

## DESERET NEWS:

WEEKLY.

TRUTH AND LIBERTY.

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CHARLES W. PENROSE, EDITOR.

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## JURY REFORM.

The Hopt, alias Welcome, case is once more before the Third District Court, the third time of its prosecution. Through technicalities which have no bearing on the merits of the case, a murderer about whose guilt there are no doubts in the public mind, for he has been twice convicted on the clearest kind of evidence, is still able to evade punishment. The chief difficulty in this third trial will be the empanelling of a jury. There are so few men in the community who have not heard the particulars of the case and formed an opinion upon it, that an unbiased jury, constituted as the law and modern usage require, cannot be obtained without a great deal of trouble.

This brings up a question which is now being agitated throughout the country. The singular verdicts brought in by juries in different places and the miscarriage of justice which has been so often the consequence, have caused serious doubts in many minds as to the much vaunted benefits of the jury system, and to bring forward same strong advocates for its abolition. The Cincinnati riots and other similar deeds of lawlessness are cited as the consequences of improper verdicts and the results of decisions by juries swayed by ulterior influences. And it is argued that as a rule it would be safer to do away with juries altogether, and leave decisions to judges learned in the law and better able to determine facts and evidence as well as legal points, than the kind of persons who make up the average juries.

A jury, as ordinarily constituted now-a-days, for the trial of the most important cases, cannot contain the best minds nor even the ordinarily intelligent and well-informed of the community. For these are reading, thinking men who inform themselves in regard to current events, and not only read the public journals and take an interest in what is going on among their fellows, but form opinions of their own and reach conclusions independently. And these are almost sure to be excluded from a jury in any important case, for the very reasons that would best qualify them for the task of investigation. Of course no one ought to sit on the Hopt case as a juror who is convinced beforehand that the accused is guilty. But some familiarity with the facts as published in the papers, ought not to be a disqualification to trying the case on its merits.

And here is where we think that reform is needed and is possible. We see no reason for the abolition of the jury system, but we do see the need of a change in the practice which so often excludes intelligent, thoughtful and well-informed men from the jury box. Information in regard to a case on trial, reading the opinions of the press, conversing on the known circumstances, and expressing views regarding incidental facts, should not in our opinion be allowed to work as a bar to service on a jury. Unless the mind of the juror is made up, or so influenced as to affect his judgment and determine his opinion for or against the accused, his familiarity with the case and the views and sentiments of other people ought not to disqualify him to sit in judgment upon the case.

We cannot endorse the view that the lives and liberties and fortunes of citizens should be placed in jeopardy, subject to the dictum of one or three judges on the bench. We believe that the jury is one of the essential features of proper criminal jurisprudence. And trial by jury should be conducted according to the spirit and meaning of the term. An impartial jury of the vicinage must be had, not a packed, or favorable, or unfavorable body, but twelve men ready to receive and weigh testimony and decide according to the law and the evidence as presented to them. What a mockery of justice it would be to put the liberty of a "Mormon" at the mercy of twelve men chosen purposely for their anti-"Mormon" proclivities! It would be just as improper as to place a pronounced hater of the "Mormons" in the hands of twelve enthusiasts selected intentionally because of their animosity to "Mormon"-eaters.

In our opinion the present method of empanelling juries can be reformed by statute, so as to render an impartial trial by a jury of his peers a possibility to every person accused of a grave crime. There is no need to abolish the jury system. Its abolition would be running to a dangerous extreme. Enact laws that would permit thoughtful minds, men having opinions, persons of individuality, research and judgment to take part in jury trials,

providing they are not so affected by actual bias as to influence their powers of impartial determination, and much of the nonsense and folly and infamy now complained of would be effectually swept away.

## PERE HYACINTHE ON PLURAL MARRIAGE.

THE report of the interview between a representative of the News and Pere Hyacinthe, published on Saturday, has been read with considerable interest by quite a number of people. It showed a disposition on the part of the Pere to learn something in relation to the faith of the Latter-day Saints. With some phases or doctrines he expressed himself as holding harmonious views.

Until the subject of plural marriage was reached he maintained the position of an enquirer. Although he introduced the topic himself, he—without asking for information as to the position and faith of the "Mormons" in relation to it—immediately began to give his personal opinions. As stated in the report of the interview, his ideas were adverse to the institution. Owing to this particular turn taken by the Pere upon this subject the reporter was inclined to the belief that he was making a point for popularity. He appeared to evince a somewhat hasty desire to be put on record as strongly opposed to plural marriage.

