

DESERET NEWS:

WEEKLY.

TRUTH AND LIBERTY.

PRINTED AND PUBLISHED BY THE
DESERET NEWS COMPANY.

CHARLES W. PENROSE, EDITOR.

WEDNESDAY - SEPTEMBER 16, 1885

WORKING TO A PROGRAMME.

PROBABLY in no part of the world are more judicial somersaults turned, Utopian precedents established or incongruities exhibited in courts of presumed justice than of late in Utah. One of the chief causes of this is doubtless the following, in a certain line of causes, of a jurisprudence programme, to which every other consideration must bend. The News has already pointed out the fallacy of one o Chief Justice Zane's eccentric departures from the ordinary rut in which the car of justice has been wont to run. We refer to his decision upon the power of a Commissioner of the Supreme Court to punish for contempt. His Honor saw fit to rule in favor of the affirmative of this point. We have reason to believe that if that were really his honest interpretation of the legal status of a U. S. Commissioner, he enjoys a conspicuous solitude in that opinion.

The instance which called forth Judge Zane's ruling is not the first occasion connected with which the same question was considered. Until recently, however, the matter was estimated to be so clearly in the other direction from that which has been decided by his honor that a judicial decision was not sought upon the point. It never entered into the minds of the interested parties that a ruling to give a wider scope to the power of a Commissioner could be obtained.

At the time Mr. Charles E. Pearson, of Davis County, occupied the position of United States Commissioner he had to consider a land case. Some of the witnesses declined to testify, and it was his opinion that they should be compelled to do so, by some legal method. He made application to Sumner Howard — at that time United States District Attorney for Utah — for information as to his authority in the premises. Mr. Howard's response was in writing, and was, in substance, that the Commissioner had not the power of final judgment in any matter, and therefore could not punish. He had no authority to fine or commit for contempt.

After the removal of Sumner Howard Mr. Pearson submitted the same matter to his successor, Philip T. Van Zile. The latter's explanation was similar to that given by Mr. Howard, and was coupled with instructions as to procedure in case of the refusal of a witness to testify. The Commissioner was told to take the matter before the District Judge or Supreme Court Justice, precisely as is done in similar cases by the Grand Jury, explain the facts to the Court, coupled with his own opinion in the matter. It would then be a subject for the District Judge to deal with, the refusing witness being in contempt of his Court, if that offense existed.

This is in exact harmony with the understood theory that a Commissioner is an arm of the Court, and, in matters of contempt, is in the same relation to it as the grand jury, to which no person can be held as in that condition. The contempt must be committed and dealt with by the court of which they are auxiliaries.

But to limit the power of U. S. Commissioner McKay to ordinary legal bounds would not so well serve the interest of the anti-"Mormon" raid. It is not many men who would be not only willing but ambitious to send innocent women—occasionally with their babies—to prison for seeking to shield those who are alleged to be their husbands, especially when it is considered that there is not even a charge of crime against these delicate victims. While Judge Zane has demonstrated his capacity for that kind of modern Spanish inquisitorial work, we will do him the justice to express a belief that it is not to his taste. Were it not for his being committed to the anti-"Mormon" programme, it is doubtful whether he would engage in it. If this idea be correct, a man like Mr. McKay must be of great value in the present inhuman crusade against the "Mormons," whose disintegration is sought. No consideration must be paid to the amount or intensity of suffering imposed upon innocent people in the consummation of the objects of the conspiracy. The meaner and more contemptible work should be done by those to whom it is most agreeable. And of all others Commissioner McKay appears the most admirably adapted by nature and instinct, if not education, for the part of the programme which has been assigned him. Doubtless it would be no part of the anti-"Mormon" plan to release him from it because a legal barrier stood in the way. Such obstacles in the present onslaught upon the "Mormons" are "trifles light as air."

To sustain a person like Mr. McKay in a usurpation of authority, by giving him punitive power, when his office is merely that of a committing magistrate, captures the woman who declines to testify against her husband at an early stage of the proceedings. Should she yield to the inflictions—in the shape of pains and penalties which he exultingly places upon her—the District Judge is released from what must be, to a man having a spark of humanity in his soul, a very repulsive part of the judicial programme. If she still declines to adhere to her womanly instincts, planted there by nature and nature's God, the second crucial test, after having gone through the sufferings entailed by the first, has become more potent than it would have been had the torture begun at the point to which it was simply removed. This is upon the same theory that was reduced to practice in the Spanish Inquisition. When a victim declined to confess when subjected to the torture of the thumb-screws, resort was had to the ankle-crushers. If he still maintained silence, he was considered a fit subject for the rack, by which he was slowly unjointed. While, in comparison with that of those darker days, the *modus operandi* resorted to now is more refined, the principle of gradation is the same. And had Father McKay lived while the Spanish institution was in full blast, and he been in the appropriate locality, he would, in all probability have been appointed to superintend the application of the thumb-screw torture machine. And there is no reason to doubt that—in view of his modern feats of initiatory punishment—he would have been quite a success in the matter of saving his superiors from the necessity of operating the more advanced appliances for the production of human agony.

