EVENING NEWS

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CHARLES W. PENROSE, EDITOR.

Monday, - September 29, 1884.

SEMI-ANNUAL CONFERENCE.

To the Officers and Members of the Church of Jesus Christ of Latter-day Saints:

Conference meetings will commence at 10 o'clock on Saturday morning, October 4th, 1884, in the Large Tabernacle in this city.

The presence of all the officers and members who can possibly attend is earnestly desired.

JOHN TAYLOR,
GEORGE Q. CANNON,
JOSEPH F. SMITH,
First Presidency of the Church of Jesus Christ of Latter-day Saints.

SALT LAKE CITY, Sept. 23, 1884.

ANOTHER "JUDGE WITH A MISSION."

THE decision of Judge Zane allowing the motion for an open venire for eight grand jurors appeared in full in the EVENING NEWS of Saturday. It was delivered in the afternoon and we had not time to comment upon it except very briefly.

On careful examination it exhibits a "powerful weakness." It assumes that a Court has power to supplement a statute with measures entirely foreign to its text, if the statute is not broad enough for the purposes of the Court. It ignores the principle that a statute on any subject supersedes the common law in relation to that subject. It seeks to justify a departure from the practice of the Utah courts for over ten years, by a violation of a generally established rule. Its sole excuse for all this is a condition of affairs not contemplated in the law, and brought about by the Court's own error in permitting proceedings unwarranted by the law.

The facts are these: The jury practice in this Territory is regulated by the laws of Utah and by the United States statute commonly called the Poland law, which was approved June 23d 1874. It provides that, annually in the month of January, the Probate Judge of the County and the Clerk of the District Court shall each select one hundred names of male citizens of the United States to serve as jurors for the year; that these names shall be written on separate slips of paper which are to be placed in a covered box and thoroughly mixed and mingled; that the Marshal or his deputy shall draw from this box such number of names as the Judge has declared to be necessary for grand and petit jurors for the term; that the persons whose names are so drawn shall be summoned, and such names shall not be returned to the box until a new jury list has been made; that when a grand and petit jury are both required the names for the grand jury shall be drawn first; that a public notice of the drawing must be given by the Judge at least twelve days previously; and that if the attendance of those drawn cannot be obtained other names may be drawn in the same manner.

The territorial law provides that a grand jury shall be composed of fifteen eligible male citizens of the United States summoned and impanneled as provided by law, twelve of whom may constitute a quorum to do business.

At the present term of the Third District Court, names were drawn and jurors summoned as provided by law, but the Prosecuting Attorney challenged the grand jurors as to their practice of and belief in the rightfulness of polygamy and unlawful cohabitation. In some instances the challenge was as to the juror's belief in the rightfulness of "cohabiting with more than one woman *in the marriage relation,*" in other instances the words in italics were omitted. The Court allowed the challenges and compelled the jurors either to answer or decline to answer, and those who answered in the affirmative or declined to answer were rejected. In consequence of this the box was exhausted before fifteen men were obtained for the grand jury, only twelve having been accepted.

The Prosecuting Attorney moved for an open venire, that is a writ to summon persons from anywhere in the district without having been drawn as provided by law, so as to secure the requisite number. After hearing arguments from the leading members of the bar, all of whom declared against the motion, with the exception of one firm, noted for its enmity to the people of this Territory and for its sophisms and pettifogging, Judge Zane decided to allow the motion, and the writ was issued, returnable forthwith. Persons suitable to the court officials were picked up and sworn in, as related in another column, while an endeavor was made to prevent challenges sought to be interposed by a member of the bar.

The effect of this decision is that by similar or other means to those employed in this instance, the box may be exhausted at the first term of court in the year, and then both grand and petit juries may be selected to suit the Marshal, Prosecuting Attorney or Judge, and thus none but "Gentiles" and those of a hostile class be put upon the juries to indict and try "Mormons" for any charge that may be trumped up against them. The intention of Congress in passing the Poland law is evident on the face of the statute. It was to give the two classes of the community here equal opportunities on juries. The small minority of Gentiles were placed on an equality with the large majority of "Mormons." This was unfair enough. But the new method of Judge Zane's excludes all "Mormons" and makes up juries to indict and try them, composed of their enemies. The manifest intent of the law is rendered abortive by the Zane legislation.

