THE EVENING NEWS.

GEORGE Q. CANNON,
EDITOR AND PUBLISHER.

Friday, . . . October 13, 1871.

WANT of space prevented us yesterday from noticing the statement of Judge McKean respecting the selecting, summoning and impanneling of Grand Jurors in this Territory while Governor Brigham Young was the Chief Executive of the Territory. The Judge in his opinion, published in our columns last evening, said: "Had the counsel first investigated this question, he would have found that when Brigham Young was Governor of this Territory, and his selected friend, Judge Snow, now one of his counsel, sat upon the District and Supreme Bench of the Territory, grand jurors were for years selected, summoned and impanneled precisely as they now are."

We did not intend to allude to the Judge or his proceedings while this case was on trial, unless we saw that the interests of truth would suffer by our silence. We wished to refrain from all comments upon the proceedings. But to suffer the above statement made by Judge McKean to pass without remark or explanation would be, in our opinion, criminal in us. Charity leads us to the conclusion that the statement was made by the Chief-Justice in, at least, partial ignorance of the facts; for we give him the credit of sufficient common sense to perceive that it would never answer for him in giving an opinion which would go to the entire country, to misrepresent proceedings of Courts with which hundreds of persons are familiar, and the chief actors in which are still alive.

Now we will give the facts concerning the procuring of juries and holding of courts in those early days. In the fall of 1850 Hon. Z. Snow was appointed a United States Judge for the newly organized Territory of Utah. In the summer of 1851 he arrived in this Territory, in pursuance of his appointment. In the fall of that year the Territorial Legislature assembled for the first time under the Organic Act. One of the first Acts of the Legislature was to provide for holding Court in Salt Lake City. At that time there existed no law of the Territory or of Congress, prescribing the qualifications or the manner of selecting and summoning jurors in this Territory, nor had there been any officers, such as sheriff or Territorial Marshal created by law.

Under these peculiar circumstances, and being required by law to hold court in some way, Judge Snow resolved to procure juries on the principle of the common law, letting the U. S. Marshal select and summon them from the lawful voters in the body of the district. With jurors so selected and summoned, Judge Snow held the first Court, in this Territory, under the organic act.

After the holding of the Court, and before the close of the Legislative session, the Legislature passed an Act, concerning civil procedure, sec. 11 of which provides for the calling of jurors—

"Previous to trial, when the sum in question exceeds twenty dollars, if either party request a jury, the court shall issue an order to the proper officer, requiring him to summon for that purpose, not less than three nor more than twelve qualified persons and residents of the county."

A law providing for a Territorial Marshal was passed by the Legislature in March 1852. Sections 1, 2, 3 read as follows—

"Be it enacted by the Governor and Legislative Assembly of the Territory of Utah: That a Marshal shall be elected by a joint vote of both Houses of the Legislative Assembly, whose term of office shall be one year, unless sooner removed by the Legislative Assembly, or until his successor is elected and qualified. Said Marshal shall, before entering upon the duties of his office, take an oath of office, and file bonds with securities in the penal sum of not exceeding twenty thousand dollars, conditioned for the faithful discharge of his duties, which bond with securities is to be approved by the Secretary of the Territory, and filed in his office.

"Said Marshal shall have power to appoint one or more Deputy Marshals in each judicial district of the Territory, as the necessity of the case may require, whose term of office shall expire with that of the Marshal; but they may at any time be removed at his discretion.

"It shall be the duty of the Marshal or any of his Deputies, to execute all orders or processes of the Supreme or District Court, in all cases arising under the laws of the Territory, and such other duties as the executive may direct, or may be required by law pertaining to the duties of his office."

In January, 1854, the Legislature passed a law providing for sheriffs, which reads as follows—

"Be it enacted by the Governor and Legislative Assembly of the Territory of Utah: That at the next general election, and every two years thereafter, a Sheriff shall be elected in each county, whose term of office shall be two years, and until his successor is qualified.

"Before entering upon the duties of his office, the Sheriff shall give bonds in at least five thousand dollars, with approved security, and take and subscribe an oath for the faithful performance of his duties; said bonds and oath to be approved by the Probate Judge, and filed in the office of the County Clerk.

"The Sheriff may appoint a deputy or deputies, for whose acts he shall be responsible; and who shall qualify in the same manner as the Sheriff, except that the bonds may be in the sum of two thousand dollars each.

