

SAINTS AND SINNERS.

BY RICHARD REALF.

There goes a woman who, loving too much,
Somehow or other, perhaps, became
Plebeian with patches of soot and smutch—
With blotches of sin and shame.
But I think, by the piteous look in her eyes,
(Have you seen the eyes of the stricken
doe?)
That down in her heart she moans and cries
With unutterable woe.

There goes a column of circumspets; see
How clean and comely, and sleek and
fair,
And, unto the ultimate degree,
Prim and proper they are.
Ah, worldling! you need not pry nor peck
Into their natures for fault or flaw;
They are not of your kidney, frail and
weak—
They are strong, and walk by the Law.

But mark! they have caught a glimpse of
her skirts!
(How keen they are on the scent for sin.)
And the hound in the heart of each asserts
Itself—and the pack begin.
Bravely, my masters! Mangle her now!
What to you is her awful stress?
And not in the daylight dare you avow
Pity for wretchedness.

There, there; enough now—handsomely
done,
(How whitely your teeth show when you
snarl!)
And how, like a poor, scared deer did run
Whither? the frightened girl.
Whither?—But that can be naught to you—
Why was her shadow flung on your path?
And Heaven, of course, must be pleased to
view
A strong man's terrible wrath.

Well; I am a sinner—or what you please;
And you may besaints, for aught I know;
But I swear, O excellent Pharisees,
That whiter than driven snow,
Compared with you, is the soul you drove
Hard on the horrible edge of hell;
And something, I think, was said of Love,
By Some One—whom? Can you tell?

REMARKS

By Senators Sherman, Edmunds,
Thurman and Trumbull, on the
Utah Bill, in the Senate, Feb-
ruary 26th, 1873.

Mr. Sherman. On examining this bill the first query that occurred to my mind was in regard to the organization of the tribunal to select the jury, and it appeared to me that the judge ought not to have anything to do with it. I know that under the law as it now stands the judges of the United States district courts have something to do with selecting the jury, but that is merely a nominal duty, conferred practically of course on the subordinate officers, the clerk and marshal. The judge may be called upon to try the validity of the panel, and the judge, from the nature of his office, is not familiar with the people.

Mr. Frelinghuysen. Personally I do not think it very important, but there is a difference of opinion in the Senate as to which is the best officer. It may be said in favor of the judge, that he knows the qualifications of men as jurors better than the Governor would; but I think the tribunal constituted either way, the selection being made by the Governor or by the judge, would answer the purpose. The judge can have but very little control over the panel of twelve men, because they are selected after they have passed the judgment of four others.

Mr. Sherman. I see the objection to the Governor being consulted. He is the executive officer of the Territory, called upon to execute the laws, and he is a man who necessarily takes sides on political questions. He may be a man of strong partisan feelings, and from the nature of his office I think he ought not to be called to administer anything in connection with the courts. I am sure it would be a novel proceeding to allow the Governor of a State to select jurors to try causes, and therefore I do not think the Governor ought to be inserted here; but it seems to me some local authority whose power emanates from the people and does not emanate from the United States Government ought to be selected to join these commissioners.

The great objection that I have to this section, one that struck me in the first instance, was that this placed the whole power in the hands of officers appointed by the government of the United States, while the local authorities or the people ought to be represented in the selection of the jurors. There is the foundation of all trials and of all justice, and some authority chosen

by the people or representing the people should constitute a part of the board to organize the juries.

I am not myself familiar with the organizations of the Territories, and I do not know whether there is any officer of a general character elected by the people to select—

Mr. Edmunds. Let me suggest to my friend that I believe his colleague has proposed an amendment which will be satisfactory to the committee as far as I have been able to consult them, which provides that this jury board shall be composed, in addition to the three officers named in the bill, of two commissioners, so called, who are to be elected by the Territorial Legislature. That meets the very suggestion which the Senator now on the floor has made.

Mr. Sherman. I think we ought not to provide in this bill for a deadlock. We ought to have an uneven number.

Mr. Edmunds. We have.

Mr. Sherman. My colleague tells me he proposed to have three elected by the Legislature.