The Judge asks, "Did Congress intend that this district should be without grand or petit jurors for ten months?" The answer is, No; for Congress did not intend that citizens should be excluded from jury service in any such manner as the Judge has permitted. It was his ruling, not the intent or provisions of the law, which has created the difficulty for which he has sought a remedy and resorted to so desperate an expedient. And this is the answer to most of the queries set forth in his argument. He contends that a grand jury is an essential part of the court in the trial of criminal cases, and that, therefore, when the statute providing for a grand jury is exhausted the Judge may create a grand jury outside of the statute. On the same rule of reasoning as a grand jury is part of the court, when there is no Judge at hand the grand jury may appoint a Judge, because accused persons are entitled to "a speedy and impartial trial."

A Marshal and a Prosecuting Attorney are each just as necessary to a criminal court as a grand jury. Does Judge Zane mean to say, then, that if from any cause there was no Marshal or deputy authorized to act, it would be within the province of the court to appoint one, and the same in the case of the absence of the District Attorney? The can't do this, where does he obtain his authority to make grand jurors by means not authorized in the statute which creates them?

It was argued that because the Poland law does not in terms exclude the power to provide a method for summoning more jurors than are provided for in the law, therefore the Legislature or the Court may properly make such provision. Is not this the baldest kind of nonsense? If our Legislature had added to the Poland law provisions for the selecting of additional names, would it not be declared an impudent attempt to supersede an Act of Congress? And if the Legislature may not presume to do this, is it lawful for a Court to assume legislative functions and such too as the Legislature may not exercise? And does not every tyro in the study of law know that a statute which provides for the selection of a jury, or any other thing, excludes every other method than that which is thus provided? Is it necessary to tack on to every enactment a provision that every other than the one therein prescribed is excluded? Does not the very fact that a statute is made for a given purpose, carry with it the exclusion of anything contrary to its provisions for that purpose? And is it not clear that when Congress provided the method by which juries should be drawn, every other method became illegal?

In the case of the State of Maine vs. Simons, which the Judge commented upon, the Court held that as the power was vested in the Legislature by the State Constitution to provide for selecting a jury and the Legislature had done so, there was no other lawful power of selecting a jury. Is not this exactly the present case? Power has been given in the Organic Act to our Legislature over "all rightful subjects of legislation." It is undisputed that among these is the right to regulate the selection of juries, and the Legislature has exercised this power, which can only be interfered with by Congress, and cannot be infringed upon by the Courts. The laws of the Territory and of Congress then, in regard to the selection of juries in this Territory are paramount and exclusive, and "there is no other power by which the selection of a jury can be provided." The Judge's own argument on this point goes directly against his conclusion.

It is evident to those who have watched the proceedings that this whole movement was intended and is part of a plan. The haste with which the illegally summoned jurors were brought into court and sworn in, and the obstacles thrown in the way of Mr. F. S. Richards when he endeavored to challenge the illegal jurors, is evidence in the same direction. If His Honor is another "Judge with a mission" he had better be careful in his imitation of the course of McKean, who permitted his zeal to run away with his discretion and whose decisions, when carried up to the court of last resort, made him a derision of the bar.

We have no doubt that Judge Zane's blunders will have the very opposite effect to what has been intended. We doubt whether the Supreme Court of the Territory will sustain his method of selecting juries, and should a test case go up to the highest tribunal in the land, it is almost certain to result in discomfiture to our latest "Judge with a mission."

A LESSON UNHEEDED.

FOR several months preceding the presidential election of 1880, the newspapers of the country were engaged in the same disreputable work over which they are now sweating, and laboring like beavers—besmudging the public and private characters of the candidates. But even the dirt throwing of that campaign is overshadowed by the foul political fight now in progress.

