration."

INSPECTOR OF HELL GATE.—The New York *Herald* thus presents its compliments to the Rev. Inspector of Consulates—

"Now that the Rev. Dr. Newman, of the Metropolitan Methodist Church, in Washington, and Chaplain to His Excellency, has returned home after a long foreign tour at the expense of his admiring countrymen, it would be well to adopt a previous suggestion of the *Herald* and appoint him inspector of Hell Gate."

TELEGRAPH POLES.—In London and Paris telegraph wires are carried underground, and now the New Yorkers are very much exercised about their telegraph poles in the streets and wires in the air. The underground plan of placing the wires is proposed and opposed, but will probably be adopted eventually.

JUDGE PARKER.—The Missouri *Democrat* speaks of Judge Parker in this wise—

"Ex-Representative Parker, of St. Joseph, has been nominated Chief Justice of Utah—a position in which his acknowledged legal abilities may be most usefully employed. Missouri will lose an active worker and a good speaker, if he goes to teach the Mormons justice. He was president of the last Republican State Convention."

We are glad to hear a good account of a man appointed a judge for Utah, although the nomination was recalled, and Arkansas, instead of Utah, gets him.

Local and Other Matters.

FROM TUESDAY'S DAILY, MARCH. 23.

Downfall.—A little rain and a little snow last night.

Utah Western R. R.—The return train on the Utah Western Railway leaves Clinton's daily at 2.45 p.m., and arrives at this city at 4.30.

Grading.—The good work of grading the lower side of South Temple Street, east of the State Road, is progressing by virtue of the energies of the City laborers.

The Third Judicial District.—Governor Axtell, in response to a general request of the bar, has temporarily assigned Associate Justice P. H. Emerson to the Third Judicial District.

Personal.—Major Overton called in to-day, with Captain Silva, his successor as Receiver at the Land Office in this City, also with Mr. W. M. Cosgrove, who represents the firm of Anderson & Woods, of the Pittsburgh Steel Works, Pittsburgh, Pa.

The Ricks' Trial.—Proceedings of yesterday afternoon—

C. O. Card cross-examined by the prosecution. Was acquainted with Aaron De Witt, and C. Roland, and could testify positively that neither of them was near the body when witness arrived there. Witness named parties who were there, and believed that they were all that were on the ground. Was one of the witnesses at the inquest, at which he testified similarly as he did now. Witness was under the impression that Mr. Ricks and

Mr. Chambers were sworn at the inquest. Mr. Shumway was not near the body when witness reached there.

Warren Dusenberry was sworn on the part of the defense. He is Judge of Probate of Utah County. Was shown some files or papers, which he identified as a portion of the record of the Probate Court of Utah County. He had brought them with him.

William Hopkins was the next witness for the defense. Was in a wagon three or four rods from the School-house, in Logan, on the night of the killing. Was awakened by the firing and got out hastily. Saw the flashes from the pistols. Skeene ran westward from the south-west corner of the School-house. Witness went immediately to Skeene, who drew a long breath, and expired. The first man that witness saw was George Watson. The clothing of Skeene was on fire at the back, and the flame was put out by George Watson. Aaron De Witt was not there then, but he came upon the scene afterwards. As far as witness knew, Mr. Ricks was a peaceable, law-abiding citizen.

Cross-examined by the prosecution. There was no pile of logs or wood near the School-house.

George Watson was recalled by the defense. Either on the day previous to the shooting or the day before that, witness saw a man on horseback approach the front of the School-house and Skeene went forward and conversed with him. Before this man left, Skeene "sinched" up the saddle.

The defense offered in evidence indictments found against Skeene in Utah County—one, found March 14th, 1860, for having challenged another party to fight a duel; and another, found March 17th, 1860, for assault with intent to kill.

The prosecution objected. The Court sustained the objection. Two witnesses were in Court, ready to testify that Skeene did escape under fire, in Utah County, but the ruling which sustained the objection excluding the introduction of the indictments, also applied to the testimony of these witnesses.

W. B. Preston was recalled by the defense. Testified to the general good character of the defendant.

N. W. Birdno was recalled by the defense. Testified to being intimately acquainted with Mr. Ricks, and to his being a man of peaceable and generally excellent character. There were no powder marks on the blankets used by Skeene.

The record of the inquest over the body of Skeene was put in as evidence.

William H. Maughan was sworn on the part of the defense. Had been acquainted with Mr. Ricks since the spring of 1860. He knew him to be a peaceable man, a good citizen and a thorough officer.

