EDITORIALS.

CONTEMPT OF COURT--A RELIC OF BARBARISM.

THERE seems to be a widespread and growing sentiment in opposition to the arbitrary and almost unlimited power of the judiciary to punish for contempt, particularly constructive contempt.

Mr. Kimber, an eminent Kentish solicitor and for some years past secretary of the English Criminal Law Amendment Association, recently wrote to Mr. Boord, M. P. for Greenwich, as follows—

"The judges have most undoubtedly presumed upon their power. The power to commit for contempt is too absolute for the administrator of it. It blinds his eyes, and prevents reason from acting upon his conscience. It is a relic of barbarism that ought to be abolished. There are many courts in this country without the power and they get on well. It is a power, which in these enlightened days ought to be left at the discretion of no man, and which, if given to him, only panders to his pride and self importance."

The Washington *Capital* of June 13 says—

"In the United States court at Galveston a Judge Morrill fined the manager of an opera house for refusing to sell two colored women seats. The Galveston *News* commented on the decision editorially and in a moderate tone, whereupon the judge summoned the proprietors of the paper to answer for contempt. This power of courts to punish for contempt is generally regarded as an exceptional relic of barbarism which the careful nursing of judges and the carelessness of lawyers and legislators have preserved. We hope to live to see the end of so unrepublican a power, which is dangerous when lodged in any hands."

The Missouri *Globe-Democrat* comments upon the same Texan case in this wise—

"The recent issue in Galveston, between the judiciary and the journalists, does not seem to have developed a vast amount of judicial dignity or sagacity. Indeed, the gentleman who represented the judiciary in that contest exhibited an ability to back down, and a capacity for crawling out, which were more remarkable than admirable. The Galveston *News* published an editorial article concerning a civil rights case on trial before Judge Morrill, of the United States Court, speaking quite severely and sarcastically of the Judge and representing the court as "a phenomenal tribunal, wrapping itself in the awful sanctity of judicial ignorance." There was not much meaning in the expression, but it must have sounded very badly to the Judge, as he forthwith caused a process to be served on the proprietors of the *News*, citing them to show cause why they should not be considered in contempt of court. Thus much of the proceeding was telegraphed to the press generally, provoking considerable comment, and exciting the belief that this little quarrel was an outrageous infringement upon the rights of journalism.

"But it was only a tempest in a tea-pot, and it soon subsided. The *News* proprietors appeared, as they were cited to do, and answered that the article in question was not a contempt of court or a violation of the laws of the United States. Whereupon Judge Morrill poured upon the troubled waters the oil of a Pickwickian opinion, in which he surprised the public by the 'phenomenal' character of his backing down. He declared that the article was calculated to obstruct the administration of justice; that it actually had the effect of causing such obstruction, and that it was, in fact, a contempt of court. Yet he went on to say that the summons issued, requiring the journalists to show cause why they should not be proceeded against for contempt, was not a command or a requirement, but simply a 'polite request' that they should appear and explain their intentions in publishing the article. He further remarked that the proprietors of the *News* had disclaimed any intent on their part to obstruct the administration of justice, and that his personal knowledge of those men was such that he could not help believing their disclaimer. Thus it was settled that the publication in the *News* was merely a Pickwickian production, that the summons for contempt against the proprietors was issued and served in a Pickwickian sense, and that they, in the language of the Judge, should 'have unrestricted liberty to apply any epithet to the Judge of court, without being in contempt for so doing.'

"It was a queer case, and we are forced to draw the conclusion that Judge Morrill discovered that he had thrust his judicial foot into an inconvenient aperture, from which he had sense enough to withdraw it as speedily as possible. Under no law of the United States, by any reasonable method of construction, could the article be regarded as a contempt of court. If all newspapers that comment upon cases before the courts should be considered in contempt, the Judge who presides over the Beecher-Tilton trial would have his hands full. Our judges will best consult their dignity by leaving the newspapers unnoticed, or by preventing juries from reading them, as well as from listening to outside talk, in cases where their opinions are liable to be unduly influenced. The doctrine of constructive contempt is being pretty well crushed out in this country."

We have seen more than one case of contempt in this Territory of late years wherein the cool and candid public were satisfied that a large amount of judicial imperiousness, arbitrariness, and bad temper were manifest in wielding this relic of barbarism judicial power, we can hardly say judicial discretion, for the instances were notable examples of judicial indiscretion. It is a power that should be either abolished or materially modified.

THE ENGLISH FAILURES.

THE recent extensive failures in England have excited considerable public interest in this country. Within two weeks they aggregated $60,000,000, a very respectable sum to be thus involved. Some people, naturally enough, reading of the failures, and the heavy liabilities of the failing firms, have concluded that a powerful general panic is imminent in Britain, which would disastrously affect business on both the European and American continents. This conclusion, however, does not appear to be entertained by better informed persons, and one of their reasons for not entertaining such a conclusion is that the failures, extensive as they have been, have not particularly disturbed the London money market, nor sensibly affected the Bank of England rate of discount, which is held to be one of the surest indications of the financial situation in England.