It is not every man of whom it can be correctly said that he is good for anything that can be clearly defined. But it would be better to be good for nothing than to be singled out as fitted for some things that are going on against the Latter-day Saints. Whether such is the case with Mr. McKay, each is left to be his own judge.

NO "MORMONS" IN IT.

THIS issue contains additional details in relation to the Rock Springs massacre. As the particulars come to light the horror of the affair is intensified. There are a number of Latter-day Saints employed in the mines at the scene of the tragedy. It is a relief to learn that none of them took any part in the murderous work. Information conveyed by a correspondent with whom we are personally acquainted and whose reliability we know to be beyond question, places that matter outside the domain of doubt. His statements on that point are also confirmed by information from other sources, indicating that a report was started that an attack upon the "Mormons" was intended. Had they been mixed up with the anti-Chinese attack such a rumor would have been absurd on its face. Although the statement proved to be unfounded it was proper for the brethren to anticipate any emergency within the range of possibility by preparing to defend their families for whose protection they would doubtless have fought to the death had it been necessary. We do not believe that any attack upon them was ever contemplated.

THE IDAHO POLITICAL POT.

ELSEWHERE in this issue will be found a preamble and resolutions recently adopted by the Republican Territorial Central committee of Idaho. It will be seen that that party flaunted, through its manipulators, about the only political point now operated by republicans in some of the Territories. The anti-"Mormon" flag was unfurled to the breeze, and under it they propose to successfully fight the democrats, who manifest a confiding simplicity toward their political opponents that is quite refreshing. By these tactics, feeling confident that the democrats are too timid to dislodge them from their anti-"Mormon" intrenchments, they propose to hold their grasp upon political power in Idaho.

The "cheek" of the republicans, exhibited by the manner in which they manipulated this ruse, is only equalled by the combined simplicity and apathy of the members of the other party. The former throw a stick of taffy to the latter in giving the democrats credit for valuable aid in enabling the republican party to attain its present strength. The assistance was rendered by the destruction of the lever by which the democrats have heretofore been kept in power—the "Mormon" vote.

The Republican Central Committee ought to have gone a trifle further in damning the democrats with faint praise. They should have capped the climax by tendering them a vote of thanks for accomplishing their own defeat.

But a step as audacious as that has been taken, for the republicans not only express hypocritical gratitude to democrats for the success of their par-

ty in Idaho, but, as if to add insult to injury, by an appeal to their anti-"Mormon" prejudices, they call upon them for assistance to perpetuate the democratic disaster. They want them to join hands in the political crusade against the Latter-day Saints, that they may never more be in a position to vote with the Democracy.

The fact that the republicans are playing the anti-"Mormon" card solely for their own political advantage is established beyond question. They rake the democratic administration for having removed the corrupt and venal Morgan from the Chief Justice'ship simply because he was a republican. Yet so far as giving the vantage ground to the republicans, Morgan's successor, in sustaining the test oath law, has taken as strong and inexcusable an anti-"Mormon" stand as he did, showing that the burst of indignation was simply because of a slight loss, by the change, of Republican official ground in Idaho.

The clap-trap about the maintenance of "free institutions" is too transparent to mislead. Democratic principles and Idaho politics have taken a temporary if not permanent farewell of each other. The rights of fifteen thousand people under the Constitution have been ruthlessly torn from their grasp and liberty has bleeding in the dust. It is the result to a large extent of the rapacity of one political party and the obtuseness and imbecility of another.

A POINT ON LEGISLATIVE POWER.

THE discussion of the question which brought forth the decision of Chief Justice Hays, of Idaho, sustaining the constitutionality of the test oath, incorporated some unique features.

The point was raised while a trial jury was being empanelled, and the issue was forced when a "Mormon" was presented for examination as to eligibility.

Prosecuting Attorney Hampton put the test oath questions to a juror. The answer to the interrogation as to whether he was a bigamist or a polygamist was in the negative. But that as to his being a member of the "Mormon" Church was affirmatively replied to. The discussion upon the constitutionality of the test oath law then ensued, ex-Chief Justice Morgan and "Kentucky" Smith arguing in favor of its constitutionality. It is related as being somewhat amusing to hear Judge Morgan sustaining, with all the resources of sophistry at his command, his own former official decisions. But it was left for the ingenious Mr. Smith to reach the summit of absurdity. He held that in passing the test oath law the Legislature was not providing a punitive process. That body was merely depriving a certain class of people of a privilege, but not of a right. The law-makers, he claimed, had that power in their hands and could exercise it if the people failed to bring themselves into harmony with the Legislature.

