

# THE MONTANIAN.

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Choteau Co., Montana.

S. M. CORSON, Editor.

FRIDAY, DECEMBER 9, 1892.

The following item clipped from our back street cotemporary leads us to enquire: Where else besides on the earth are locomotives running?

"One hundred and nine thousand locomotives are at present running on the earth."

The legislature of Montana convenes on Monday, January 2, 1893, two weeks from next Monday. What action has been taken by the citizens of the desired Teton county to see that her claims are properly pushed and represented in the legislature? We should see that it is the first bill introduced and passed and approved.

Now THAT Choteau has a minister, can not the citizens of this vicinity bestir themselves and secure the erection of a church in which services can be held? Those who belong to the different denominations and are true Christians know that, as yet, it is impossible for each sect to secure a pastor for their respective classes in so small a place as Choteau. That we are fortunate enough to secure one of any denomination that is young energetic and capable, as is M. Reed, should inspire those who desire the dissemination of religious teachings and influences among themselves, their children and friends to take some immediate action in this matter.

## JUDGES AND EDITORS.

The managing editor of the MONTANIAN, Mr. S. M. Corson, has been summarily called before Judge DuBose of the district court of this county upon a citation for contempt issued by him, for the publication by Mr. Corson, of an article in the issue of December 9 giving utterance to the judge's denial of complicity in the Box Elder election case and commenting on the suit of the Fort Benton Bridge company to recount the votes cast at the late election on their proposition to sell their bridge to this county and which was defeated by 288 votes.

The affidavit of Mr. DuBose recites the facts that he is the judge of the tenth judicial district of this state and was re-elected at the late election, of the pendency in that court of the suit above mentioned. It then sets forth most of the article referred to and says: "That Mr. Corson is a taxpayer in the said county of Choteau, and as such is an interested party in the case of the Fort Benton Bridge company against the county commissioners and that he is informed and believed that the said S. M. Corson has been and is opposed to the sale of said bridge to the said

county of Choteau. And affiant believes that the said article was published in order to have a prejudicial influence upon the court in passing upon the merits of said controversy. Affiant further states that said article as published has come under the observation of the judge of said court and that the charges therein made are wilfully false and contemptuous."

If either the editor or judge has misused his privilege or transcended his authority we think it is only right that the readers of the MONTANIAN should know it and as briefly as possibly we will attempt to explain the law applicable to such cases. If the action of either is against the established law of Montana he should be criticised accordingly. In proceedings in contempt a judge prepares his own complaint, investigates the evidence pro and con, and passes judgement on the sufficiency of the complaint and the evidence adduced to support it. It is his right and duty to enforce obedience and respect to the authority of his court by proceedings in contempt, but not sentimental respect to himself.

The freedom of the press is a well known constitutional guarantee, but for its abuse the writers are responsible in libel or criminal libel but not for contempt except in very few and exceptional cases. From the complaint in this case we should infer that the complainant relies upon two propositions. First, that Mr. Corson being a taxpayer is an interested party, and second, that Mr. Corson being opposed to the sale of said bridge to the county the article was published to prejudice the court in passing upon the merits of the controversy. There is no question but that suitors in a case are held to a stricter accountability for their conduct than parties in no way connected with the litigation. A suitor is defined as a party to the suit; a party litigant. An interested party is one who has the right to become a party litigant. Has Mr. Corson a right to interpose himself into this suit as a party thereto and defend and appeal the same? We do not think any possible stretch of judicial interpretation could include or clothe Mr. Corson with the rights of a suitor in this proceeding and not having any of those rights he could only be guilty of contempt in an open violation of the authority of the court. If the article in question had a tendency to prejudice the mind of judge DuBose for or against the parties litigant he is restricted in his exercise of his right and duty to punish for contempt to the statutes of Montana and the judicial interpretation thereof by the Supreme court of this state. Of these decisions a judicial officer of this state is bound to take notice and it is his duty to respect them as much as it is the duty of any other citizen to respect the law.

In the recent case of Editor MacKnight of the Helena Journal cited for contempt by Judge McHatten of Butte for the publication of an article in many legal respects similar to the one here referred to, the supreme court in reviewing the same and the statute of contempts held that the charge was not within the statute of contempt nor the general definitions of that offense as found in the authorities upon this subject, but that the principal ingredient of the definition of "contempt" is disregard of the authority of the court. For this purpose the power is given, and to this purpose the power is limited. It is

not to enforce sentimental respect. The views expressed as to bias of prejudice can in no way interrupt the orderly progress of the said court in its adjudications, or make the judge or people biased or more biased. Such publications and assertions then not interfering with the authority of the court are not within the contempt law but stand in the broad field covered by constitutional sanction of the freedom of speech and press.

The language of the supreme court above quoted is so plain as to need no comment thereon and we must certainly be led to believe that Judge DuBose has exceeded his authority in his arrest of Mr. Corson. The exercise of the extraordinary right of a judge in cases such as this has become "more honored in the breach than the observance."

A few years ago the supreme court of Indiana, a majority of whom were democratic, had occasion to pass upon a case on which the party has built great hopes of a favorable decision, but the unanimous decision of the court was against their hopes and desires. The next morning the state organ of the democracy, the Sentinel, vilified and abused the court beyond measure under an article headed "Damn their cowardly souls." But of this the court or no member thereof took any notice and refused to do so after their attention was personally called to it. "Somebody's wrong, but who?" J. S.

UNDER-SHERIFF MATTHEWS dropped in on us Wednesday long enough to extend to the managing editor the legal invitation of Judge DuBose to pay him a visit at the county seat, and explain certain statements appearing in an article in THE MONTANIAN of last week. The managing editor being thus called away, the assistant sick for a week, the leading editorial writer at the monetary conference, the sporting editor out chasing coyotes, and the society editor having resigned to join psalm-singers, those now wielding the pen and scissors in the sactum are left a task to which they must confess themselves not equal, and must ask the indulgence of the readers for any short comings in this week's issue.

Ripans Tabules cure the blues.

## Another Sale or Two.

[Anaconda Standard.]

A second sale of the Journal company property took place on the 5th. The stock and merchandise in the store were sold to Peter Nenne and Fred Gager for \$10,100. The presses, machinery and stock of the bindery and job departments were sold to L. G. Phelps for \$4,000, after the Merchants and First National banks had served notice on the sheriff protesting against the sale. The Merchants bank has not yet paid the \$21,000 bid for the other property and a second sale may take place. As matters stand there is a prospect of lively litigation between the banks. There are no new rumors of the starting of the paper and as matters stand it will be some time before anything is done in that direction.

## Montana's Statue.

CHICAGO, Dec. 10.—To say that the Montana World's fair commissioners are weary is expressing it mildly. Colonel J. O. Harvey was to-day referring to the endless claims and counter claims concerning the model for the silver statue who is to primarily represent "justice," and incidentally show the highest type of feminine physical perfection, intimated somebody's thigh was too fat and somebody's elses chest was too flat for any use, but being a gallant man he refrained from such unchivalric remarks. This he did say, however: "It is true that we consider the claims of some twenty-five women, some of whom were actresses, we decided unanimously on Ada Rehan. She was the first and only person offered a position and she has accepted."

## STYLE IN READING

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