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## A STRANGE RULING.

The ruling of the Supreme Court on the meaning of one clause in section five, of article eight, of the State Constitution, is one of great importance and will seriously affect judicial affairs in Utah. It will be seen from the summary of the conflicting opinions of the three justices of the Supreme Court, that while they agree as to the proper county for the trial of the divorce case which was appealed to that court, they disagree as to the meaning of that part of the Constitution herein designated.

Two of the justices came near enough together to decide that a different interpretation is to be attached to that clause than has heretofore obtained. And the serious part of the ruling is, that it will permit judicial business to be transacted in other counties than that wherein it arises, and consequently there may be a congestion of it in some districts and a paucity of it in others.

If attorneys or their clients can commence suits in any county as they may choose, instead of that wherein the case arises, the probability is that Salt Lake, Ogden and Provo will be overcrowded with litigation, while some of the distant counties will run short, and be shorn of the advantages accruing from the transaction of judicial business therein. The clause in dispute is this:

"All civil and criminal business arising in any county, must be tried in such county, unless a change of venue be taken in such cases as may be provided by law."

Now it appears to the ordinary reader of the section in which the foregoing clause appears, and of the proceedings of the convention in which the Constitution was framed, that the intent and purpose of the provision cited was to require judicial business of all kinds to be transacted in the county where it should arise. And that the object in view was, to give all the respective counties in the State the benefits of holding court and the trial of cases, civil and criminal, and the transaction of such other judicial business as might arise within the borders of that county.

Chief Justice Baskin appears to give the language of the Constitution on this point a restrictive interpretation. He says it means "cause of action," and lays stress on the provisions about "change of venue." But while causes of action are "business," undoubtedly, judicial business does not always include "causes of action." There are questions arising associated with the settlement of estates, and other matters growing out of the probable jurisdiction vested by the Constitution in the District courts, that do not involve causes of action, either civil or criminal, and it is evident that the convention used the word "business" in the section now considered, so as to cover the entire ground and not limit its meaning merely to causes of action.

The argument that a change of venue cannot be taken unless there is a cause of action, does not appear conclusive in the application made by the Chief Justice. The change of venue is permitted "in such cases as may be provided by law," and that provision is proper and necessary; but it does not follow that business arising in a county must mean simply such as could demand a change of venue. While the venue could be changed "in such cases provided by law," other "business," not involving a possible demand for such change, could be transacted under the terms of the clause of the Constitution.

As to the divorce case that brought out this peculiar interpretation, there was no difference of opinion among the justices. The plaintiff could not bring suit in any other place than the county in which she had resided for one year, because that is so provided by law. But, as contended by Justice Barch, who seems to hold closely to the meaning and intent of the Constitution, the injury to the plaintiff arose where she was living. It required no stretch of the Constitution as it stands to decide that there was the place for her suit to be conducted.

It is true that the criminal act complained of took place in another county, and therefore a criminal prosecution would have to be conducted in that county, to carry out the constitutional provision in dispute. But that would be a cause of action for the State and not for the plaintiff in her civil suit; and while the criminal business arising in Utah should be tried in that county, the injury to the plaintiff arose to her in Illinois, the county of her residence, and therefore her civil suit could be tried there as that business arose in that county.

It appears to us that this contention could have been settled by the Supreme Court on the merits of the case, without going into a treatise on the meaning of the word "business" in such a way as to disturb existing methods of procedure, and thus run counter to the purpose and design of the framers of our State Constitution. The decision of the court, rendered unanimously, on the case appealed to it, is unimpaired, sound,

but of the three conflicting opinions as to the point we have touched upon, we think that of Justice Barch, which was concurred in by the Supreme Court on a former occasion, is the soundest and clearest, and is in accord with the spirit, language and purpose of the constitutional requirement. We regret the ruling on that point, but as the court has the last guess the State will have to put up with it, for awhile at least.

## THE BALKAN DRAMA.

The Bulgarian government has told the European powers the stern truth about the reform methods of the Turks in Macedonia. The story is one of murder, torture, incendiarism, pillage, and "worse," but it is only a repetition of what has been told before by eye-witnesses to the Balkan tragedy. The demand upon the Porte for reforms is but an anesthetic to the European conscience. While it is being inhaled, the nations are rendered insensible to what is transpiring, the murders are going on just the same. How long will this continue?

It is quite true that the subdued peoples under Ottoman rule are turbulent, and violent. But what else can be expected of them? What would Britons, or Americans be, under a similar rule? Travelers in Turkey have noticed the system of tax-gathering there still prevailing. Let us quote one example of what actually has happened close to Constantinople, where the rule is at its best.