Taking this view of the situation, and to ascertain whether Pere Hyacinthe had, on this subject, any reasons to offer for the opinions he expressed, the reporter put questions which elucidated acknowledgments from the learned gentleman that no argument in opposition to polygamy could be derived from the Bible, in the teachings of the Apostles and Prophets: that the marriage to one man of more than one woman, is in harmony with the physical constitution of both sexes, and that the comparative morality in Christian cities, and communities where regulated plural marriage existed was in favor of the latter.

These candid admissions—which will always be made by every well informed, unprejudiced and truthful individual—rob the opponents of polygamy of any substantial argument to sustain their position, the only recourse left being what is termed by the Pere, the exalted idea of a higher Christian life. The difference between the Pere and the great bulk of monogamic religionists, is that they are not honest enough to acknowledge what he so frankly admitted.

Notwithstanding the difference on this and other subjects between the views expressed by the Pere and our own, we credit him with exhibiting, so far as our intercourse with him is concerned, considerable breadth of opinion. He possesses a mind that evidently can never be confined to the narrow channels of sectarian bigotry. Had it been otherwise he never would have renounced his position in the Roman Catholic Church because he could not conform to some of its prominent dogmas.

Pere Hyacinthe's attitude in relation to the marriage system of the Saints is as advanced as could be expected, considering his religious training. His education taught him that life-long celibacy was the only proper condition for the clergy of the Church of which he was a minister. He renounced that as an unnatural doctrine, and obeyed the God-given instincts of his nature urging companionship with the other sex. The same course of reasoning used in support of the celibacy of the Catholic clergy still clings to him—the obtaining of grace to subdue the instincts of nature. Had circumstances permitted, it could readily have been explained to the Pere that the greater degree of grace, the purer and more elevated life, the higher religious idea are all incorporated and enjoined in the theory of plural marriage among the Latter-day Saints, and overwhelmingly in its practice. Departures from this idea of the sacred institution, which are comparatively rare, are infringements of its letter and spirit, not due to any defect in the principle, but mere evidences of the weakness of humanity.

## OUR WILD INDIANS.

ONE of the most interesting and reliable works on the wild tribes of the plains is the book written by Colonel Dodge and endorsed by Gen. Sherman, entitled "Our Wild Indians."

In this volume of 630 pages, Colonel Dodge aims to give a truthful account of the red skins of the present day; to vividly describe their actions, habits, customs, religion, manners, and amusements as practiced by them now in the uncivilized regions of their uninvaded country; to give graphic accounts of exciting adventures among them; to narrate daring exploits and hair-breadth escapes, not only from his own experience, but from that of other white men, and of Indians also; and to record desperate encounters, and heroic achievements incident to frontier life. In all of this Col. Dodge has succeeded most admirably, and he has produced one of the most thrilling and fascinating books of personal dar-

ing and romantic adventure. His narrative is spiced with many graphic accounts of famous scouts and guides; of trappers, frontiersmen, squatters, squaw-men, Texas cow-boys, miners, gold hunters, border ruffians and desperadoes.

General Sherman has written an introduction to the work in which he says:

"Yours is the first attempt of which I have knowledge to treat him (the Indian) as he exists in fact. You have had the experience of a third of a century in absolute contact with the various tribes of our Indians from the British line to Texas, New Mexico and Arizona, hunting with them in peace and in war. It is by far the best description extant of the habits, manners, customs, usages, ceremonies, etc., of the American Indian as he now is. You are hereby authorized to use my name as authority for its publication and circulation; and I invite all persons to read this book carefully."

The book is profusely illustrated. Its list of steel plates includes portraits of the author, and of Gens. Crook, Miles, Custer, McKenzie, etc., and there are many engravings on wood. The magnificent full-page Chromo-Lithograph plates are printed in fifteen colors, from ninety engraved stones, and represent weapons, ornaments, instruments, fac-similes of Indian drawings, and remarkable objects of interest and curiosity too numerous to mention. The Smithsonian Institute at Washington is largely indebted to Col. Dodge for its extensive collection of Indian objects, collected by him in the past thirty-three years.

The work is sold only on subscription, A. L. Bancroft & Co., San Francisco, being agents for the Pacific Coast, and Ernest S. Penrose for Salt Lake City and its vicinity.

## APPLY THE LAW PROMPTLY.

IN our local columns will be found an account of an attempt upon the life of Mr. E. Sylvester, foreman of the Tribune printing office, by O. E. Trojan. The cause for the murderous assault appears to have been that Trojan had been discharged from employment by Mr. Sylvester. The affair has all the appearance of a cowardly attempt to take the life of the intended victim. It is one of those cases that should go to speedy trial, and should the evidence sustain the charge laid against the accused, the extent of the law should be applied. Crimes of a violent character should be more vigorously and promptly dealt with than has heretofore been the custom in the courts.

