DESERET NEWS
WEEKLY.

TRUTH AND LIBERTY.

WEDNESDAY, - APRIL 17, 1878.

EXCOMMUNICATIONS.

WHEN it has been found necessary for the wellbeing of the Church of Christ to withdraw fellowship from any of its members, on account of their misdoings or apostacy, and such members have been duly tried by the Bishop and his counselors and the case decided upon, and no appeal taken, then such action should be made public by announcement at a meeting of the Saints in the ward in which the offending parties reside. This public announcement will in the great majority of cases satisfy the demands of justice and the law of the Lord, and it is only in extraordinary cases where the public weal makes it necessary, that there is any need of publishing such excommunications in the DESERET NEWS or other newspaper. In such cases only where the Church generally is interested through the extensive acquaintance of the offender, or where injury is likely to be done to its members at large through their ignorance of the action of the local authorities is it desirable that these matters be published to the world through the columns of the public journals.

JOHN TAYLOR,
President of the Council
of the Apostles.

MORE JUDICIAL JUGGLERY.

THE Hon. Michael Schaeffer, Chief Justice of Utah, has a mind that appears to be fearfully and wonderfully constituted. His decisions have the merit of being remarkable, and of striking lawyers with amazement, if not of legal soundness, simple justice or good common sense. We make no reference now to his "commissioner of sequestration without bonds," a singular creation that might be worshipped without violating the Scripture injunction, not being in "the likeness of anything in the heavens above or the earth beneath;" nor of his squelching the Clinton suit against Marshal Nelson without trial; nor of his turning loose the brutal violator of a little girl eleven years old without hearing testimony in the case; nor his fining Ogden city policemen for arresting and incarcerating a man convicted of assault and battery; nor any of those feats of judicial jugglery that have made food for fun among the members of the bar, but to a recent flight of authoritative folly not likely to be attempted outside of a territorial district court.

He has issued an injunction against Robert Skelton, William H. Lee, John Pickett and six other resident farmers of Tooele County, restraining them from diverting in any way what he calls "the surplus waters" of Settlement Cañon Creek in that county, which he decides amounts to one-third of the whole of that stream, during the months of November, December, January, February, March and April, of each year, and in any way preventing one Laurence A. Brown from taking and controling the said one-third of all the waters of said creek during said months, from the point of intersection of Brown's principal ditch with the main channel of Settlement Cañon Creek.

It is well known that farming in Utah has been made possible by the system of irrigation introduced by the "Mormons" when they settled this then desert waste. The little streams fed by the melting snows on the mountain tops have been conducted by ditches and canals, made at great expense, upon the dry and thirsty soil. The farmers who use the waters of Settlement Cañon Creek have acquired a right to them by the obstruction of channels, and possession thereof for upwards of twenty-five years. During the winter it happens that through ice and other obstructions a portion of the water overflows. This running into a pond, a ditch has been constructed from it called the Kelsey Pond ditch. The defendants in this case, old settlers who have helped make the place, use this water and have done so for ten years. Now comes this plaintiff, who previously never had a foot of land in that vicinity or ever did anything to improve the country, takes advantage of the Desert Land Act and enters 640 acres, and in order to comply with the letter of the law requiring water to be conducted upon it within three years, takes water owned by the settlers conducted through their made channels, and when those who own the water remove his dams he sues them for damages, and the author of the "sequestrator without bonds" issues an injunction against them to prevent them from defending their own rights. Here is an extract from the document.

"It has been further ordered that the plaintiff may have said surplus waters of the said settlement Cañon Creek, amounting to one-third of the whole waters of the said creek, for and during the said months of each year, commencing with the date of the order, diverted from the main channel of the said Settlement Cañon Creek, into, along, and through the Kelsey Pond Ditch, to and into the waste water ditch, intersecting the said Kelsey Pond Ditch below and west of Coleman Street in said Tooele City, and along and through the same, to and into the plaintiff's said principal ditch," etc.

When it is understood that this plaintiff has never done a stroke of work or laid out a dollar in the construction of these ditches, except those immediately leading to his "desert" section, the peremptory order of this wonderful judge seems the more outrageous and astounding.

It may be argued that the water is not needed much during the months above named. But if it is of any benefit or value to the plaintiff it is to the defendants, who have prior rights by usage, and who have not taken up land for speculation, but are *bona fide* tillers of the soil, which is irrigated by the water now forcibly taken from them and arbitrarily given to this person, who has nothing to support his cause but the order of a judge who appears to be the personification of stupidity, to put the most charitable construction upon his conduct.

The trial for damages will It course be brought before a jury. of is not supposable that twelve men can be found as dense or one-sided as the Judge, therefore there is no danger that the defendants will be called upon to pay for an infringement upon their rights, in addition to being enjoined from exercising them.