The government tax is a tithe of the peasants' crop, to be paid not in money but in kind. The government farms this tax out for cash in hand to a powerful Albanian. He has a primitive notion of political operation of the law of supply and demand. So he commands the peasant not to harvest his crop till the tax collector can come around and superintend the operation. The tax gatherer finds it inconvenient to come until the crop rots on the ground. This system, practiced over a large territory, will create a high price for the tax-farmers' stores of grain, and the peasant has arrears of taxes to pay the following year. Is it any wonder if the people are dissatisfied, and plan rebellions? They must even be excused, if by committing atrocities, they hope to provoke a carnival of crimes, which Europe must stop; for their situation is desperate. They believe, with Tolstoy, in the doctrine of sacrifice. They have seen it work in the case of Greece and Bulgaria. They have found that a Macedonian with his ears cut off is a very powerful appeal to European sympathies, and there is enough of Oriental fatalism in the Macedonian to feel that he is engaged in a holy cause when he stirs the Turk up to mutilate him.

Russia has now sent warships to Turkish waters, to see that her demands for the punishment of the murderers of her consuls be executed. What this will lead to only the future can tell. The Turkish government will certainly make all the promises desired.

## THE MONTANA CRIME.

If the threatened lynching takes place in Montana, the authorities will be much to blame; for, when due notice of the intentions of the lawless element is given, the authorities have means at hand to prevent their consummation. We hope the Montana officers will prove equal to the occasion. Every wrong perpetrated leads to further wrong-doing, while every victory over lawlessness strengthens the law and those who uphold its majesty. The crime for which the prisoner is held at Stevensville is shocking in the extreme, and the severest punishment is but just; but it must be administered by lawful methods and according to law, otherwise murder is added to murder, wrong to wrong, curse to curse. No civilized community can afford to do that.

Associate Justice Brewer of the United States Supreme Court has recently written about lynchings. He emphasizes, what has repeatedly been pointed out in press, that the tendency of lynching is to undermine respect for the law, and that, unless it be checked, we need not be astonished if it be resorted to for all kinds of offenses. Then, more frequently than is the case now, innocent persons will be the victims of mob fury. When anarchy is rampant, there will be no investigation, no question as to guilt or innocence. Passion is blind. Infuriated hordes do not follow reason. Nor do infuriated mobs, and they can lay claims to no other treatment than that of wild beasts. Lynchings must be stopped, unless the present generation is anxious to bequeath to the children a government, torn and stained by the ruthless hand of anarchy and stained and soiled with blood.

## TOLSTOI AS A CRITIC.

Tolstoy has been saying some curious things to a New York World reporter. One of these is that he would very much like to die the death of a martyr. "I have tried hard," he said, "to be sent to prison or to be hanged, but I have failed." Pressed to explain himself further, he said: "Sacrifice is the best end." He added that he had done everything to die for his faith. "They who are crucified die well," he said.

In former ages, some of the followers of the Nazarene enthusiastically sought the martyr crown. They heard of the glory of martyrdom, until they did not hesitate to stand forth and face death in its most cruel forms; but that sentiment is so entirely foreign to our materialistic age, that the volap of Tolstoy on this subject comes like a strange sound from a tomb—mysterious, unintelligible, an echo of the past.

Of more interest perhaps is the criticism the Russian philosopher bestows upon this country. It is not entirely complimentary. He is quoted as follows: "America has lost her youth. Her hair is gray, her teeth are falling out; she is becoming senile. Voltaire said that France was rotten before she was ripe, but what shall be said of a nation whose ideals have perished almost in one generation? Your Emersons, Garlands and Whitlakers are all gone. You produce nothing but rich men. In the years before and after the civil war the soul-life of your people flowered

and bore fruit. You are pitiful materialists now."

We can stand a good deal of criticism from Count Tolstoy, for he is a critic who is sincere in his convictions, and he is impartial. He is as ready to turn the searchlight upon his own country and upon himself, as upon others. Such men have a right to speak, and to be heard. They are few, and far between.

It is strange, however, to find this stern critic sensitive as to the criticisms of others. He is now engaged on a book about Russian conditions, but it will not be published till after his death, because, as he expressed himself, he does not care to read the criticisms. Tolstoy is lauded to the skies as long as he confined himself to more or less insignificant fiction. When he entered upon heavier literature, he was pronounced a half-witted enthusiast, by critics not capable of understanding his philosophy. And now he takes his revenge by withholding from the public and the critics a work upon which he has labored for years, until he shall no longer be here to read what they have to say about him and his literary product. A wonderful man is Tolstoy, no matter what may be thought of his views and reform schemes. Through men of that character the world will finally be influenced for good.