It is not improbable that this species of political warfare influenced the mind of Giteau, the murderous crank who assassinated Mr. Garfield, and others who, at the same time, as will be remembered, imagined they had missions of a similar character. Even if there were no other reason than the danger to which vituperative tactics in politics expose public men, it ought to be sufficient to cause a halt in that disgraceful method, resort to which is all but universal in this country.

Should some lunatic, after the campaign is over, get possessed of the [illegible] to free the country from the presence of one whom he considers a usurper, tyrant or corruptionist, and slay the incumbent of the presidential chair, the papers who contribute the most largely, unintentionally of course, to such an event would utter the loudest wails over the calamity and express the greatest denunciation of the atrocity.

It does not appear that the lamentable fate of President Garfield amounts to a feather's weight in influencing the [illegible] political candidates.

BY TELEGRAPH.

THE WESTERN UNION TELEGRAPH LINE.

AMERICAN.

LATEST BY LIGHTNING.

Fifty-five Buildings Burned.

PORTLAND, Oregon, 29.—The *Oregonian's* Rathdrum, Idaho, special gives the following particulars of the fire yesterday: Fifty-five buildings were burned, loss $85,000; insurance light. It is believed incendiary. Twenty families are destitute.

Governor Cleveland.

ALBANY, 29.—Among to-day's callers on Gov. Cleveland were Bishop Gallagher of Louisiana, accompanied by Rev. Walter W. Battershall, of Albany, and J. H. Aldrich.

Stocks.

NEW YORK, 29.—Bar silver, 10¾; 3's, 100½; 4½s, 12¾; 4's, 20½; Pacific 6's, 26; Central Pacific, 29¾; Burlington, [illegible]; Northern Pacific, [illegible]; N. Y. Central, [illegible]; Oregon Nav. 68; Transcontinental, 13¾; Pacific Mail, 50½; Panama, 98; St. L. [illegible]; Wells Fargo Express, [illegible]; Western Union, 64.

Terrible Explosion.

[illegible], Pa., 29.—A boiler in the [illegible] rooms of the Mellwood [illegible] exploded killing a number of men.

Struck Gas.

PITTSBURG, 29.—The Massachusetts Gas Company struck the largest gas well this morning yet developed in Tarentum field. The [illegible] on Geist farm at a depth of [illegible] feet.

More Incendiarism.

CLEVELAND, 29.—Three more fires of suspected incendiary origin were started after one o'clock last night, but caused only trifling loss.

General Butler and [illegible]

NEW YORK, 29.—Gen. Butler is expected to arrive in [illegible] p. m. to-day. It is said [illegible] speech in the Capitol Park, [illegible] from the windows of the [illegible] chamber. Grady speaks in [illegible] this afternoon. Both Butler and Grady will be at a mass meeting in Hudson Ave [illegible] this evening.

FOREIGN.

LATEST TRANS-ATLANTIC DISPATCHES.

France-German Understanding.

PARIS, 29.—Ministerial papers express satisfaction at the agreement between France and Germany relative to Egyptian affairs. A bill for the organization of the colonial army will be presented in chambers as soon as convened. The chief feature of the bill will be the transfer of marines to the control of the Minister of War.

Justified.

LONDON, 29.—A special to the *Times* from Vienna asserts that the Cabinet of Great Britain has informed the powers that in its opinion the suspension of the sinking fund by the Egyptian Government is justifiable in the present condition of its finances.

Grossly Untrue.

Gladstone's attention being called to the statements published in an anonymous pamphlet which accuse him of supporting the Roman Catholic Church, he pronounced them grossly untrue and demanded the name of the author.

Third District Court.—Proceedings before Chief Justice Zane, Saturday evening, September 27, 1884.

John Gagan vs. James Kyner et al.; demurrer to complaint submitted by attorneys for parties upon the briefs.

Charter Oak Life Insurance Company vs. Wm. A. Stevens (Trustee) et al.; argument on demurrer of M. T. Gisborn to the complaint by Arthur Brown for said defendant. Submitted.

