

THE DIAMOND-SCOTT CASE.

THE judgment of Judge Zane in the case of Diamond, tried and convicted of voluntary homicide for the killing of Mr. Scott, was eminently proper under the circumstances. The sentence leaned strongly to the side of leniency. The remarks of his honor before passing judgment showed that he had properly analyzed the case. He had given full weight to all the conditions of a nature that should influence the court toward a lenient sentence, but had at the same time made due allowance for the extravagances of statement emanating from counsel for the defense, hyperbolicism being, in our view, one of the most distinguishing characteristics of the professional operations of Orlando W. Powers. In dealing in sentimental extravagances in his presentations to juries in criminal cases he seems to wield an influence in the direction in which he seeks to turn them. The reason for this is that men as a rule are liable to be led by the nose instead of giving analytical scrutiny to important subjects involving the exercise of important functions as citizens. But when this method is applied to a court, especially one in which a man like Judge Zane presides, the presentation encounters a thinking and discriminating apparatus of no ordinary caliber. In all matters in which life and liberty are involved judgment should be rendered—both in verdict and sentence—only after a dispassionate consideration of all the facts associated with the case.

Judges and juries have several vital points to consider. Some of them are not given their due weight. They are exact justice, the upholding of the law, the protection of society. It will not be denied that within a number of years past there have been many cases in the local courts wherein persons have been placed on trial for taking human life. The chief sentiment that has existed, after the first thrill of horror at the killing was over, has been that of sympathy for the perpetrator of the deed. That tender feeling toward the victim and those connected with him by the closest ties has, as a rule, soon died out, being supplanted by commiseration for the slayer. Juries seem to have been influenced in this way and by the hyperbolic representations of criminal attorneys. The result has been that the takers of human life have, with marked frequency, escaped the penalties of the law.

This condition cheapens human life and gives those who are passionate and perhaps revengeful the impression

that they can kill with at least comparative impunity. When such is the case homicides increase and the law fails of its object—the protection of society from the violence of the intemperate and viciously disposed.

A PROBLEM OF GOVERNMENT.

THE difficulty which has lately arisen between the United States and Italy involves a question which has been an unexhausted subject of discussion among political speakers, writers, and journals in this country during recent years, but which, prior to the war, remarkable as the fact now appears, seems to have received but little consideration. The issue may be thus stated: What are the nature and extent of the authority of the general government of the United States to interfere for the protection of American citizens, the redress of their wrongs, and the punishment of those who kill or injure them?

One theory is that the United States is a national entity; that it was created such by the act of the several States in adopting the Constitution; that when the several States gave the nation an existence, they, by inevitable implication, endowed it with all necessary powers of self-perpetuation; that one of the powers necessary to the perpetuation of any commonwealth is the right to protect its citizens, who are, of course, its component members. From these premises is deduced the proposition that the general government has a right to interpose for the protection of American citizens, and the redress of their wrongs, in any part of the world, either within or without the confines of the Republic, whenever the usual means for securing those objects fail. This also applies to aliens, concerning whom the general government may be under treaty obligations.

The opposing theory is that the several States of the Union are sovereignties; that in them is vested the exclusive authority to enforce laws established for the protection of the lives, liberties and property of their inhabitants, whether citizens or aliens; and that the General Government can interfere only when appealed to by the State through its executive. This theory is based upon the proposition that the people must be allowed and required to govern themselves. As protection of the individual is a chief function of government, they must also be allowed and required to protect themselves, and it is held that they do this in the only consistent way, under the Constitution, when they first exhaust their own resources to maintain the law, and then, through

their chosen representative, call upon the General Government for aid.

In opposition to the centralization of power in the General Government, it is urged that it would lead to usurpation, oppression and, ultimately, the destruction of the liberties of the people. On the other hand, it is held that power wielded directly by the people will be exercised in accord with popular, and perhaps transitory, feeling and clamor, thus rendering insecure the preservation of the law, and the rights and lives of individuals, and even of classes. The opponents of one theory hold that it means the destruction of liberty; of the other, of law.

The trouble with Italy presents before the American people a problem which seems to involve their existence as a nation, so far as foreign sovereignties are concerned. If our Government shall finally answer Italy by declaring that it cannot interfere for the protection of the lives of aliens in a sovereign State, or the enforcement of the law against their murderers, notice will be given to all the world that the United States is powerless to enforce its treaties, hence that it lacks the very essence of national existence, and is not, in fact a governmental entity, because of the weakness of international relations. If, on the other hand, the General Government shall undertake to adjust the mal-administration of law in Louisiana to the satisfaction of Italy, there is danger that an issue will be precipitated which will overshadow that of slavery.

Is it really true that the people of this country are about to be compelled to choose between one alternative which threatens the perpetuation of their liberties, and another which menaces the preservation of law? The inferences produced by the lessons of history are not reassuring, and they become still less so when considered in connection with the tendency of the American people to carry to an extreme any policy that may chance to secure popular favor.

An extraordinary destiny has connected the Latter-day Saints with almost every question which has involved the vital interests of this nation, and has arisen since the Church was organized. When American citizens were exterminated from Missouri, and appealed to the general government for redress, they were answered by the memorable declaration of President Van Buren: "Gentlemen, your cause is just, but we can do nothing for you."

THE sidewalk pavement on the east side of State Street, between First and Second South, is now graded, and the laying of the Stradamant mastic paving will be commenced some time next week.