"When a reasonable compensation is tendered or satisfaction given that the costs of service will be reasonably paid, it is the duty of Sheriffs and Constables to faithfully and diligently execute all orders, processes and requirements of a court, under penalty of whatsoever costs, damages and fine may be adjudged."

Judge Snow continued to employ the U. S. Marshal in selecting and summoning juries until those laws were passed. After they were passed and the officers named were provided, he left jury matters in the hands of those officers according to the statutes. In each instance he followed the law—the common law, in the absence of the statute law, in using the U. S. Marshal; and the Territorial law, when made, in using the Territorial Marshal and the Sheriff.

In 1853 the Legislature passed an Act regulating the mode of procedure in criminal cases. Sections 9 and 17 refer to traverse and grand juries—

"In jury cases, before the introduction of any evidence, the Court shall issue an order, requiring an officer to summon for that purpose a reasonable number of judicious men, residents of the county, out of which twelve, or a less number if agreed upon, shall be selected; and if the number first summoned is not sufficient, the officer shall continue to summon till the number is complete.

"When necessary, the court shall issue an order requiring an officer to summon fifteen judicious men, residents of the county, for a grand jury, who shall be sworn to inquire faithfully into offences, and present indictments by the agreement of at least twelve of their number against offenders who should be prosecuted; and the Foreman shall have power to swear witnesses and compel their attendance."

Thus the law continued until Jan. 21, 1859, when the present law of the Territory, prescribing the qualifications of jurors, and the manner of selecting and summoning them for District Courts, was passed by the Legislature and signed by the Governor. Since that date until 1870 all the U. S. judges, without exception, followed the Territorial law. Under Judge McKean from 1870 the Territorial laws in relation to Territorial officers and to jurors, have not been respected as previously by the Federal judiciary.

We submit the above statement of facts to the Chief Justice, with the hope that, having publicly stated that grand jurors were for years selected, summoned and impanneled as they now are, he will be so fair to himself, to his predecessor in office, to the case now being brought before him, and to the country as to qualify his statement by adding that grand jurors were only selected, summoned and impanneled as they are now by his order, while there was no Territorial statute in relation to the subject; but that since the passage of the statute they have been selected, summoned and impanneled in accordance with its provisions, except during the last two years. If he make this correction, it will be in keeping with the frank manner in which he avows in his opinion of yesterday the religio-politico-judicial character of his business in Utah.

In that opinion he claims to be here not simply as a judicial officer of the government, but more in the character of a crusader against the "Mormons." It is not Brigham Young, it is not adultery, it is not lewdness, it is not lascivious cohabitation, it is not bigamy, it is not polygamy particularly that the judge wars against—all these things exist, more or less, throughout the Union, and create no special interest. As it appears to us, the raising of any of these questions in Court by the Utah Federal Judiciary is only as the ostensible cases to be proceeded against. The real case, says the Judge, is Federal Authority versus Polygamic Theocracy; that is, the U. S. Government versus "Mormonism."

Now let the country distinctly understand that the "Mormons" have raised no such controversy. It is of Judge McKean's own raising. The "Mormons" are altogether on the defensive. He imagines a grave national case, and then proceeds to tug it through his court. The Latter-day Saints have no controversy with the Government, they will have none whatever, unless unavoidably and against their will forced into it, and then they will seek to get clear of it in the most honorable and commendable manner possible.

Meantime we rejoice greatly and thank his honor, Judge McKean, for so plainly and frankly defining his position. It is certainly a very curious one for a sober and learned judge to assume, but that is his business. We shall see what the public at large throughout the Union think about this "new departure" of the Federal judiciary of Utah. We knew the real position of the Judge long before he openly declared it, but many other people did not.

"A DISGRACE TO THE AMERICAN NAME."

The (Sacramento) *Union* comes to the defense of Brigham Young. We do not know but that this once it is right. It says: "These Mormons went to a distant region, as our forefathers fled from England, and founded institutions of their own. They went where no State laws were made to extend, and the constitution of the United States and laws made in accordance therewith have not in the past interfered with the family relations. Marriage is not one of the institutions the sovereignty of the United States takes cognizance of, and the declaration that the common law steps in, in the absence of anything else, and makes the polygamist amenable, is made in ignorance of the fact that the United States knows no common law, and it cannot be recognized anywhere except by statute. Up to a very recent period, the Mormons having full sway in Utah, no laws existed that militated against their peculiar institutions, but were in consonance with them. 'Where no laws are no offense abounds.' An act of late date cannot go back of its enactment to punish. *Ex post facto* laws are prohibited, and we conceive that any act of Congress or of the Territorial legislature cannot punish polygamy practiced before the enactment."