The failures have been principally in the silk trade, with some in the iron trade, and houses depending on these primary failures. The New York *Sun* says—

"The great flood of failures which has broken upon London during the past ten days was commenced by the bankruptcy of Alexander Collie & Co., who failed for many millions.

"Last year Mr. Collie was in this city, and said to an intimate friend of his: 'Before many months you will hear of great trouble among the merchants in London, and I am afraid there will be serious failures among them. The trouble,' he continued, 'all grows out of unwise speculation and enormous losses in raw silk.' 'But,' said the other, 'are you out of all danger yourself?' 'Yes,' replied Mr. Collie, 'I am entirely safe.' And yet his extensive and important establishment was the first to collapse."

The New York *Herald* says—

"It seems to be thought in London that up to the present time the trouble has not reached any house known and believed to be thoroughly sound, but has operated entirely within an infected circle; that, in fact, all these houses were quarantined some time ago, and that their present 'failure' is only a public declaration of a condition that, in the financial world, was known to exist at least long enough since for the knowledge to operate as a protection to houses whose fall would be a public calamity. Consequently there is at present just a probability that no such house may go down, but this fortunate event is not certain."

A *Herald* reporter, after interviewing several "prominent foreign bankers in New York," reports that their views were of a decidedly cheerful character. Joseph Seligman, German banker, thought the effect would scarcely be felt in this country, and would never cause a panic in London. Money was abundant, and there were no grounds for serious apprehension. The houses that failed were unreliable and ought to have failed James M. Brown thought the effect would be only transitory. The houses that had failed had been heavy losers for some time. John P. Morgan thought the failures did not amount to anything approaching a serious panic. Jesse Seligman thought these failures would strengthen rather than weaken American credit. They were the effects of over speculation, etc., and some of the houses which had failed were of a fraudulent character, so that their failure was rather a benefit to the London market than otherwise. The disturbances in the iron trade were owing to cessation of American importation, great lack of demand for rails in England, the iron mills standing still, and general paralyzation of the iron trade. American cotton was so low that East Indian houses in London could not compete with it.

"A distinguished foreign banker" was the only one who took a rather gloomy view of the situation. He thought the disturbance was local, and would not extend to this country, but he thought that no anxiety need be felt, as things were so bad that they could scarcely be any worse. He said further—

"It was almost impossible to get more than two or three per cent interest for money, the profits in all kinds of legitimate business had dwindled down to nothing, almost, and the speculating mania was extending into every ramification of business. He predicted that the last mentioned calamity would befall the country at the time the first Atlantic cable was laid, for he foresaw at the time that this telegraphic communication with Europe would stimulate speculation to an alarming degree. Instead of being a blessing it was actually the worst thing that ever happened to American business. The farmer in Oneida county who manufactured cheese for exportation to Europe received now every day advices as to the price of cheese in England, and by calculating the rates of freight, &c., could speculate as to his probable profits. The legitimate business of this country, in the opinion of the gentleman, was perfectly prostrate, and even a panic in London could scarcely make matters worse. A superabundance of money was as disastrous as a scarcity, and this was just the difficulty now. It was remarkable that among all the countries of the world the only one whose business and finances were in a normal and sound condition was conquered France."

Granting the correctness of these last unflattering views, there is at least this comfort that when the worst is come any change must be for the better, and a change must come sooner or later.

HIS POLICY.

THE Washington correspondent of the New York *Herald* recently wrote to that paper that Mr. Axtell was made Governor of Utah "with the understanding that he would carry out the President's policy in regard to Mormonism;" that subsequently his "official course indicated that he was directly opposed to the President's policy;" that consequently he was removed to make room "for one who, this time, is known to be in accord with the President in the government of the Mormon Territory;" and that as Governor Mr. Emery "will undoubtedly be supported by the administration as its exponent in the conduct of the affairs of the Territory of Utah."

The New York *Saratogian* has a paragraph written in a similar style upon the same subject.

From these, taking them as truly representing things in Washington, it appears that the President is a policy man, that he has a special policy in regard to "Mormonism," that in the conduct of the affairs of Utah, the Presidential policy towards "Mormonism" is the determining policy, and that it is necessary that the Governor of Utah be in perfect accord with that policy, so that he may be the undoubted exponent thereof. As to "the Mormon Territory," we do not find among the various Territories of the United States any one designated by that name.

But about the policy. Utah is to be governed by the peculiar policy of the President, by his peculiar policy towards "Mormonism." The text book of American government says human governments are institutions formed not for the purpose of the people being ruled by the policy of one man, but to secure equal and inalienable rights to the governed, to secure their safety and happiness, governments deriving their just powers from the *consent of the governed*, and that it is the right of the people to alter or abolish a government that becomes destructive of these ends. In all this there is nothing about the necessity of adherence to any special presidential policy. On the contrary, it is the consent of the governed that is specially presented as the all important point to be kept ever in view.