## LONDON'S CHURCH GOERS.

Some time ago New York, Chicago and some other American cities were subjected to the church-going test, to ascertain whether they are "Christian" or not. The result was astonishing. It proved that the largest proportion of the population in those cities was not interested in the divine services of modern style. The same test has now been applied to London with similar results. The census embraced 2,535 places of worship, practically all the assemblages of people for religious purposes to be found in the length and breadth of London: Protestant, Roman Catholic, Jewish, Greek as well as the companies gathered in Salvation Army barracks or mission halls or social settlements. The six hundred enumerators made a remarkably careful count. Every service from six in the morning until mid-day in Roman Catholic churches was registered, and the evening as well as morning congregations at all other places of worship were included. The figures arrived at proved that of London's, say 4,500,000 inhabitants, only 92,000, in round numbers, are church-goers. Of course, allowance must be made for children, aged persons, invalids, and so on, but there are still left in the neighborhood of 2,000,000 in that great metropolis that ought to be regular attendants at the services, but who are not.

The statistics further prove that the attendance at the places of worship of the established church is much smaller than might be expected. That church has its famous cathedrals and great staffs of clerical workers. Yet, the investigation showed that on an average Sunday only 430,131 worshippers are to be found in all the Anglican churches, whether the type of churchmanship is high, low, or moderate. In 1886 587,715 worshippers were found in the various churches, or over one hundred thousand more than today. This decrease in the face of the fact that the population of London in these seventeen years has increased at least half a million, would seem to indicate that the established church is fast losing ground.

The non-Conformist churches and chapels have gained very much since 1886, the attendance now amounting to 414,225. The Roman Catholics are not so numerous as might have been expected, the attendance being only a trifle over 90,000.

What proportion of the congregations are men, and what women? is another question the statistics endeavored to ascertain, and it was found that the proportion of men among the free church congregations was considerably larger than in the established churches, while in the latter the proportion of women was much the larger. Evidently the ritualistic form of worship still appeals more strongly to the feminine mind and heart than to the masculine.

This kind of census-taking may be strictly accurate, but it is near enough correct to prove the general fact that the religions of the world are losing their hold upon the most enlightened nations. Tolstoy has recently said that America needs a great religious movement. That is true of all the nations. They need an awakening to truth—that truth which alone can make them free. And perhaps the drawing away from the churches is a good preparation for that moment of a general waking up.

Lynch law may be defended but it can never be justified.

Now you see it and now you don't— the war cloud in the Balkans.

Alaska is said to have vast deposits of sulphur and yet Alaska is not a hot place.

Russia threatens to coerce Turkey. Will it take the form of an ultimatum or a fact?

Women have many callings in this world, but her noblest one is calling to the children.

The country is at peace except for a few race and range wars scattered over it here and there.

In the matter of riots between strikers and non-union men Wheeling, W. Va., has wheeled into line.

So much has been said about Senator Tillman's pass since he lost it that he wishes, doubtless, that it had never come to pass.

To judge by some of the comments on General Miles' retirement it was a sort of "give him a cold potato and let him go" affair.

If the Russian Bear gets his paws on Turkey he will make the feathered fly. No peace of Berlin will pacify him this time.

There being nobody in his class, Champion Jeffries must feel very lonely.

by, pugilists being such gregarious and convivial fellows.

It is not fair to say that the warden of the Georgia state prison has been "whitewashed." He has only been "disinfecting."

In Ohio this fall the automobile will be used for campaigning. Voters are expected to jump into the automobile rather than into the hand wagon as in the past.

Premier Petroff of Bulgaria takes an optimistic view of the Macedonian situation. He took it from the frontier, which makes it quite as valuable as a bird's-eye view.

The women of the University of Chicago object to being called "segs." Nor did they like to be called "co-eds." Strange creatures higher education makes of some women.

It is said that King Peter of Serbia knew of the plot to assassinate Alexander. Be that as it may, he certainly knows of the conspirators since his elevation to the throne.

The general staff of the army inaugurated its career with a grand dinner to Secretary of War Root. It is quite safe to say that "embalmed beef" was not the piece de resistance.

Those who say that the repeal of the fifteenth amendment is the only salvation of the country, are "talking through their hats." When falls the Constitution will fall the fifteenth amendment; and not before.

The conditions of the "prize-fight" at Ogden are: If it is genuine and the law is thoroughly and efficiently broken, there will be no interference by the officers. If it is only a "make-better" then it will be stopped by the officers.

Professor Frederick E. Starr, head of the department of anthropology in the University of Chicago, gave utterance to these views the other day: "The bushmen and pigmies of Africa, Australia, the Fugians and Bolo Cudos of South America and the Eskimos of North America are all cannibals. Some eat human flesh from desire and some from necessity. It is especially in the case of the latter that I say their cannibalism is justifiable. It is a fact that every known tribe which eats dogs also feeds on human beings. Dog eating and man eating go together. When the Eskimo has no walrus he eats his dogs, and when his dogs are gone he eats his brother. If he did not eat the human flesh he would starve or at least go hungry and I think he is all right in doing as he does." The University of Chicago is the only institution of learning in the world that has two such professors as Triggs and Starr, or would have them.