Perhaps, if the *Union* understood the motives which prompt this crusade against Brigham and other leading Mormons, it would not be so liberal. The whole thing is instigated by a "ring" of Republican politicians, who are looking to the speedy admission of Utah as one of the States of the Union. These small fry, popinjay politicians and would-be statesmen know full well that they will have no show for promotion until the Mormon power is broken. Hence it is that they seek to create a civil war by means of packed juries, unprincipled judges and perjured witnesses. Of course, if they determine that no Mormon shall sit on a jury to try Young, as all were excluded from the grand jury, he will necessarily be convicted. Having the judge and marshal they can pack a jury to suit themselves. If they can send Brigham to prison, and induce the people to rise up and liberate him, and thus produce a conflict, Utah will be at once admitted as a State, and under the protection of Federal bayonets, these mischief-makers can have themselves elected senators, congressmen, etc., just as the thieving carpet-baggers did at the South.

The whole affair is a disgrace to the American name. That a vile little clique of corrupt politicians should be permitted to use the power of the government to embroil a peaceable community in civil strife to gratify their personal greed for place and plunder is an outrage upon decency, humanity and justice.—*San Francisco Examiner.*

OUR SALESMAN, the monthly advertising circular of Linforth, Kellog & Co., San Francisco, is received.

WHAT IS TO BECOME OF THE MORMON WOMEN?

The future of the Mormon wives thus rudely divorced is therefore the important point of the great Mormon problem just now. By the strangest inconsistency in the great laws of nature—those of supply and demand—the great mass of sturdy miners and hunters upon the broad lands of the West, from the Missouri river to the lower rim of the Pacific slope, are "short" of women, if not in fact entirely destitute of that important article of household furniture, while the Mormon men, with their degrading conditions of marriage and concubinage, have long been overwhelmed with a supply, and find themselves just now most disastrously overstocked. The most natural method of rectifying the great evil of the coming wholesale divorcement, therefore, would be a new distribution of these bereaved relicts among the hardy men of the West. The distribution may be made in any way that is satisfactory to the women, and as they have the right of suffrage they ought at once to take a vote upon it. Certainly, if some peaceable measure is not provided for the emergency, the rape of the Sabines two thousand years ago, with the interested sexes reversed in the cast of character, may find its counterpart in this century on the plains of the West, and each hardy bachelor of the prairies may, at some preconcerted signal, find himself borne off a helpless victim by some desperate Mormon widow with six children. It is most unfortunate that these extra women are to be thrown on the world's market just at this time, when woman's great numerical preponderance over the other sex makes her, with all her acknowledged sweetness, a "drug;" but certainly there is no particular market in the world where they could be "dumped" with more pecuniary and matrimonial advantage to themselves. But the honest miners of Utah and Nevada require some protection, and before the divorcement actually takes place the consequent evils that thus threaten them must be provided against. The Mormon elders can hardly be compelled to give alimony to all their divorced wives. That would be recognizing the fact that they were wives, which the United States law cannot recognize. Besides, to make one man pay alimony to sixteen wives would be a refinement of cruelty that the just lawmakers of Congress could not have contemplated. The whole subject presents a most complex appearance, and will probably have to be left finally for circumstances to unravel. But in the meantime let the women have a vote upon it, if only to get their opinion on the matter. It would be interesting to know what they thought of it, even if it were absolutely certain that their decision might not affect the views of Chief Justice McKean regarding equity in the case now pending before him. Suffrage, the great boon which women are now suffering for and which these Mormon wives have obtained far ahead of their agitating sisterhood in the East, will have proven indeed a delusion and a snare if it offers them no consolation in their present dire distress. Let them vote and hope.—*New York Herald.*

THE COMING CROMWELL.