Grand Jury, as empanelled for the September term: C. H. M'y Agramonte (foreman), 187 M. S. Pendergrist, 140 W. Jenkins, 112 Edward Bovier, 29 John H. Campe, 117 N. L. Sibley, 57 George Raybould, 141 Robert Maunder, 60 John E. Trewhela, 133 Jas. Moffatt, 113 E. A. Madgett, 97 J. F. Corker, 13 Bowman Cannon, 14 J. J. Snell, 15 M. Livingston.

Court charges the Grand Jury.

Monday, Sept. 29th.

John Gagan vs. James H. Kyner et al; demurrer to complaint overruled; exception. Ten days to answer.

Charter Oak Life Insurance Co., vs. Wm. A. Stevens (Trustee) et al: demurrer to complaint submitted Saturday, overruled. Exception. Thirty days to answer.

Louis Nadle, etc., vs. M. H. Lipman et al; motion of defendants for a new trial argued by Hoge and Jonasson for defendants, and by S. H. Lewis for plaintiff.

Admitted citizen—William Owen, formerly of South Wales, now of Summit County.

D. & R. G. W. R'y Co. et al., vs. D. & R. G. R'y. Co. et al; counsel for parties appear in open court and present and file agreements and understanding between the receivers of both plaintiff and defendant companies, and also drafts of proposed betterments and improvements on the plaintiff road, also estimates, and attorneys for plaintiff ask an order authorizing the receiver to construct improvements. Submitted and taken under advisement.

People, etc., vs. John Nilson et al., appeal; motion of defendants to set aside order dismissing appeal, and reinstate appeal. Submitted.

Sarah Skewes vs. Ballard S. Dunn; motion to vacate order Aug. 25, 1883. R. B. Tripp for plaintiff present, and Geo. B. Fletcher appearing only for the purposes of the motion for defendant, and claiming that there is no motion, and nothing for the court to hear. Court entertains motion, hearing in progress.

Interesting Meetings.—The Y. M. & Y. L. M. I. A. Quarterly Conference of Davis Stake was held at Kaysville in the Meeting house, Sunday, Sept. 28th, Elder Anson V. Call presiding. After the usual exercises the minutes of the previous conference were read by the Secretary, and the Superintendents of the Young Ladies' Associations gave verbal reports, after which Miss E. W. Smith, Superintendent of the Young Ladies' of that Stake, made a few appropriate and suggestive remarks, expressing her willingness to labor in the interest of the associations and her desire to follow out the best methods of improvement. The meeting was then addressed by Elder Junius F. Wells and Elder B. H. Roberts, who each made a stirring appeal to the young people to be up and doing, to improve their opportunities, and prepare themselves for the great future that awaits the youth of Zion.

In the afternoon after the opening exercises the sacrament was administered, and the general and local authorities of the Y. M. & Y. L. M. I. A. were presented and sustained by unanimous vote. The meeting was first addressed by Mrs. E. B. Wells followed by Dr. R. B. Pratt. President Woodruff then preached a very impressive sermon to the young people, calculated to arouse them to the importance of the duties devolving upon them, and to inspire them with zeal, energy and courage in the performance of those duties and obligations resting upon them; urged them to cultivate the Spirit of the Lord which would lead them into all truth, gave much good counsel and exhorted them to diligence, faithfulness, and good works. The conference was an exceedingly interesting one and was very well attended, a good spirit prevailing in the meetings and all seemed to enjoy its influence.

DEATHS.

WILLIAMS.—At Echo City, Summit county, Utah, Sept. 25th, 1884, of stoppage of the bowels, Mosiah Williams, son of William Williams and Mary Jane Britton, born at Canton, Fulton county, Illinois, November 22, 1876, and blessed by Elder N. V. Jones; aged 7 years, 10 months and 3 days.

Millennial Star please copy.

GOLDER.—In the 15th Ward of this city, September 28th, 1884, at 2 p. m., Charlotte Elizabeth Golder, wife of David Parry, and daughter of George and Fanny Golder. She was born in Nottingham, England, October 29th, 1862.

She lived a faithful Latter-day Saint, being an affectionate wife, a devoted mother, and leaves a husband and two children and numerous relatives and friends to mourn her loss.

Funeral services at 2 p. m. to morrow at the 15th Ward Meeting House.

Millennial Star, please copy.

BANKS.