## ANOTHER FREIGHT WAR IMMINENT.

IT is an open secret that another freight war is liable to occur within the next twenty to thirty days. Railroad matters are at present in that condition of uncertainty that renders such an event quite probable. Should such a circumstance take place it is said that it is likely to affect Utah freight both ways—outgoing and incoming. A railroad man who was in this city last week gave it as his opinion that another war was among the probabilities of the near future. He made no secret of his opinions, which he considered well grounded, and gave some of the business houses of this city the benefit of his views. It will be well for our merchants to shape their course in accordance with the probability until the matter is decided one way or the other with some degree of definiteness.

## A RADICAL CHANGE ATTEMPTED.

IN the House of Representatives on the 24th of April, a very animated discussion ensued on the bill to repeal Sections 769, 1864, 2217, 2244, 2613 and 3830, of the Revised Statutes of the United States. The object of the measure was to remove the restriction of the term of four years to the offices of District Attorney, Chief Justice and Associate Justices of the Territories, Surveyors-General, Registers, Receivers, Collectors of Customs and Surveyors of Customs and Postmasters. This would give a life tenure to these offices unless the incumbents should be removed by the President, for bad conduct.

It was a movement in the pretended direction of civil service reform. It was claimed that the expiration of the terms of these offices every four years not only interferes with the constitutional prerogatives of the President, but is a fruitful source of corruption, intrigue, scramble for place, and conflict between the Executive and the Senate. On the other hand it was argued that life-tenure of office is not in harmony with our system of government, and that the expiration of the official term calls public attention to the conduct of the officers and subjects their official conduct to public scrutiny as well as to that of the appointing power, and occasions that examination into the affairs of those offices which is proper and necessary.

But it is evident from the debate that the measure was a Republican ruse to place the Democrats if possible in a false position before the public. It was pretty well understood that they would oppose it. Expecting to gain control of the Government at the next election, they would not wish to make such a sweeping change in the appointing power, by which the President would be shorn of his patronage, or at least crippled in bestowing rewards to his political friends in the shape of offices made vacant by the four years' restriction, and, opposing the measure for this, if for no other reason, the Democrats, it was thought, would put a club in the hands of their political opponents for use in the coming campaign. They could be accused of "opposition to civil service reform." Indeed, the Democrats were dared to defeat the bill; and one member, Mr. Bayne, declared: "If there be a Democrat on the floor who will not vote for the bill he is against the principle and is in favor of the spoils system."

However, on the question of suspending the rules and passing the bill, it was defeated—yeas 99, nays 146, not voting 77. We think the scheme was very properly defeated, and that those who concocted it will not be able to make much use of the club which they expect to fashion out of the Democratic opposition to the measure. The limitation of the term of office to four years is a wholesome check upon the Judges in the Territories and keeps them upon their good behavior. They should, in our opinion, receive better pay for their services. And we hope that the bill to increase the number to four in each Territory, so that a Judge who sits on a case that is appealed will not form a part of the appellate court that reviews it, will become a law at the present session, and that at least a thousand dollars a year will be added to each of their salaries.

## ATTEMPT TO JUMP A STONE QUARRY.

WE have seen a letter from a gentleman residing in Sanpete, that gives an account of an attempt to jump a stone quarry, a short distance from Ephraim, which has been for a considerable time in possession of Edward L. Parry. It is from that claim that the beautiful stone has come that ornaments many of the recently erected buildings in this city. It appears that another quarry in the same vicinity was some time since located by Mr. S. E. Bamberger, but the product is not so marketable as that from Parry's location; not on account of any inferiority of the stone, but simply because it is somewhat harder, and consequently more difficult to manipulate.

The letter states that on Sunday, the 13th inst., Mr. Parry was informed that, at the instance of Mr. Bamberger, a number of men in the latter's employ were on the point of proceeding to his quarry with tools, for the purpose of taking out rock, or, in other words, jumping the property. Mr. Parry got a number of his men together and reached the quarry ahead of the other party. On their arrival the latter were informed by Mr. Parry, that if they entered the quarry to take rock he should treat them as he would any band of men who might invade his house for the purpose of stealing his goods.

In the meantime Mr. Bamberger's men are said to have communicated with him, the result being that the party of intending jumpers, to the number of seven appeared at Mr. Parry's quarry again on Friday, the 18th, a fellow named Stevens seeming to be a leader among them. They did not appear to heed the warning given this time to keep away, and Stevens advanced, when one of the Parry hands stood in his way to prevent him coming forward. Stevens struck at this man, but "reckoned without his host." Like a flash the man assaulted guarded the blow, dealt his antagonist a few stunners, knocking him down and placing him at such decided disadvantage that he was fain to agree to withdraw from the scene. So far as we have yet learned the matter ended there.

