

EDITORIALS.

THE JURY-PACKING SCHEME.

THE new method of packing a jury for the trial of persons accused of polygamy, is derived from the Act on Criminal Procedure, passed at the last session of the Legislative Assembly. It was adopted at the trial of John H. Miles, the object being to exclude all jurors of the same religious faith as the accused, and fill the number with those who were known to be hostile to that faith. The verdict of guilty was a foregone conclusion. The *modus operandi* was in this wise: "Mormon" jurors were questioned in regard to their belief in the revelation on Celestial Marriage and their regard for the law of 1862. From their answers it appeared that, while they believed it right under the law of God for some men to marry more wives than one, yet as Congress had passed a law, which had been pronounced valid by the Supreme Court of the United States, making such marriages criminal, if the evidence showed that the defendant had broken that law they would convict. And when questioned as to the conflict between the law of man and the law of God, they answered that they were not responsible, the issue was between the law makers and the Almighty.

Notwithstanding these answers those jurors were challenged for "actual bias," and the challenge being denied, Triers were appointed by the Court, who, after questioning the challenged jurors, reported the challenges true, and the jurors were rejected. Thus all "Mormons" were excluded, "the jury was made up of anti-Mormons, and the defendant was convicted. This is the precedent on which future action is to be based, to the great pre-joying of pious Christendom. Now let us examine the matter and see how far the proceedings were in accordance with the law, and how likely they are to stand the test of final appeal.

The Criminal Code provides for the Triers in case of a denial of challenge for actual bias. But Sec. 247 says:

"The Triers are three impartial persons, not on the jury panel, appointed by the Court."

By reference to the Court proceedings in this case it will be seen that Triers were appointed who could not, by the utmost stretch of imagination, be considered impartial, as most of them were violent, vehement, anti-Mormons, whose sentiments towards the defendant and his faith were notoriously hostile. The trial of the challenge by such individuals was but waste of time, and the examination was a farce. But let us find out what is "actual bias," for which a juror may be challenged and tried. Sec. 241 says:

"For the existence of a state of mind on the part of the juror which leads to a just inference, in reference to the case that he will not act with entire impartiality."

The jurors who were excluded showed to the satisfaction of every fair mind that they had no actual bias, according to this definition of the term. The question may be asked, how could they convict if they believed the defendant was justified in his acts by the Almighty? To which we answer they were on their oath to act as jurors under the laws of the United States and would decide, not on the religious rightfulness or wrongfulness of the practice, but on the facts according to the evidence of the infraction of a human law. And this was made as plain to the Court as words could make it. But let us refer to Section 252:

"On the trial of a challenge for actual bias, when the evidence is concluded, the Court must instruct the Triers that it is their duty to find the challenge true, if, in their opinion, the evidence warrants the conclusion that the juror has such a bias against the party challenging him as to render him not impartial; and that if, from the evidence, they believe him free from such bias, they must find the challenge not true; but a hypo-

thetical opinion unaccompanied with malice or ill will, founded on hearsay or information supposed to be true, is of itself no evidence of bias sufficient to disqualify a juror. The Court can give no other instruction."

Now we ask what "actual bias" had the rejected jurors, as here described? They surely had none against the person challenging them, neither were they charged with anything of the kind. Their opinion or belief was "of itself," so says the law, "no evidence of bias sufficient to disqualify" them. The whole proceedings were but the carrying out of a pre-arranged programme which had for its object the exclusion of all jurors who might be thought in the least friendly towards the accused, and to have him tried by a jury hostile and prejudiced towards him and his religion. This is the mode of procedure which is to be taken as a precedent in coming prosecutions. This is the method by which "Mormons" are to be convicted, under a flimsy pretence of going through the forms of law. And this is what kind "Christian" souls, who in other cases boast loudly of the jury system and the necessity of its preservation, violate in letter and spirit, are rejoicing over because it is likely to be used with effect against the "Mormons!"

But, as we intimated yesterday, there is a possibility of the complete overthrow of this cunningly arranged scheme and violent perversion of our territorial statute. Polygamy cases are appealable to the Supreme Court of the United States, and manifest errors of the kind detailed above certainly cannot be overlooked by that tribunal, when properly presented. But it may be claimed that the decision of the Triers is made final by the law. That is true. But we do not believe that any provision of a State or Territory can deprive an appellant of a single constitutional right, or that a mere auxiliary temporary tribunal appointed by the Court, can exercise powers greater than the Court itself. The whole proceedings of the trial are subject to review on a writ of error, by the higher court. The Constitution declares in Article VI, that "no religious test shall ever be required as a qualification to any office or public trust under the United States." And in the Sixth Amendment it is provided that, "the accused shall enjoy the right to a speedy and public trial by an impartial jury."