Again, it is the presidential policy towards "Mormonism" that is made so important a matter, and given so controlling an influence. Why should a president have a governmental policy towards "Mormonism" or towards any other religion? It is as consistent to have a public policy towards Methodism or Catholicism as towards "Mormonism." The Constitution provides for no such thing, but in letter and spirit actually forbids and prohibits it. Congress has no right to make laws concerning an establishment of religion, or prohibiting the free exercise thereof, and the Constitution and constitutional laws are the supreme law of the land, which the President is solemnly sworn to protect, preserve, and defend.

It is therefore thoroughly extra-presidential to have a public policy towards any form of religion, or any body of religionists: or to have any public policy, except to uphold the constitutional law of the land.

COURT FEES.

THERE has been some feeling concerning exorbitant fees asked by certain officials, and the presumption may be that those officials are ignorant of what their fees legally are. The Poland bill, which is now the law of the land, says—

"The act of the Congress of the United States, entitled 'An Act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes,' approved February twenty-sixth, eighteen hundred and fifty-three, is extended over and shall apply to the fees of like officers in said Territory of Utah. But the district attorney shall not, by fees and salary together, receive more than thirty-five hundred dollars per year; and all fees or moneys received by him above said amount shall be paid into the Treasury of the United States."

The fees of the clerks of the district courts, by the law named, are as follows—

For issuing and entering a process, commission, summons, capias, execution, warrant, attachment, or other writ, except venire, summons, or subpœna for witness, one dollar.

For filing and entering a declaration, plea, or other paper, ten cents.

For administering oath or affirmation to a witness, or other person, except a juror, ten cents.

For entering a return, rule, order, continuance, judgment, decree, or recognizance, drawing a bond, making a record, certificate, return, or report, fifteen cents per folio; for copy of such, or any paper on file, ten cents per folio.

For making dockets and indexes, and all other services on trial or argument of a cause, where issue is joined and testimony given, venire and taxing costs included, three dollars.

For making dockets and indexes, and all other services in a cause where issue is joined and no testimony given, including taxing costs, two dollars; where the cause is dismissed, discontinued, or judgment or decree rendered without issue, one dollar.

For affixing seal of court to any instrument when required, twenty cents.

For issuing writ of subpœna, twenty-five cents.

For search for mortgage, judgment, or other lien, *fifteen* cents.

In traveling from his office to court, five cents per mile each way, and five dollars per day for attendance while court is in actual session.

For searching records of court for judgments, decrees, and other instruments of general lien upon real estate, and certifying the result of such search, fifteen cents for each person against whom the search is made.

For receiving, keeping, and paying out money, as per statute or order of court, one per cent. on the amount.

For making dockets and taxing costs in cases removed by writ of error or appeal, one dollar.

For administering oaths, taking acknowledgments, taking and certifying affidavits and depositions, same fees and compensation as commissioners.

To receive any other or greater compensation is a misdemeanor, and any such officer wilfully or corruptly demanding and receiving any other or greater fees than those allowed in this act of '53 shall, on conviction thereof in any court of the United States, forfeit and pay a fine not exceeding five hundred dollars, and be imprisoned not exceeding six months, at the discretion of the court.

RELIGIOUS ROWS IN BELGIUM.

A CORRESPONDENT of the London *Times* writing, June 5, concerning a religious row in that city, says—

"A peaceful town of about 150,000 inhabitants, threatening something very like civil strife—the newspapers on both sides speak constantly of a possible *'guerre civile'*—because a school boy does not doff his cap to the Host! It sounds absurd, indeed, but, as I scarcely need point out, its very absurdity is the strongest proof how deep the danger lies. So slight a spark could not be mischievous, if there were not a mass of combustible matter already at hand, and given your barrel of gunpowder you may blow up a house as easily, if not so comfortably, with a lighted pipe as with the most elaborate fuse. This Antwerp flash-in-the-pan is only one of many recent indications that the quarrel between the Liberal the and Clerical party is assuming very perilous proportions, and the newspapers scarcely exaggerate when they talk of the possibility of civil war. There have been similar disturbances in various parts of the country, at Brussels, Liege, Ghent.

"The Burgomaster of the town was attacked and roughly treated by the mob, though the only severe injuries inflicted were on his hat. The only blood, I believe, shed in the fray may be seen on the door of the Athenæum, where it has probably struck awe into some innocent hearts as clear irrefragable proof of a fierce hand-to-hand struggle. The wife of the concierge, who first pointed it out to me, was evidently under this impression, but I afterwards learned that it had been left there by the tipsy hero of the knife and rosary, who had cut his own fingers. She had evidently been a good deal scared by the night's tumult, and declared that she had fully made up her mind to be then and there assassinated, if the mob once crossed the threshold, but had, all the same, been heartily amused in the midst of her fright, by the way in which the champion of the Ultramontanes, while protesting, 'knife in hand, that he was for religion,' enforced his protest by