The counsel on the other side of the question replied to the effect that if the position of Mr. Smith be correct, and the Legislature had such a power as defined by him, it was a rule that could work both ways. For instance, if it applied to Idaho it also applied to Utah. In the latter Territory, the Legislature was composed almost entirely of "Mormons." According to Mr. Smith's logic, that body would have the right to pass an act incorporating a test oath, by which it could not only require the citizen, before allowing him the privilege of voting, to swear that he is not a bigamist, polygamist, etc., but that he does belong to an organization that teaches and practices polygamy, etc. This would be merely denying a certain class of the people a privilege because they failed to come into harmony with the Legislature.

Mr. "Kentucky" Smith promptly replied that the Utah Legislature would undoubtedly have that right, and such an act would be constitutional. He remarked that it would no doubt arouse a violent opposing public opinion, but its constitutionality was quite clear.

Chief Justice Hays appeared to think with Mr. Smith and decided accordingly.

How do the Utah "Liberals" like that kind of doctrine? They greatly admire it in its application to the "Mormons," but they wouldn't grasp after it with avidity if it operated the other way.

THE INDUCEMENTS OF "MORMONISM."

THE Providence (R. I.) *Morning Star* says:

"The mobbing of Mormon missionaries in London may put a stop to their proselyting, but it will not check the growth of Mormonism. The truth is, that the Mormons hold out too many and too tempting inducements in the way of homes and comforts not to make converts among people who have nothing but want and suffering to look forward to in their present abodes."

The *Star's* conclusion that the growth of "Mormonism" is not going to be checked by the mobbing in London is quite correct, but the reasons assigned for such a belief are altogether

erroneous. If we were going to amend this portion of the *Star's* remarks we would say: The truth is, that the "Mormons" hold out no tempting inducements in the way of homes and comforts to make converts; but, on the contrary, they offer the Gospel of the Lord Jesus Christ, with the assurance that all who embrace it must expect to be "hated of all men" for His sake; to have their "names cast out as evil;" to be "betrayed both by parents and brethren, and kinsfolk, and friends;" "that some of them shall be put to death," and that "all that will live godly in Christ Jesus shall suffer persecution."

The sole inducement which converts to "Mormonism" have offered to them, so far from being such as the *Star* describes, is salvation hereafter; and those who are sincerely seeking that, are not likely to be daunted by any amount of persecution. In fact, when they are "persecuted for righteousness' sake" and not for any wrong-doing of theirs, it is a proof to them of the fulfillment of divine predictions and that they are the people of God, and they accordingly "rejoice" and are "exceeding glad."

Like a great many others who have observed the marvelous growth of "Mormonism" in the face of the mobbings and persecutions and prosecutions to which its adherents have been subjected, the *Star* writer imagines that some material and worldly inducements must be held out to those who embrace its doctrines, but the proof to the contrary is easily obtained. The Saints are as much persecuted at home as abroad, and this fact is not hidden under a bushel, but generally known. People are aware of this before they join the ranks of the Saints, and they do not come here expecting peace and comfort.

Nor have the "Mormons" anything to gain by inducing people to come here for any other purpose than that which we have named; quite the reverse; for were people to come from any other motive they would be sure to meet with disappointment and chagrin and join the ranks of the enemies of the Saints, who are already too numerous in this region. If the *Star* possessed any light at all upon this subject, as it should do to assume to enlighten the public, it would not be guilty of making such palpably false assertions, but seek for some other than the flimsy reason which it assigns for the growth of the "Mormons."

WANTS A REST.

A FEW days ago an editorial article appeared in the NEWS, commenting upon the recent massacre at Rock Springs. The tragedy was used by us for the purpose of pointing a moral if not adorning a tale. Pointed predictions made by Joseph Smith in relation to a reign of blood and lawlessness that would overtake this nation if it persisted in wickedness, rejected the message of the Gospel revealed by the Almighty in this generation and oppressed and persecuted the Saints, were named in the same connection. The Wyoming incident was, in the NEWS article, mentioned as showing the character of coming troubles. These comments disturbed the equanimity of a writer in a local evening cotemporary, who impatiently exclaimed, "Give us a rest!"

The petulant scribe evidently imagines himself somebody, and that there should be a universal acknowledgment of his concentrated wisdom by other people sinking their individuality and speaking from his standpoint instead of their own.

If that be the species of "rest" he demands he will, so far as the NEWS is concerned, never attain to a condition of imperturbability. The same paper now alluded to was, a short time since, clamorous for the Government not to relax its raid upon the Saints, because such a breathing spell would be attributed to the interference of God in their behalf, and it was necessary that that kind of faith should be crushed out of them.