The jury empaneled as described above was not an impartial jury, the jurors rejected were challenged on "a religious test," on their belief in a certain tenet, and in a revelation claiming to be divine, declaring that tenet. For these errors a remedy is provided by the laws of Congress, which claims supreme control in the Territories. The statute of the United States regulating the manner of making up the jury lists for Utah plainly contemplates giving "Mormons" and "Gentiles" equal representation in a trial by jury. The proceedings taken in the case which is to form an established precedent were evidently arranged with a view to render void the intention of Congress in enacting that law.

There is no doubt a strong desire on the part of the Government, stirred up by the loving and charitable professors of the religion of the gentle Jesus, to prosecute the "Mormons" with vigor and get as many as possible into the penitentiary. But we do not think the Supreme Judges, nor any of the national powers that be, would contemplate with equanimity the introduction of a scheme under the forms of law which makes the venerated system of trial by an impartial jury a thing of naught, and introduces into our courts a test which the supreme law of the land says imperatively shall not be imposed. Let our pious sectarian and editorial good friends wait awhile, before indulging in too many congratulations over the new and short way of dealing with the "Mormons," and remember the divine declaration, "with what measure ye mete it shall be measured to you again."

STAMPING OUT HOME INDUSTRIES.

THE importance of sustaining home industries has been urged upon the people of Utah so frequently,

that the sound of it is like the refrain of a very old song. But it appears to be necessary to refer to the hackneyed subject again and again. It must be evident to every one who thinks, that while we are dependent upon foreign markets for supplies of articles that can be manufactured at a profit at home, our progress will be retarded, and our wealth will be small.

It is the part of prudence and true economy to work up the raw materials provided by nature so bounteously, within our own borders. By such means we become creators of wealth. In the process we furnish employment for hands that would otherwise be idle, and thus aid in promoting social order; for industry is a foe to vice. And the money which we expend abroad for the purchase of such articles can be retained in the Territory for home circulation, thus abolishing the cumbersome system of barter, or be used to bring machinery and other things we need that we cannot make ourselves.

There is one thing to be considered in connection with this subject, on which our merchants should make up their minds, and determine their course of action. When any article in general use which has heretofore been imported, is successfully manufactured at home, the power and wealth of the outside dealers, whose business here is thereby cut off, will be employed to crush out the local industry. The question is, will our home merchants sustain the home production, or play into the hands of the foreign monopolist?

As cases in point we will refer once more to the shoe and soap trades. We should certainly make in Utah all the shoes needed for our own people. If the industry is properly sustained there is no doubt that it can be done. But just as soon as by systematic division of labor, economical management and the employment of apprentice work, boots and shoes are made at home of as good quality and at as low a price as the imported, those firms that have furnished our supplies commence to cut down prices or introduce an inferior article, having as good an exterior appearance to most people as the genuine, with the object of forcing the local manufacturer out of the business. And this will be the result unless the merchants help the home artisans, which they can do without pecuniary loss, by having among themselves a mutual understanding on selling figures.

Snell's soap has established itself in the home market, by its excellent quality and low price. It has successfully competed with the standard eastern brands. It is in great demand. Our merchants with one single exception have taken hold of it, and the public have recognized its claims to patronage. The industry is established and requires enlarged facilities to supply the calls made for it. But this enterprise is threatened with disaster. A Chicago firm, immensely wealthy, which has sold more soap in Utah than any other house, finds that its monthly sales here have greatly fallen off, and traces the shrinkage to its true source. A determined effort is at once made to stamp out the local manufacture. A considerable reduction is made in the wholesale price of the Chicago soap, bringing it down below the actual cost of manufacture and shipment, and under the possible minimum of the home product. If the movement is continued and sustained by our home merchants, the local industry must go down, for no small manufacturer or ordinary capitalist can hope to succeed in a fight with such great odds, with all the advantages on the side of the foe, unless he receives the unflinching support of the public.

It will be easily understood that this will effect no permanent good to the consumer. As soon as the eastern house, with its millions of capital, swamps the comparatively small Utah industry, prices will be made to rebound, the loss sustained in the crushing out process will be made up by higher figures when the monopoly is re-established. Thus the Territory will lose the benefits of an important branch of home manufacture and be kept subject to the chains of a foreign market.

What is the remedy? Just this. As the home market is not yet fully

supplied with the home-made article, let the dealers here take what is needed of the imported to make up the balance of the demand at the reduced figure, but sell it at the old price, which is only a living price for the local article. Will this be of any injury to the public? Not a particle, in the long run. The home made soap is worth all that it sells for. It cannot be made any cheaper at present. It is a better, harder, smoother and brighter article than that sold by the Chicago house, and is supplied at the lowest figure the latter could offer until this movement was made to freeze out the former.