It is to be hoped that the next incumbent of the bench in the Third District Court will be at least a lawyer and a man of reason. But while the salary of the office is so pitifully low, it cannot be expected that any very able gentleman can be obtained to fill it, unless he anticipates heavy "perquisites." However, Utah's territorial vassalage will not always continue, and meanwhile we must hope, wait and contend for our rights as a constituent part of the great American republic. Speed the day when justice shall prevail!

A QUARTETTE COMMITTEE'S RAVINGS.

UNDER the provisions of the Poland bill, grand juries in Utah are empowered to inspect prisons and public records. This is a provision against which we have heard no objection from any quarter. But latterly a custom has been established of appointing committees to do the work which the law requires of the body. It is a question, not yet authoritatively decided, whether a grand jury required by law to perform certain duties, can delegate the powers bestowed on the whole panel to a part of their number. It is argued that if a committee can inspect prisons and public records, a committee can also find an indictment. We do not view it exactly in that light, because the law expressly states how many of a grand jury must be agreed in order to frame an indictment. Still there are reasons on the side of those who maintain that the whole grand jury should be present during the inspections required by law.

But whatever opinions may be entertained on that point, there can be no question in any thoughtful mind that if a committee can legally make the inspection, the grand jury, or at least a majority of its members, must accept and endorse the report of such committee in order to make it valid and official. A report of a committee forming only a minority of a grand jury is not a report of that body. It can, properly, therefore, have no standing in court. The committee should report to the grand jury, that body, through its foreman, should report to the Court.

However we have a singular genius on the bench of the Third Judicial District at the present time, and on Saturday last he gravely accepted a report from a committee of the grand jury which had just closed its session, and placed it on file as an official document. This is another piece of stupidity added to the already crowded list of Schaeffer's blunders.

The committee referred to consisted of four persons. Their report is in no sense the report of the grand jury. A majority of its members dissented from the document altogether. Firstly, because it is principally a misstatement of facts, secondly, because it is mainly a repetition of gossip without real evidence to sustain it, and thirdly, because it contains suggestions, recommendations and strictures entirely out of the province of a grand jury to make, much less of a committee of their number. It has never been accepted by the grand jury and is therefore unofficial, in addition to being in many respects untrue.

This document is now being foisted upon the public as the "Report of the Grand Jury of the Third District Court for the February Term," and is to be published as such in sections. The title is a misnomer. The paper is nothing more than a mess of gossip of a slanderous nature, cooked up by four persons, who have shown as great a lack of good sense in this proceeding as of a desire to misrepresent facts in order to obtain a little cheap notoriety. Their names are Archie McGown, Joseph Sewell, G. F. Culmer and N. C. Boatman.

The first part of their little romance is an attack on certain Justices of the Peace, who are accused of the terrible crimes of punishing offenders in cases of assault and battery and petit larceny, instead of committing them for trial in the District Court. It is evident from the phraseology employed in this arraignment, that the quartette committee have been listening to the yarns of persons who have grievances against these Justices. Such individuals may be found in almost every precinct where the magistrate is active in administering the law against its violators.

Now it is pretty well known that until the passage of the penal code, a little more than two years ago, the Justices of the Peace had jurisdiction of those cases named in the report of the quartette. And that it was only through an interpolation of the Governor's in the Act in relation to Justices of the Peace, passed at the same time and which the Legislature hurriedly accepted in order to save the bill from veto, that the Justices were unintentionally deprived of the power to punish the simplest case of petit larceny or of common assault. The combined action of the two laws in this respect was not understood, or not admitted, until a ruling of the District Court was obtained. Therefore, until that ruling the Justices continued to exercise the powers they had wielded for years. And this power has been restored to them by act of the Assembly at its latest session.

Now what is the reason for all this pother and fustian? These terrible Justices have actually imposed small fines for petty offences, under the impression that they were exercising the legitimate functions of their office, and they are now berated by the quartette, who request that "some action may be taken to punish them for their misdeeds." And this is the kind of document that Judge Schaeffer receives and places on file in the Third District Court! An unofficial, worthless ebulition of paltry spleen, the object of which is to make a sensation, stir up strife and bring into brief prominence the names of four obscure persons who are anxious for fame.

Wonderful revelations are promised, as they proceed with the further chapters of their novelette. If the first is a sample of what is to follow, they will only succeed in making themselves a laughing stock for the public. But it should be distinctly understood that the so called "report" is invalid, and is of no more force and effect than the prattle of four small-witted persons—poor re-productions of the once famous Paul Pry.

MORE NONSENSE FROM THE QUARTETTE.

THE second chapter of the quartette's novelette consists of a series of opinions and suggestions about certain jails and prisons. Some of them are declared to be "unfit for the keeping of prisoners," but no reason is assigned for this conclusion. One jail is charged with "crookedness." This is a serious accusation against a prison, the rooms of which, according to the quartette, are nearly square, and kept neat and clean. That crooked jail ought to be indicted or straightened out by the quartette.

They declare that, "to the best of their knowledge and belief," a certain deputy Sheriff in Box Elder County was a party to the escape of a prisoner held for cattle stealing. Now if they had any definite information about this alleged offence, they should have procured the indictment of the offender instead of parading their opinion about it in the public prints. And if the grand jury has indicted that deputy sheriff, they have no business to attempt to prejudice his case before the public in this manner.