It appears to hate the very idea of Deity, and the bare mention of divine Providence appears to throw it into a condition of unrest. The NEWS has its standpoint from which it views matters and things, and it will continue to maintain it, no matter how much discomfort it may cause the ungodly. Our cotemporary has its unspiritual and earthy standard and it can occupy the seat of the mocker and exhibit petulance at other people's opinions, yet the NEWS will not call for it to furnish "a rest," the peace of this journal being undisturbed by such narrow and intolerant manifestations.

But, a few words more about the tendency of the nation to organized lawlessness—it is a constant theme of intelligent journalists. It is reviewed with apprehension by all peaceably inclined, thoughtful people. It is not necessary to dwell upon the contentious attitude of labor toward capital and vice versa, nor to do more than make the bare statement that secret organizations among each class to enable it to take every possible advantage of the other, are rapidly increasing, until they form a network, covering the entire country. Neither is it necessary to go beyond the bare assertion that secret combinations more sinister still are swelling in proportions and becoming intensified in

the malevolent character of the purposes which inspire them. That these organizations have but little if any regard for the right, so long as they can attain any object of which they are in pursuit is being constantly demonstrated. Numerous violent, bloody and destructive outbreaks in which they have been the leading factors are matters of recent history.

Who is able to see a solution to the labor question, or a diminution of the growing discontent of the masses, who are only beginning to feel the terrible power they are capable of using in an organized capacity? There is apparently no terminal point to the extension of these combinations, which are aside from organized government. They are established under the pretext of providing protection for classes liable to be the victims of others, but it has already been demonstrated that they are the most dangerous elements that could possibly threaten the whole social structure, and are liable to be transformed into engines of oppression, producing lawlessness and bloodshed. They are capable of becoming a devastating and uncontrollable whirlwind, spreading desolation on every hand. If they keep on increasing in number and influence it may be concluded with safety that it will not be a great while before the government of the Nation would, in the event of a great labor crisis, be utterly powerless to maintain peace.

Lord Beaconsfield with his wonderful farsightedness foresaw the horrible climax of the phenomenal developments threatening the social structure of the whole world, peculiar to these times. He spoke of the secret organizations that were forming and growing in bulk and influence, as a power that was surely sapping the foundations of existing order, and would sooner or later become so formidable that no government, however great, would find its resources sufficiently potential to cope with it. Many thinkers are looking forward with foreboding to a similar consummation.

How can intelligent Latter-day Saints look upon the situation and prospects from any other point of view than that assumed by the NEWS? They hold that God has spoken from heaven in this generation, and offered to establish a better and purer condition in this nation and all others. The consequence of a rejection of the message and the oppression of those who have accepted it, were to be, in course of time, followed by just such organizations as are now threatening the very existence of society, and ultimately a carnival of blood and carnage, the "wicked slaying the wicked," until the remnant that should be left would be willing to accept of a government defined by intelligence received from the source of Light.

The Gospel has been spurned, its advocates slain, and its adherents mobbed and persecuted, being driven from pillar to post. And now, toward them is inaugurated a lawless crusade; *ex post facto* statutes against them have been formulated and enacted; bills of attainder are aimed at them, the crushing process being employed by the government. Its credited agents enforce these alleged laws, which are in direct violation of the Constitution, with a ferocious cruelty that is disgraceful. Where the law is defective rulings are made to cover the ground, so as to allow no person who comes under the ban of the crusade to escape. Men of principle and purity of character are sent to prison, while the moral leper is allowed to stalk abroad unmolested. The courts of Utah are, so far as their attitude toward the "Mormon" people is concerned, but little better than judicial mobs, for they are constituted and operated to convict. And while this spectacle of merciless oppression is presented the nation rubs its hands in glee and urges on, with exultant shouts, the political "dogs of war."

Then, when the elements that threaten destruction are rapidly increasing, and the signs of the times denote a coming day of disaster as surely as the sun dial denotes the approach of noon why should not the NEWS assume that a day of retribution is advancing, and that for lawlessness applied lawlessness will be given? Why should not the hand of God be recognized in all this. Whether our cotemporary be willing to admit that Deity has anything to do with the affairs of His creation and creatures or not, the facts of the situation cannot be truthfully controverted. It can attribute it to anything it chooses, and so will we, but its writer speaks with that petulance which would indicate that he has some idea that it is possible that "Mormonism" is correct after all. Anyway the NEWS will not give him "a rest" in the matter of acknowledging the hand of God in human affairs. The fact that "The fool hath said in his heart, there is no God" is nothing to us.

THE ROCK SPRINGS TRAGEDY.

THE excitement over the blood-curdling massacre and attendant outrages that occurred a few days ago at Rock Springs has pretty much died out. It has been commented upon very generally by the newspapers of the country, which, as a rule, have advocated a thorough investigation of the affair and that the murderers be brought to justice, but it is noticeable that many of them express grave doubts in regard to such a consum-