Mr. Edmunds. Yes, but the committee will ask the Senate to make it two, and we supposed he was satisfied with that. While we are willing to go as far as possible to suit all sides, because we do not wish to advance one side at the expense of the other, we shall certainly ask the Senate, while we are quite willing to go two, not to go three.

Mr. Sherman. I have no objection to that plan, but I think neither the judge nor the Governor ought to be on this board. I can see reasons against it. It seems to me the number ought to be uneven. It ought to be presumed that officers of the Government will be reasonably dispassionate, and yet their action ought not to be absolutely final, but watched by some representative of the people, and I think therefore a board of three persons organized in the way proposed, two officers of the Government of the United States and one representing the people of the Territory, or vice versa, one officer of the Government and two named by the people to constitute the board for the selection of honest juries, fair men from the various classes of society. It is not to be presumed that the juries would be packed at the very foundation. I think the character of these officers ought not to embrace either the head of the judiciary or the head of the executive department of the Territory.

Mr. Edmunds. One of the reasons why the committee thought it right to take the judge was this: the Territory of Utah comprises a very large extent of area; it is divided into three judicial districts; it has more than three places of administering justice; and now if you take the Governor of the Territory as one of this board of jury commissioners, so to describe them, he must go to the county seat in each district, preceding a given term in each year, so as to compose one of this board; whereas if you take the judge, of whom there are three, then each judge assigned to a district is on the spot, and is therefore able to perform the functions without additional expense, and without any inconvenience. Hence to us the idea of putting in the Governor as one of this board of jury commissioners which is to act in various places, and it might happen at the very same time, or substantially at the same time, would be impracticable.

Now as to the theory of the judge, to which objection has been made, what is it? It is said that the judge is to control his jury. By no means. The judge is to make one of a board of three or five, as the case may be, who are not to select the jury for that term. He does not determine which twelve men are to come; but, acting for the whole year and for the whole district, he merely composes one of the board, who select two hundred citizens without reference to their opinions as to religion or as to social questions or as to politics, who are to be the body of the people in that district from whom the jurors for the terms for the next year are to be drawn. What can be fairer than that?

Even if we are to assume that all judges are corrupt or are open to bias and partiality, how much better could you provide to get away from the passions and biases of men than that? Suppose he wishes to get in his friends; if the whole body of the community are his friends, he must get them in, of course; and if they are he will unquestionably administer justice, because

what the sense of the whole body of the community is, generally is justice. I believe in the *vox populi* to a very considerable extent. Now suppose on the other hand, that this judge, not occupying a political position, as the governor does, and holding trials in all the counties in his district from year to year, and from term to term, becomes acquainted with the composition of society; he sees the gentlemen who compose the grand and petit juries; he sees the suitors; he sees the witnesses; he sees the citizens who may attend as spectators on the administration of justice; and therefore he becomes in a greater or less degree acquainted with the reputations of the citizens, and accordingly, if he be a pure man, (as we must assume that every judge is as a rule, otherwise society is good for nothing at all, for society without justice is the worst sham that ever was, (he is the very person for this duty. He hears rumors about the citizens; he knows them to a greater or less degree, he knows their reputations. What fairer man could you repose the trust in than he to exclude from this list of two hundred, not of a given jury let it be remembered, but from this list of two hundred persons those of whom he has heard evil reports, whose reputations are not good, who are thought to be bitter in their persecutions of a misguided sect, or who are thought to be bitter in their persecutions of people who do not believe in the tenets of a misguided sect? I do not know any better way—and I have studied it with whatever of faithfulness I possess—than to repose in him who is supposed to be apart from politics, and who from his duties is supposed to be acquainted with the body of the community in the district, this duty of being one of the tribunal who are to select the great body of reputable citizens from whom by law the jurors are to be drawn.

But I entirely agree so far as I am concerned with the suggestion of my friend from Ohio that it will add an additional safeguard to put in the provision that two persons elected by the territorial Legislature, who act merely as citizens, thus selected, shall compose a part of this board in order that if any fraud or injustice or contrivance is about to be perpetrated they may know it and expose it. I am quite willing to consent to that because I think I am safe when I say that I express the unanimous opinion of the committee that we do not desire to persecute either sect or opposition to sect; but only to have the fair course of impartial justice go on.

