

Don't Sit Around, Waiting for Luck.

Ho! ye who listless and moping
Sit dully twirling your thumbs,
And gloomily waiting and watching
For something that thus never comes;
You might just as well, foolish mortals,
Expect you'll by lightning be struck;
One will happen as soon as the other;
Don't sit around waiting for luck!

There's a saying—a good and a true one—
(Take courage, you poor one who delves,
With a stout heart so bravely) that "Heaven
Will help those who first help themselves;"
And you'll find, if you wish for good fortune,
A pretty good way is to tuck
Up your shirt sleeves and start out and find it!
Don't sit around waiting for luck!

You may pine and mope on forever—
Find fault and deplore your hard fate—
But you'd better remember the proverb
And act on it ere it's too late;
You may pout and may grumble forever—
Just so long you'll find you are stuck
In the mire of sloth and abasement—
Don't sit around waiting for luck!

There is wealth to be had—go and seek it!
And with it get honor and fame;
By the sweat of your brow you can gain them,
And carve for yourself a proud name;
But to do this takes tact and ambition,
Persistence, hope—and some pluck.
Are you ready?—then loose not a moment!
Don't sit around waiting for luck!

Important Decision.

Delivered by Judge Servis at the
March Term of the District Court
at Radersburg, M. T.

R. W. Jeffries vs. D. V. Sherman
and E. H. Wilson.

This case is submitted upon motion to make R. Packer a party, which is granted. Also a demurrer to complaint, for the following grounds or causes:

- 1st—For a misjoinder of causes of action.
- 2nd—Joinder, or blending of law and equity.
- 3rd—Want of sufficient facts stated.
- 4th—Ambiguity of pleadings.

If the laws and Practice Act of this Territory shall prevail, I hold that the complaint is sufficient, and that in foreclosing a mortgage the amount claimed, for which the security given is sought to be foreclosed or enforced, may be ascertained by the court, and perhaps through the intervention of a jury or referee if demanded. That for any balance which may remain unsatisfied from such security, the amount thereof may be docketed and become a lien on other real estate of the mortgagor, but that no execution can issue thereon under the present law. But if the Chancery practice shall prevail, then no such proceedings can be had as in this case, and the demurrer should be sustained. To determine which, we must determine the character of Territorial courts, and also the legality or constitutionality of Territorial legislation.

The theory upon which the various governments for portions of the United States have been organized has ever been that of leaving to the inhabitants all the powers of self-government, consistent with the supremacy and supervision of National authority, and with certain fundamental principles established by Congress. Every American citizen, when he becomes a resident of a Territory, carries with him so much of the common law as is applicable to his condition, and that becomes the law of the Territory until modified or repealed by or under some authority derived from the United States. Such was the doctrine applied to the English colonies on this continent, and the same has been applied to all the Territories of the United States since.

I have heretofore somewhat reflected upon the question presented by this demurrer; and since its able presentation and defense, I have given the subject what research and thought I well could here; and I hold that there is no Supreme Court of the United States in a Territory, nor is there any District Court of the United States in a Territory in the sense of the Constitution. The Judges, it is true, are appointed by the President of the United States, under an act of Congress, but this does not make the courts they are authorized to hold,

United States courts. This was long long ago decided, and the case is reported in 9 Howard's U. S. Reports.

These courts are the legislative courts of the Territory, and are created by virtue of that clause of the Constitution, which authorizes Congress to make all needful rules and regulations respecting the Territories belonging to the United States. This was decided in the 1st of Peters' reports, and has never been reversed in my judgment.

The case of Noonan, vs. Lee (decided in 2d Black,) is not in conflict with the decision in the 1st Peters. That was a case commenced in a Territorial court it is true; nevertheless, it was the chancery power of the court that was invoked in that case; and that too, before the adoption of rule 92 of the United States Supreme Court, originating as it did from the holdings in the case of Orchard vs. Hughes, where no execution could issue for any balance found due after exhausting the mortgage security, and for that reason alone was the Noonan case reversed. The court, then, did not decide that the "District Courts in a Territory were United States Courts in all cases except where chancery is invoked, the rules in chancery practice must be observed."