It is to be hoped that there will be no more of this affair. Should the contrary be the case, however, we are afraid serious trouble will ensue. Mr. Parry, in whose possession the property now is, is a man of recognized respectability and character. He is one of the most peaceable men under ordinary circumstances that could be found in any community, but if we judge him properly he is one of the last men in the world to supinely relinquish what he esteems to be his rights, and we do not believe that any attempt to take from him the quarry to which he deems himself to have a better right of possession than any other person will be a very easy task. Yet no man would more anxiously avoid a difficulty than he.

We understand it is alleged that the claim under which he holds the property is insufficient. So far as the principle involved is concerned this does not weigh. The steps taken by him to secure the right to it were resorted to in good faith, and he stands ready to remedy whatever defects may exist. For any person or combination to seek to wrest it from him on account of a technical deficiency in his claim has but little if any better standing, so far as even handed justice is concerned, than those who would take the same course were the title ever so good.

Mr. Parry hunted all over that section of country for a superior stone quarry. After a careful examination of various deposits, his extended experience and excellent ability as a stone worker enabled him to select the one located by him. He took what appeared to him at the time to be the proper legal steps to secure it. Since the point has been raised as to their validity, he has made other improvements besides operating the quarry—such as making a ditch, sowing grain, etc., on the land included within the limits of the claim. All this he has done besides being in possession, and it is scarcely within the bounds of possibility that anybody else can show a better right to the property. Even if this could be done in law, which is not likely, it could not in justice.

We regret that Mr. Bamberger's name has been mixed up with this matter, and would be only too pleased to know that the men claiming to represent him acted outside of his authorization. No course of the kind exhibited in this matter can, if persisted in, result either in good to him or the S. P. V. R. R., of which he is a prominent officer.

## THE PROBABILITY OF A FREIGHT FIGHT.

WE take occasion to again draw attention to the fact that a few days ago a prominent railroad man expressed an open opinion to the effect that there was a probability of another railroad war within the next thirty days. He gave the benefit of his ideas to some of the leading houses in this city, with a view to enabling them to avoid the risk of being caught at a disadvantage. The source of our information did not claim to know, neither do we claim to know that another war will be inaugurated, but we consider it our duty to again caution our merchants against shipping any more heavily than actual exigencies demand until the question appears to be upon a steadier basis. We trust that business men will not be hoodwinked into taking any other course than would be dictated by prudence under the circumstances. We happen to know that the probability had already been acted upon in this city before the statement regarding it appeared in the News.

## ALEXANDER'S SUBSTITUTE.

IN the House of Representatives, April 4, 1884, Mr. Alexander, from the Committee on Territories, reported the following bill as a substitute for H. R. 946, a bill (H. R. 6765) to provide for the manner of solemnizing marriages in the Territory of Utah and to provide for the recording of certificates of marriages therein, and for other purposes. Read twice, referred to the House Calendar, and ordered to be printed.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all marriages in the Territory of Utah shall be solemnized by any judge or justice of a court of record, justice of the peace, minister of the gospel, priest, or preacher of any religious denomination.

Sec. 2. That every person having authority to solemnize marriages shall keep a record of all marriages solemnized before him, and within thirty days from the day of said marriage shall transmit a certificate of every marriage, containing both the Christian names and surnames of the persons married to each other, to the county recorder of the county in which the marriage took place; and if any person shall neglect or refuse to make return of all the marriages solemnized before him within the time above required, he shall, for every offense, forfeit the sum of five hundred dollars, to be recovered, with costs, by the county recorder, or any person who will prosecute for the same, by civil action in any court having cognizance thereof.

Sec. 3. That the county recorder of each county shall record all such returns of marriages, in a book to be kept by him for that purpose, within ten days after receiving the same, for which he shall be allowed the sum of one dollar, to be paid by the person solemnizing said marriage; and if such county recorder shall refuse or neglect to record within that time any such return to him made, he shall forfeit five hundred dollars, to be recovered, with costs, by any person who will prosecute for the same by civil action in any court having cognizance thereof.

Sec. 4. That every person who shall solemnize any marriage when one of the parties to said marriage has a living wife or husband shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by imprisonment in the county jail for a term of not less than six months and not more than twelve months.

Dr. Fordyce, of Toledo, strictly forbids callers at his office kissing his children. He has collected a good deal of data going to show that many forms of diseases may be transmitted by kissing; also, that diseases caught in this way are more virulent than when contracted by other means. He favors a law making it a punishable offence for a diseased person to kiss children.