Mrs. Davis, mother of the witness Hopkins, was sworn for the defense. Remembered when Skeene was killed. Lived in Logan at that time. Was sleeping in a wagon with her husband, and her son was in one end of the wagon. The wagon was about 30 feet from the School-house. Heard the firing and looked out of the front of the wagon, which was towards the School-house, saw two men running away from the north end of the School-house, and saw Skeene shot down. Skeene was running away when he was shot down. Saw the flash of the shots. Thought there were three or four shots. The two men that were running ran northward. When she first looked out the only men she saw were those two. Witness saw Skeene fall as he was running westward.

George Thatcher was recalled by the defense. Witness's impression was that until about midnight on the night of the shooting, himself and his brother Joseph were the only parties on guard. He also had an impression that Chambers went on guard after that. The witness testified to the general good and peaceable character of the defendant.

Cross-examined by the prosecution. Did not remember having seen Chas. Shumway that night. Had no recollection of seeing any timber near the School-house.

William Nelson was sworn for the prosecution, but his evidence not being traceable to or connected with the defendant, it was ruled out.

William Skeene, brother to the deceased, David Skeene, was sworn on the part of the prosecution, but his testimony was objected to and the objection was sustained, on ac-

count of a proper foundation not having been laid to justify its elicitation.

Adjourned till 9 a.m. this morning.

TO-DAY'S PROCEEDINGS.

Joseph Thatcher sworn on the part of the defense. Himself and brother were on guard at the School-house from eight o'clock till about twelve on the night of the homicide. He was relieved from guard by Sheriff Ricks and another man. Went home after being relieved. Was awakened by the firing, and himself and brother went out. All of the firing was over when they got outside. Went to the body. Did not see Chas. Shumway there. Did not see any timber or logs near the body.

The case here rested, and the arguments of counsel commenced, U. S. District Attorney Carey opening for the prosecution. He spoke briefly, reviewing and commenting on only a few points of the testimony.

He was followed by Judge Sutherland on the part of the defense. The latter defined the nature of murder as expressed by the law, and then entered upon a close analysis of the testimony of Chambers, which was almost the sole reliance of the prosecution. The witness had testified that himself and George and Joseph Thatcher were on guard from 8 o'clock till about midnight, when the Thatchers went away; that four persons participated actively in killing Skeene; that two of those walked to where Skeene lay, placed their pistols within 18 inches of the body, and shot him; that Skeene immediately arose upon his feet, that a number of shots were fired at him while he was in that position and that he was then hurried out of the room by two of the four men, and received the last shot while he was upon the ground. The counsel then dwelt upon the utter improbability of such a deed being perpetrated under such circumstances; for four men who had sufficient reliance in each other to do such a thing, to perform it in such a business-like manner before a disinterested witness, who had not been asked to participate in, nor been apprised beforehand of the deed. This clearly showed the improbability of such an act being perpetrated without a motive. Aside from the lack of incentive, there was no evidence of it having been so committed, as indicated by the absence of bloodstains and bullet holes in the floor, of marks or holes in the blankets; besides, the general character and position of the wounds showed that they could not have been inflicted as described by Chambers. The character of Chambers' testimony was totally unreliable, he having sworn to two different statements, one at the inquest and another now, his first being that Skeene was killed while trying to escape from custody. The counsel showed, in the most lucid manner, how nearly all the evidence on both sides, outside of Chambers', corroborated the latter's first statement. The characters of the two men were compared, Chambers, by his own statements, being a perjurer or a despicable coward, while defendant was known to be an honest, upright, honorable gentleman. The counsel showed the desperate and thieving character of deceased, the unmistakable evidence of the plot to escape, and the fact that he did try to escape, and was shot down in the act of so doing, as testified to by Mrs. Davis and other witnesses.

The reasoning of Mr. Sutherland was of a most logical, conclusive, and convincing character, was listened to with close and almost breathless attention, and appeared to make a deep impression on all who heard it. Nothing like an adequate conception of its pointedness could be conveyed in a brief allusion or synopsis.

Mr. George C. Bates followed, also for the defense, and had not concluded at 12 o'clock, when the Court took a recess till half past one.

The Sioux City *Journal* says a Winnebago Indian called at one of the drug stores there one afternoon and wanted some whisky to put on his hands. He said he had been chopping wood, and his hands were tired, and a little whisky he thought would do them good. He was recommended to chop his annuity hooks off if they continued to be tired.