Neither is the holding in the case of Murphy vs. Kleinschmidt in conflict with this view. The court in that case did not hold "that it was incompetent for the Territorial Legislature to establish chancery practice." It only held in that regard, that the Territorial Legislature had no power to pass laws in contravention of the Constitution of the United States (and I would enquire what Legislative body has?) or which shall deprive the Supreme and District Courts of a Territory of chancery as well as common law jurisdiction. In none of the cases above referred to is the Legislature prohibited from regulating the practice. They simply prohibit the Legislature from taking away and annulling chancery and common law jurisdiction. This is just what the Organic Act of this Territory expressly reserved to the United States—and nothing more. It did not prohibit the Territorial Legislature from even prescribing modes of exercising that jurisdiction, except it be in cases where the laws of the United States are sought to be enforced under chancery and common law jurisdiction.

Four distinct jurisdictions are given under the Organic Act of the Territory of Montana and they are: First; "Such as shall be limited by law." What law? Why the law of the Territory.

Second and third; "It shall possess chancery as well as common law jurisdiction."

Fourth; "And each of said courts (referring to the District Courts of the Territory) shall have and exercise the same jurisdiction in all cases arising under the Constitution and laws of the United States as is vested in the District and Circuit Courts of the United States." And it further provides that the first six days of every term of said courts (if necessary) shall be appropriated to the trial of causes arising under the Constitution and laws of the United States; and when Chief Justice Marshall held that none of these Territorial Courts were Constitutional courts, in which the judicial powers conferred by the Constitution on the general government could be deposited, he not only held right, but that holding has never been reversed. The jurisdiction with which these courts were clothed is not a part of that judicial power which is defined in the third article of the Constitution, but is conferred by Congress, in the execution of those general powers which that body possesses over the Territories of the United States.

It cannot but be readily seen by a careful examination of the organic act of this Territory, that Congress, while delegating to it chancery and common law and such other jurisdiction as the Territorial Legislature might limit, (of course not inconsistent with the Constitution of the United States,) did not attempt to prescribe the mode of practice for either of these jurisdictions; while in the last jurisdiction therein given, or retained, it did. For it provides: "That said courts (i.e. wherein the United States invokes aid or jurisdiction) shall have and exercise the same jurisdiction in all cases arising under the Constitution and laws of the United States, as is vested in the District and Circuit Courts of

the United States," and it gives that jurisdiction preference over all other jurisdictions for the first six days of each term. Evidently leaving all else to be regulated by Territorial legislation and the rules of Territorial courts.

For these and many other reasons that might be assigned, I hold that the laws and practice act of this Territory must prevail in the case at bar—and in all other cases of a similar character. And this holding I think is fully sustained in the case of Clinton vs. Englebrecht in 13 Wallace.

The demurrer will therefore be overruled.—Bozeman Avant Courier.

A Mormon Policeman.

At Ogden I formed the acquaintance of a member of the police force on duty at the station. The uniform consisted in the letter P, with a star on the breast. He showed patience and tact in dealing with a large number of roughs waiting for the train to move on, who beguiled the time drinking, spitting, gambling, swearing, and tall talking. There was a great deal of humor with the blasphemy of these miners, drovers and rovers. On the gold fields of Victoria, at the Great Rush, when we had a queer gathering from all quarters, I did hear some oaths; but for volume, combination and ingenious use of oaths, there could be nothing to approach that Gentile assemblage at Utah. My police friend called my attention to this and other exponents of character as an illustration of the bad teaching of the so-called Christians. Mr. P. Star enlightened me upon Mormon doctrine. He spoke with much earnestness, and for a plain man, with a considerable knowledge of his subject. He was thoroughly up in the Scripture; but then he was brought up a Calvinistic Methodist in Wales. I was certainly impressed with his thorough sincerity. Our conversation extended over a couple of hours. He went all over the Mormon ground. He had, with the entire approval of number one, added a second wife to his domestic establishment, and assured me that both were godly women, happy with each other, and a great comfort to him. I told him that a London policeman had not pay enough to keep a couple of families. He pitied his brother officers, and was thankful for his own superior mercies. When the train was about to move off, the worthy man came to shake hands with me, and fervently implored heaven's blessing on my behalf. In my many rambles I have met with few strangers for whom I have entertained more respect than for the Welsh policeman at Mormon Utah.—J. Bonwick's "The Mormons and the Silver Mines."