We present this subject for the reflection of the consumers, who should ask for the home-made article when they make their purchases, and of our business men—who deserve credit for the manner in which they have supported this industry, all patronizing it except one "outside" firm—and urge it upon them as a matter which illustrates one of the obstacles in the way of home industries, in general, and these, we consider, lie at the basis of our prosperity as a growing, struggling community, which ought to be in a very large degree self-supporting and mutually interested.

ONE MORE FOE TO THE FRONT.

LAST June, a paper was started in the little town of Oxford, which is situated in Round Valley, a few miles west of the Utah and Northern Railroad, not far north of the line between Utah and Idaho. It was called the *Idaho Enterprise*, and considering the slim prospects of patronage for a journal in that neighborhood, it was thought well worthy of the name. It appears however, that the venture was backed by a certain well-known railroad magnate in the East, and that the parties interested in it were connected with the Land Office established at Oxford; hence the power by which it expected sustenance.

For awhile all went smoothly along; the *Enterprise* knew neither "Mormon" nor "Gentile," and seemed to be only bent on advertising the railroad, the country and its resources. But alas! "there must needs be an opposition in all things," and some of the citizens, as the were at perfect liberty to do, gave inducements to the proprietor of the *Northern Light* to move to Oxford, where, with a legal luminary for an editor, he has flung to the breeze the *Idaho Banner*. This has served the same purpose as a red flag to a crazy bovine, and the *Enterprise* has commenced prancing and kicking and running its head against the majority of the citizens in that neighborhood. The *Banner* is conducted by "Mormons," so the *Enterprise* has declared war against "the Mormon question," whatever that maybe, and announced itself to be the Gentile newspaper of south-eastern Idaho, in small caps. From this time forth let the Saints tremble and their enemies rejoice, for the *Enterprise*, a small land office advertising circular, published in a little village in an obscure part of an inland Territory, is going to attack what it describes as "one of the greatest problems of the day!" The danger is really awful!

As a sample of what may be expected from the new and threatening Liliputian adversary, we quote one sentence from the *Enterprise*:

"Turning to the Constitution of the United States and to the laws of the Territory, we find that a man may be the husband of only one wife, and that it is a crime to have dual or polygamous marriages."

The misguided creatures who have started this "enterprise" hail from Washington, D.C. If the people they have left behind know no more than they do of the Constitution of their country, it is time they were induced to read and study that glorious instrument. Seeing that the Constitution is silent on the marriage question, we are afraid that the "find" of the *Enterprise* is purely imaginary, and that any work performed on that bogus lead will prove worse than waste of time and powder. The Oxford people had better provide the *Enterprise* children with a little soothing syrup, and induce them to go to a night school for awhile, before at-

tempting further to expose anger, jealousy and ignorance to print.

[COMMUNICATED.]

WAR ON THE WORK OF

WAR has again been declared against the Kingdom of God. speak with greater exactness, a campaign has been inaugurated ever since the day of its commencement in this dispensation, fare has been constant, relenting. True, now there has been a short conflict, yet neither truce, but simply a short respite, active operations that the adversary might gain vigor for future onslaughts. A campaign now threatened, carried on under new circumstances and with somewhat different tactics. The weapons of falsehood, vile abuse, and violence—are the same, and are to be handled with greater and by more practiced hands. The highest authorities in the Kingdom are to command in the kingdoms of the world, them in the unequal struggle, the man-child in the Great Britain, Germany, powers are solicited to give allies in the attack. Saints of the Most Holy, take their stand with us, as the enemies of the Kingdom. To descend to particulars, Mr. Evarts, Secretary of this puissant nation, it is issued a political circular of the prominent European powers, with regard to "Mormonism," which places in very ridiculous light, and in a manifestly departing from wisdom is departing from the suggestions made by Mr. Evarts' circular certainly show that destruction removed from a national representative men are so common sense. Mr. E. the governments he stops Mormon emigration shores, but he very avoids suggestions to them very intricate piece of carried out. Does he the powers addressed (notably) will so far change policy and their laws to punish a religious espionage who leave their shores pel each emigrant to he is or is not a Latter for "Mormonism" with the color of a man's height of his stature or of his speech? He expects he talks like the rest of the countrymen, and the believes in the divine the prophet Joseph Smith proven either by his own the latter, then comes the nation of increased fresh powers will have the courts, and new pointed that every man and child charged with offence of believing in present revelation a greater crime of intending their homes in Utah, be tried and proven guilty. This will touch spot, and in the present state of some of these their taxpayers will be to accommodate Mr. his cabinet, by helping their expense to carry project and give vital Evarts incomparable. There are three points this foolish manifesto a passing allusion—why sued, its ostensible object real intent. Why was it issued? We ply, the originating cause promulgation of this the forging of every other formed against Zion, is the hatred of the father of the spread of truth and righteousness upon the earth. He fills the shut their eyes to the light this same spirit and makes the willing instruments of the desire to destroy the priesthood of the Most to overthrow the Kingdom of God and bring to His word and will, is the