Charles Bradlaugh, the leader of the English radical republicans, has divulged to a World correspondent the plans and expectations of his party. Bradlaugh fully expects to be president of the British republic in 1876. He states that he is only afraid the crisis will come too soon—that he is strong enough to pull down the monarchy, but not strong enough to erect on its ruins a republic. According to Bradlaugh, there are two great movements of which he is the head—one is the republican movement, the other the free-thought, secular or infidel movement. The infidels are not all republicans, however. There are now in Great Britain sixty-eight avowed republican clubs, with an aggregate membership of 30,000 men, and it is estimated that there are 75,000 ardent republicans in the kingdom outside of the infidel republicans. There is no central organization to govern these associations, but Bradlaugh seems to be held as the leader. The republican strength is made up of artisans mainly, and almost wholly in towns, as "nothing can be done with the agricultural class." Bradlaugh, however, asserts that the farmers will make no trouble when the revolution comes. He hopes that the revolution may not come until 1876, but says it may be precipitated at any moment—by the death of the queen, for instance, or by her being officially declared incapable of longer exercising her duties by mental alienation. The republicans will not permit a regency; they will have none of the dissolute, spendthrift line of princes to rule them. The republic must be proclaimed. The revolution need not be a violent one. Parliament is all-powerful. What one parliament has done another may undo. The reigning family holds the throne, not by what is called "divine right," but by virtue of an act of parliament. Parliament may repeal this act, and the republic can be set up peacably; but should it not, it will be obtained "by bloodshed."

Bradlaugh's republic does not seem to be altogether a wholesome one, according to American ideas. He proposes to establish it on an infidel basis, having no written constitution; there is positively to be no such thing as divine sanction of law; the idea of any authority higher than man himself, which may give laws to man, is to be abrogated; whatever laws are framed are to rest solely on the authority of the majority for the time being, and not on any idea that a supreme being has ordained certain principles of action with which these laws are in harmony. Education is to be wholly secular, divorced from all idea of duty to God. Further, Bradlaugh hints that agrarianism—the division of the land among the people—will be an indispensable feature of the revolutionary programme.

It is apparent that Bradlaugh is a visionary, and it is quite certain that his model republic must be repugnant to the thoughts and feelings of an immense majority of the people of Great Britain; but it is not unlikely that he has a following in some of the large cities that makes him an object of some uneasiness to the government. The large concessions made year by year by the ruling powers to the cause of liberal reform, show that they recognize the fact that if these privileges are not readily granted, the people may reach out and take them. Infidel Bradlaugh will probably never be president, but Great Britain will be virtually a republic before many years, and doubtless in a perfectly peaceful way.—*Albany Post.*

ARRIVALS.

TOWNSEND HOUSE.

Oct. 12th.

B S Dunn, Corinne; A C Hamilton, C P Mead, W E Judson, Cleveland; C Studebaker, Ind; H S Watton, John Mitchell, Corinne; G R Davis, Montgomery, Ala.

Oct. 13th.

J M Bartsell, San Francisco; Geo E Whitney, Oakland, Cal; M Donahue, wife and two children, Iowa; James Makn and daughter, Honolulu, S I; T A Napier, Neb.

SALT LAKE HOUSE.

Oct. 12th.

L O Pratt, Sec; J W French, Wyoming; H Simons, Ophir; W West, Ogden; H C Lincoln, Cottonwood; J B Ridleman, San Fran; E P Shaw, Ophir; J P Colburn, Wellsville; A McG, Robb, UPRR; John Agrall, Am Fork; Bernstein, Corinne; O H Davis, Central City; L Reggel, Corinne; W Kee, B Elliott, Ploche; H F Samson, E. Cottonwood; W A Slingerland, N Y; B Park and wife, Cheyenne.

Oct. 13th.

V J Gregory, Sac; W S Frerhour, Mo; Mrs C A Dupont, San Fran; W J Plummer, Ploche.

SILVER BULLION.—Twenty silver bricks averaging about 980 fine, and each weighing in the vicinity of 110 pounds, from Ploche, were delivered at Wells, Fargo & Co's. office this morning.

DIED.

In this city, Oct. 3rd, JOHN F, SAMUEL PATERNOSTER, son of John and E. F. Scquires, of teething; aged 16 months and 3 days.

Mil. Star, please copy.

COAL AND WOOD!—The cold season is approaching, and now is the time for subscribers to the NEWS to bring in their Wood and Coal, supplies of which are needed at this Office. Bring along the fuel.