Mr. Thurman. I want simply before the vote is taken to call the attention of the Senate to what the immediate question is, and that is the motion made by the Senator from New Jersey to amend the amendment offered by me, which provides for three jury commissioners to be chosen by the General Assembly. The Senator from New Jersey has moved to amend that by striking out "three" and inserting "two." If that amendment be adopted, then he and the Senator from Vermont are perfectly willing, as I understand, that the original amendment shall be adopted; so that the whole question really is whether we shall have three jury commissioners chosen by the General Assembly of Utah, or only two.

It is said that if you have three there may be a deadlock between the three Federal officers and the three jury commissioners chosen by the Assembly. I do not think there is any great danger of any such deadlock as that so as to result in the choice of no jurors at all. I do not think they will want to put a stop to all judicial proceedings in the Territory, and therefore I have no doubt whatever that if the jury commissioners were composed as I have suggested there would be a selection of jurors, and a good selection. I really do not think it is very material or that it is wise to give a majority either to the one side or the other; but if we were to give a majority to either side, I think it would perhaps be more politic to give the majority to the people of that Territory, represented in their General Assembly, and who compose nine-tenths of all the people in the Territory, than to make that majority consist of Federal officers. I hope, however, the amendment of the Senator from New Jersey will not be agreed to, and that the proposition as I have offered it will be accepted by the Senate.

Mr. Trumbull. In making the suggestion I did to substitute the Governor for the judge, I did it

without any particular desire to have the Governor one of these commissioners; but my object was to provide a commission that should not be controlled by the court. The jury has everywhere been regarded as a safeguard of the rights of the individual, but a jury amounts to nothing if it is a jury selected simply by the court, by the judge. It is not in accordance with the practice, so far as I know, of any of the States to allow the judge of a court to provide his own jury. The jury is selected by some other tribunal, some county court, perhaps, in many of our States, or by some person not the judge of the court in which the jury is to act.

Now, I think it would be desirable in this case to substitute some other person instead of the judge. It is said that the marshal and clerk act with him. It must be remembered that the clerk is merely his appointee and the marshal is an officer of his court; they are both under his control. The object of a jury is to be a check upon the judge; they are to decide upon the facts in every case; and a person indicted for a criminal offense is entitled to have this jury trial, and it seems to me it should be before juries not selected by the judge himself. I am not particular about substituting the Governor of the Territory, but I would take some person other than the judge. It has been suggested that the Governor of the Territory is an executive officer and an improper man for this purpose. Then take the surveyor general of the Territory. He is acquainted with everybody in it; he surveys all the public lands and knows all about it; he is a permanent officer. I do not know who holds the position; I am not speaking as to individuals.

I mean the United States surveyor general of Utah. I do not know who the individual is, and it is wholly immaterial; I am talking merely of the officer. We have provided by law for a surveyor general for the Territory of Utah. I assume, as the Senator from Vermont does, that he is a proper person, without knowing anything about who he is. He would necessarily be a person acquainted throughout the Territory because his duties are such that he has to survey the public lands all over the Territory and the lands in the Territory chiefly belong to the United States. He has a permanent office there, and he is a permanent officer. If there is objection to the Governor having the power, take the surveyor general, or any person other than the judge. I am not particular as to who the individual is; but I do think that the jury should not be entirely selected by Federal officers. I think the Senator from Ohio is right in reference to that, and I believe that the Senator from New Jersey acquiesces in the suggestion to have a part of this commission made up in some way from the people. The jury is a people's body; it comes from the people; and were it not for the peculiar circumstances that exist in Utah, probably all of us would be willing that the jury should be elected by some tribunal in the Territory altogether; but owing to events there, that is not thought admissible.

Then as you are to have a mixed commission to select the jury, having upon it two or three persons from the Territory, I think it would be desirable to remove to some extent the control of this selection from the judge himself, and put it upon some other officer. If there is objection to the Governor, it strikes me that the surveyor general of the Territory would be a person to whom there could be no possible objection, because he would have nothing to do with the execution of the laws. He is an officer appointed by the President and confirmed by the Senate, and without knowing who he is, I assume that he would be a fair and proper man to act in this capacity.

