position to let everybody else's business alone.

If their would-be dictators will follow their example in that respect, there will be much more peace in the land. Business affairs will flourish. The country will be built up. The laws will be respected. The rights of all will be maintained. And all classes, creeds and parties will be free to attend to their own affairs and unite on such ground as they can meet upon in common, for mutual advantage and the general prosperity.

But this attempted dictation and this bombastic threatening of dire results if it is not followed, is entirely out of place, is an exhibition of vaporous assumption, and will have no other effect than to strengthen the prejudices of the uninformed, keep up the strife which they have fostered in the past, and make sensible people smile at the "gall" of the *soi-disant* shapers of religious and civil polity in Utah.

WHAT THE RECORD SAYS.

THERE is a good deal of feeling in the community, especially in the non-"Mormon" portion of it, regarding an effort that is being made to displace Chief Justice Sandford and re-instate C. S. Zane in his position. A large proportion of the Gentiles are opposed to the latter being put back into the office in question. That class take the ground that if a change should occur, the man receiving the appointment ought to be a person who will administer the law without vindictiveness, that he shall not, on account of his prejudice go outside of the law himself, by resorting to extra-judicial methods. They argue that if care is not exercised upon this point, the complaint of the "Mormon" people that they are persecuted will be emphasized and supported by incontrovertible facts.

The question is, in this connection, has Judge Zane, in his pursuit of "Mormons" charged with a certain class of offenses departed not only from the spirit but the letter of the law? Upon this point it is only necessary to let the record speak.

On May 2nd, 1885, when Parley P. Pratt was before the court for sentence for unlawful cohabitation, Judge Zane expressed his regret that the law did not provide a greater penalty than imprisonment for six months and a fine of $300. In unison with this unmerciful sentiment, in addition to the maximum penalty of the law, hard labor was included in the judgment. That element of the sentence was subsequently eliminated, being extra legal as well as extra judicial. But the District Attorney, for whom Mr. McKay acted, subsequently came to the relief of the Judge, as will be seen by the following record of a proceeding, on the 9th of October, 1885, in the Third District:

"The grand jury came into court at 11:30 today, and presented one indictment under the laws of the United States.

Mr. McKay then arose and stated that there was a matter he wished to bring to the attention of the court, which had been discussed informally and otherwise in the grand jury room. At least one member of the grand jury claimed the right to say whether he should find an indictment or not, when at the same time he admitted the evidence sufficient to warrant it, claiming that it would be a usurpation on the part of the grand jury to find an indictment under certain circumstances, notwithstanding the evidence warranted it. Mr. McKay then stated the objection was in relation to finding more than one indictment for unlawful cohabitation in a certain period. The juror referred to said he would do no such thing, in spite of being reminded that his oath required it, under the instructions of the Court. Under the circumstances, Mr. McKay thought the juror incompetent.

The Court asked for his name and Mr. Clayton was named as the juror.

Mr. Clayton said yes, he was the one, and desired to correct Mr. McKay in one particular. That he had not refused to indict where the evidence warranted. That he had voted for indictment in the case.

Mr. McKay stated that the point he made was that the juror refused to find more than one indictment. The juror assumed to say whether the law was correctly laid down by the court or not. It was not disputed that the grand juror had a right to say whether the evidence was sufficient or not; but the grand juror claimed that even where the evidence was sufficient, the finding of more than one indictment was unconstitutional; that the law of 1862 fixed the maximum punishment for polygamy, and the Edmunds law showed it to be the intention of Congress to fix the utmost punishment for unlawful cohabitation, which he termed the "junior" offense, at six months' imprisonment and $300 fine; and to find two or more indictments against a man he might be punished to even a greater extent than for polygamy.

Mr. McKay stated further that there was another juror he asked to have taken off for substantially the same reasons, Mr. Jacob Moritz; and he was informed that there were others.

Mr. Davis stated that in certain cases he had the same opinion as Mr. Moritz.

Mr. Clayton was interrogated by the court and said he believed it was unconstitutional to find more than one indictment. The Constitution provides that excessive fines or unusual punishments shall not be imposed. He said he did vote for indictment were "the evidence" warranted it, but to go back and find an indictment for every day, or every minute or week, he would not indict. Notwithstanding the evidence showed the defendant had been living in unlawful cohabitation for three years, he would find but one indictment. He had advised with no one, talked with no one, except perhaps his wife.

Mr. Moritz and Mr. Davis thought that where parties had been indicted, tried and convicted, those parties ought to have a chance after they came out; then if they didn't live within the law they were ready to indict them.

The court then interrogated each of the other jurors as to whether he took the same position, but they all responded in the negative.

Court—Mr. Moritz, Mr. Davis and Mr. Clayton: I am surprised, gentlemen, that after you took the oath you did, that you would investigate and enquire into all the matters that were brought before you, and whenever the evidence was sufficient you would find the truth, and nothing but the truth; that you would not be influenced by fear, favor or affection, or by any reward, or promise, or hope thereof, but in all your presentments you would present the truth, the whole truth, and nothing but the truth, that you will state you will not do it—

Clayton—I have stated that I would, and did so.

Court—The effect of your statement is to that effect.

Clayton—I don't understand it that way—

Court—Men must be careful when they take oaths—

Moritz—We had no evidence. We didn't take a vote on it.

Court—But you have no right to state you would not do it. You cannot trifle with your consciences like that in this court. It is astonishing that men have not more regard for their oaths than that. Where the evidence is sufficient you have no discretion whatever. If it is sufficient to indict, you must indict; if it is not sufficient, you cannot indict. You have no more discretion than this court has when a case is submitted to it. If the evidence is one way, the court under its oath cannot find another. If a case is submitted to the court, if the evidence is with the plaintiff, it cannot find the facts the other way. So with a grand jury; you have not the slightest discretion. You must move directly according to your oaths, and find the truth according to the evidence. You have no right to say you will not indict, though the evidence may be sufficient. You have no right to say a law is unconstitutional or wrong after the court charges you that it is the law. It is the duty of the court to charge you what the law is with respect to your duties as grand jurors, and has so charged