## ROOSEVELT ON LYNCHING.

Cleveland Plain Dealer.  
The words of the president are none too severe. They might even have been stronger without oversteering the line. There is special propriety in the president, at the present time, reminding the people of the United States that they "claim the right to speak with peculiar emphasis for freedom and for fair treatment of all men without regard to differences of race, fortune, creed, or color," and that the right to speak is forfeited when we consent or condone such crimes as those which have disgraced us in the eyes of the world.

## Chicago News.

Deprecation of lynchings does not go to the root of the matter. Lynchings are but one manifestation of the spirit of lawlessness that exists. The fundamental need is for a development among all classes in the nation of a stronger spirit of respect for law than is now evident.

## Los Angeles Times.

The one thing, above all others, that will put a check upon the practice of lynching, and eventually do away with it altogether, is a provision for the swift and sure punishment of crime, by adequate legislation where such legislation is needed, to be followed by enforcement of the law, vigorously and impartially, without reference to the race, color or condition of offenders. Every right-thinking citizen should thank the president for his straightforward, manly, and incontrovertible expressions on this subject. It is to be hoped that they will bear fruit.

## Chicago Record-Herald.

In one part of his letter the president treats very graphically of the effect of the horrible lynching bees upon the participants. He says that one who has assisted at the torture by fire "must forever after have the awful spectacle of his own handiwork seared into his brain and soul. He can never again be the same man." The experience must have shattered or hardened the nerves, it must ultimately produce the professional lyncher with a fiendish love for the sport, and this is the greater reason why the sport should be stopped by the infliction of swift and severe punishment upon the leaders of the mobs.

## New York Evening Post.

As regards the matter itself of the president's letter, there is little in it that we cannot heartily commend. If he appears to protest too repeatedly that he has no sympathy with the crimes which rouse the mad passions of the lynchers, it must be remembered that he had to guard himself against misrepresentation. Leaders of the mob would have been ready to join with the Miss Nancy of the ramby-panby press in declaring that Mr. Roosevelt forgot the racial criminal, and he not been at pains to prove that he did not. That he should have anything particularly new to say, was not to be expected. The whole thing is a matter of elementary morals and of rudimentary civilization, and the arguments have all been stated many times.

## St. Paul Globe.

And this is the bottom truth. The American people of today are possessed by a singular mixture of maxims and ferrency. The most disgusting crime does not alienate all sympathy from its perpetrator; does not prevent his friends from forming a party, or men from rejoicing when some technicality sets him free. But the very passion that refuses to be aroused when there is such occasion for it bursts in upon the mob breathes upon its mouldering embers.

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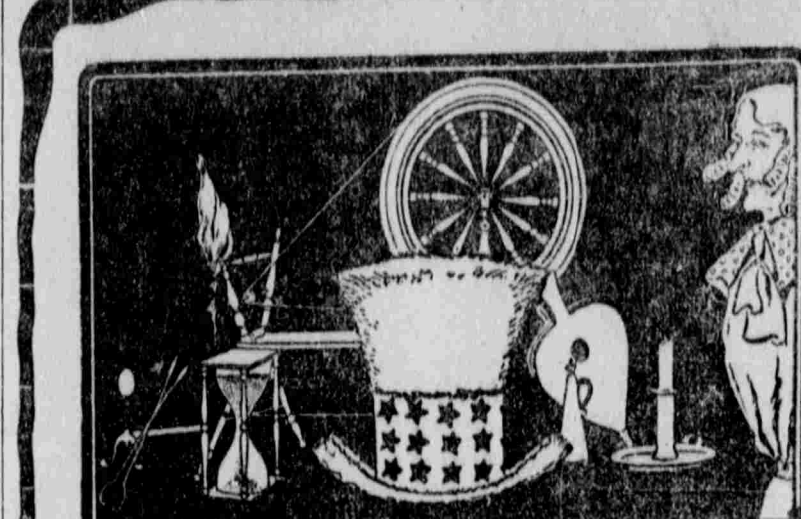
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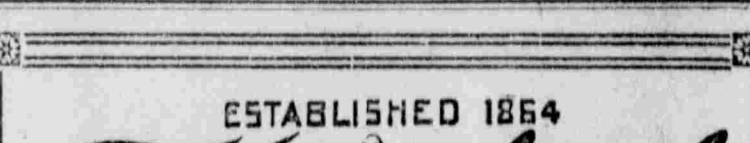
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