I move to strike out the word "judge" where it occurs in that provision and insert "the surveyor general of the United States in said Territory."

Mr. Sherman. A doubt has just been suggested to me. The surveyor general must be located at one place in the Territory, and these courts are held at different places.

Mr. Trumbull. At three places in the Territory.

Mr. Sherman. Can the surveyor general go from his official records to perform this duty?

Mr. Trumbull. Undoubtedly; he is surveying all over the Territory.

Mr. Sherman. The surveyor gen-

eral does not himself survey at all.

Mr. Trumbull. He has his office. This duty is only once a year.

Mr. Sherman. It is two or three hundred miles from one place of holding court to another. I merely suggest the difficulty.

Mr. Trumbull. That will be no great inconvenience.

Mr. Frelinghuysen. I think on reflection this is an amendment that ought not to be adopted. These jurors are selected for the year, it is true, but they are selected for each judicial district.

Mr. Logan. By each judge?

Mr. Frelinghuysen. Yes, sir, by the judge, marshal, and attorney of each district, and the idea of taking the surveyor general to select jurors seems to me a very incongruous and inappropriate one. I certainly do not see that the judge has any possible power, inasmuch as he is only one of a board of five to select two hundred, and from that two hundred the twelve jurors are to be drawn. It is impossible for him to exercise any control over the jury. If we have a judge who cannot be trusted as little as that, we ought to get rid of him very quick.

Mr. Trumbull. My motion does not imply a reflection on the judge. I am not making it with any such view, of trusting the judge or not trusting the judge. It is that it is inconsistent with the system of jury trials that the jury should be furnished by the court, no matter who it is. It is not the proper mode of selecting jurors anywhere.

Now, as to the objection suggested by the Senator from Ohio, (Mr. Sherman,) I will say that the marshal has his office at one place. He might just as well object to the marshal as to the surveyor-general. There is but one United States marshal in the Territory.

Mr. Sherman. Practically he will do it through his deputies, I have no doubt, although that may be objectionable.

Mr. Trumbull. The bill does not provide for that.

Mr. Sherman. The bill provides for deputy marshals.

Mr. Trumbull. But then it was not intended, probably, to give this duty to the deputies. This is a special duty put upon the marshal, and I doubt whether he could delegate it. I think the bill would have to be amended to authorize him to do that. It is one of those semi-judicial functions that he could hardly delegate to a deputy. It can be no great inconvenience to impose this function on the surveyor-general. Probably this will not occur more than for a year or two at most. I name the surveyor-general, not because he is the surveyor-general, but simply to get it away from the courts. I do think that the jury should not be selected by the court anywhere. Virtually that is so here. It is wrong in principle. And when the Senator from New Jersey speaks of trusting the judges, I do not put it upon that ground at all. I put it upon the ground that it is mixing up two things which ought to be kept separate.—*Congressional Globe.*

AGRICULTURAL NOTES.

We should bear in mind the fact that, while sudden wealth is rarely acquired in farming, neither will great or sudden losses be met with.

If you want a constant show of flowers, chose the Aster, Balsam, Dianthus, Delphinium, Petunias, Portulacca, Phlox, Scabius, Trifolium, Ipomea, Thunbergia, Double Zinna and Verbena.

Robert Manning tells the *Horticulturist* that none of the pears recommended by the American Pomological Society, or in the usual lists for general cultivation, will rot at the core, provided they are gathered in season, and ripened in their ouse.

John G. Dietrich, in the *Prairie Farmer*, says, "There may be a few of your subscribers that would like to know how to break a cow from sucking herself. I had one that did, and have broken her, for the present at least, and time will tell as to the final result. The plan is simply to put on a halter or a strap over her head that will hold a common bridle bit in her mouth. She can eat and drink just as well as before in a short time. My cow wore the bit about two months, and has been without it about the same time, and I have not known her to fall from grace once."

I see by my poultry book that I had sixty hens in 1838, and sold that year 5,501 eggs. In 1842 I had ninety-two hens and sold 8,750, set and