Annihilation for Home Murderers, as well as for the Modocs.

Editor of the Star: The public were much surprised to read the editorial in a morning paper, yesterday, on the murders committed by the Modoc Indians, in which "utter annihilation" was recommended. Only a few weeks have elapsed since the same journal was engaged in strenuously opposing capital punishment, with a variety of sickly sentimental reasons, and it was supposed that it would fight it out on that line; it boasted, too, that it had made a convert of another morning paper; but, presto change, yesterday not only the convert backslid, but the first-named paper promulgated only such doctrines as the most ardent advocate of capital punishment would have used. Well, the public rejoiced to find it and its convert talking sound sense, and hope that they will remain in this true path, believing that "indiscriminate efforts at evangelization will only result in the perpetration of murder."

This community is of the opinion that the murders committed here were as brutal as those of the Modocs, and that the perpetrators should be "annihilated," and that they should not escape the penalty through any slip of the law, or by influence of relations, or secured by money.

Allow us to add that the good effects of such punishment are much neutralized by "indiscriminate efforts at evangelization" by which murder is made to appear as the stepping stone to heavenly joy. Sickly sentimental persons calling themselves ministers, and mem-

bers of the Y. M. C. A., enter the jail and sing and pray with the murderer until he is mesmerized enough to believe that he is "going to glory," and, instead of expressing his contrition for his offense, he assumes in turn the part of a Y. M. C. A., and invites the lookers-on "to meet him in heaven." Now, people are getting tired of such stuff, and desire to see it stopped, believing that it "results in the perpetration of murder." Such persons are receiving the proper denunciation of a very large portion of this community, and in some other localities a stronger hint than this would long since have been given to such persons to stop such detestable antics.

We know of only one way now for the Modocs to escape annihilation—i. e., if they have any money saved from the persons of their victims, and will send an agent here with it, perhaps lawyers and others may be found who will oppose it and recommend that Quakers be sent to catch them and then try them by jury; let all go free upon whom murder cannot be fully proven; then a writ of error; then an appeal, existing some months or years; and finally incarcerate the murderers for life—i. e. until the storm blows over, and their childlike simplicity in the penitentiary fits them for executive clemency.

The U. S. authorities have asked that Santanta and Big Tree, now in the Texas state prison for like offenses, be pardoned out, but the hard-hearted people of that state say that the governor shan't do it. But wait until their tribe sells some land (that don't belong to them) to the government, and S. and B. T. may find friends influential enough to secure pardon, and they may yet delight themselves in taking a few more scalps. JUSTITIA.

—Washington Star.

English Colonists.

The Pioneers of two thousand, destined for Minnesota.

The announcement having been made that 100 English farmers had embarked on the City of Bristol, of the Inman line, with the intention of settling in Minnesota, the colonists were visited on their arrival yesterday. Mr. George Rodgers, of Somersetshire, was pointed out as the best able to give information. He was an elderly man of fine appearance—just such a healthy, hearty, bold Briton as would be likely to gather colonists about him, with their confidence, and keep up their spirits in the dark hours that befall such undertakings. Mr. Rodgers stood on the wharf reading a document pertaining to colony affairs. When asked how he came to start the colony, he said: "I came to America last year to seek a home for my family and such others as would be willing to join us. I fixed upon the Red river region of Minnesota as the most desirable. I then returned to England and raised the colony."

"Exactly where in Minnesota will you settle?"

"Twelve miles east of Glyndon, twenty miles west of Brainerd, and (smiling) 230 miles from Duluth."

"What is the size of the district set apart for you?"