They go on to offer their opinions and to make suggestions in regard to the release of insane persons, the building of a new penitentiary, etc., as though they were medical experts and accomplished architects, specially retained to decide on the sanity of imbeciles, and engaged to prepare plans and specifications for prisoners and penitentiaries.

We showed yesterday that their so-called report was not accepted by the grand jury and is therefore not an official document. But there is another point which should be understood. The quartette are not even a committee of the grand jury. They did not receive their appointment from that body. They were sent on their excursion among the jails and courts by the foreman only. If the foreman had the right to send them he had the right to do the work himself. If he had no authority of himself to attend to this business he had no power to deputize them. Therefore the whole proceedings were void, and their report would be legally worthless if sensible and true. But a great deal of it is false and much of it senseless, and the whole romance unworthy of public attention except by way of making a little fun, and showing the incapacity of the District Judge who placed their unauthorized rhodomontade on file as an official document.

We learn that the subject of the action of those Justices of the Peace who were assailed by the quartette in their first chapter, was discussed before the grand jury, who decided unanimously, the quartette included, that there was no ground of action against those Justices. Therefore the attack made upon them by these impudent persons, whose capacity is below mediocrity and who are only small tools in the hands of others, is utterly unwarrantable, and would form a good basis for legal action if they were not too insignificant to be the subjects of such a prosecution.

The impertinence and egotism of these four shallow persons, who would never have been heard of but for their ridiculous "report," are immensely amusing, and suggestive of the inflated importance of the turkey-cock grand juryman in the play of the "Charcoal Burner."

NEW POTATO PLANTER.

ANOTHER labor-saving agricultural machine has been introduced into Utah. It is called True's Potato planter. It was exhibited at the Centennial, and was thought so much of by the English judge of agricultural machinery that he ordered a number of the Planters for himself and friends. It consists of a two-wheeled frame, in the centre of which is a hopper, holding about a bushel. In the bottom of this are several revolving holes, through which the potatoes drop and are carried against a blade which slices them up into sets. Extra sets of holes are provided suitable for different sized potatoes from very small up to very large. Under the hopper is a plow, which as the machine rolls upon its wheels, cuts the furrow into which the sets drop in regular order. Behind the plow are two scrapers, that neatly close the furrow and cover the sets. The wheel mark shows the place for each succeeding row. This machine, held by a stout boy, can be drawn by one horse, and from four to six acres per day can be planted, doing the work completely and effectually.

We have not seen the machine at work, but are informed that it runs to a charm. It is strongly constructed, and must prove of great value to the farmer, particularly in a country like Utah, where the planting season is necessarily of brief duration.

The machine can be seen at H. B. Clawson's wagon depot, just west of the Council House, where further information will be willingly imparted. Farmers, call and inspect.

WHAT CAN BE DONE.

WE were shown to-day by Mrs. Zina D. Young, some samples of silk work from Payson. They consisted of a pair of gloves; a pair of mitts; a veil; two neckties; and some skeins of spun silk, white, black, blue, purple, maroon and straw color. Mrs. Grace Wignall, of Payson, raised the eggs, spun the silk, manufactured and dyed these articles in her own house. The lady deserves more credit for her industry and ingenuity than we are able to give. She had no apparatus other than what she has formerly used in the working up of wool. The mitts and veil are of elegant design, and look as though with care they might be used a life time, and the latter at least be in a condition to leave as a heir loom.

It appears that the ladies of Utah will have to demonstrate the practicability of silk culture and manufacture in Utah, before those industries will receive the attention they merit from the sterner sex. It is certain that this climate is admirably adapted for the purpose, and the history of sericulture shows that it is one of the most profitable enterprises that can be engaged in.

We are pleased to note the efforts made in several directions, by the planting of mulberry trees and otherwise, in preparation for the coming industry, which will yet be one of Utah's great specialties, and a large source of revenue as well as home employments for thousands of boys and girls. Keep at it, ladies, and prove to capitalists and those small-moneyed persons who believe in co-operation, that silk can be raised and manufactured in this Territory. And the fruits of your patient and earnest labors will be enjoyed and acknowledged by multitudes in years to come.

LIGHT UPON THE QUARTETTE'S DARKNESS.

THE third chapter of the novellette which pretends to be a "grand jury report," is a feeble attempt at an attack on the Salt Lake County officers. Summed up it amounts to this: The county clerk has changed county orders for cash, how many times he does not know. The sum of $15,432.48 was paid during 1874-5-6 in aid of the Utah and Salt Lake canal; $17,275.02 in aid of the South Jordan canal; and $3,301.95 to parties through whose land the Utah Southern Railroad was built. The quartette say that they "cannot find that the Treasurer has had a chance to handle any cash;" that there was therefore an "opportunity for county officers to speculate in county orders." And they bring all