"Twenty-four miles by twelve, but that will not be enough for all who will come."

"And you expect others of your colonists soon?"

"At the end of next month."

"Are you nearly all farmers, or have you taken the precaution to have a due admixture of other trades?"

"We have a fair sprinkling of all suitable trades. Our land is chiefly prairie; there is not much woodland on the tract, but plenty within a short distance. Buffalo river runs through the land and the Red river crosses one end of it."

"When do you expect all the 2,000 will be in America?"

"By the end of this year. The Northern Pacific has furnished us with temporary lodgings out on the prairie. They have already erected three large buildings that will accommodate 400 persons each.—New York World.

The Chicago Tribune predicts that the government will be beaten in its suit against the Union Pacific and Credit Mobilier. To oppose such lawyers as Messrs. Ashton, Perry and Jencks, the railroad company has engaged the best legal talent, men like Evarts, Cushing and Curtis, besides their own regular counsel.

Examine Your Titles.

To one engaged in real estate transactions nothing seems more strange than that men of ordinary business capacity should purchase realty without first having had a careful examination of the title made. The difficulties arising from defective titles are so many, and often so complicated—the result so disastrous, and the anxieties thereby occasioned so harassing that it would seem as though the obtaining of an "abstract of title" was one of the absolutely essential things to be done in every real estate transfer. And yet the facts are, that the great majority of men pay their purchase money and take their deeds without any knowledge of the titles under which they hold.

Many say that they know the man of whom they are buying, and that it is hardly probable that he would hold a bad title. Well he may have been as careless as you now are, and never taken the pains to know how his title is. Another man says, "Give me a warranty deed and that is enough for me." In how many instances have men, with the utmost confidence and a simplicity that was "childlike and bland," told us that they relied entirely upon their warranty deeds. Now friends, let us tell you that you err most egregiously. Except that a warranty deed looks better on the face of it, it is a matter of supreme indifference to us what sort of a deed a man gives us so that it is an absolute conveyance, and is in conformity with the statute. The point is, What is the title? If it appears from an examination of the records that the party proposing to sell and convey, himself has a sound and valid title absolutely vesting in him, and that the same is clear of all liens and incumbrances, then the shortest quit claim will suit as well as the longest warranty.—Keightley's Advertiser

Plural Marriage.

Respecting Mormonism as a faith we share the general indifference; but Mormonism as a polity is too oddly placed in age and country to be ignored. The polygamy which is its distinguishing badge may, for aught we know, have been too severely judged. In some respects it is very different from that miscellaneous, licentious intercourse of the sexes which eats the core out of morals. Mormon polygamy has been consistent with industry, with thrift, with social order, with religious observances, with public zeal, with intense local patriotism, with an active interest in things quite out of the sty of sensual indulgence; whereas the votaries of the same passion in other communities are usually smitten with a desolating paralysis of all their nobler impulses. By those who can clear their minds of cant and pharisaism, this is a phenomenon worth studying. The Hebrew patriarchs were polygamists without any conscious moral degradation. They may have suffered more or less physical enervation, but they had no sense of guilt. Truth and courage lie at the roots of all manly virtue and those who practice polygamy in a community which believes it to be right, do not steep their souls in falsehood and skulk from the judgment of their fellows like the consciously defiled seekers of vagrant connections.—New York World.

The mechanical appliances which have been employed to transport passengers through the various subways under the Thames in London, are pronounced by the Builder to have proved unsuccessful. It seems that the company, formed for the purpose of conveying passengers by steam power between the Middlesex and Surrey sides of the river, have failed to carry out their original design, and that the steam engines for raising and lowering the hoists and for drawing the omnibus through the subway have long since been removed from the bottom of the shafts, as have also the iron chambers in which the passengers ascended and descended, and the iron omnibus itself; and now the passengers ascend and descend the shafts upon ordinary stairs, making their way as conveniently as possible through the seven-foot tube.

Mme. Adelina Patti-Caux is engaged for the Covent Garden opera season at a salary of \$1,000 a night.