EDITORIALS.

DOES NOT FAVOR THE BILL.

THE *Biblical Record* has the following to say about the new legislation pending in Congress against the "Mormons:"

While believing that many of the Mormons are honest and conscientious in their views of Mormonism, we have never regarded their organization as a church, or their creed of faith as a religion, within the provisions of the Constitution. That only can be considered a religion that receives the general consent of Christian nations, as such, and is moral in its teachings and practices. Polygamy as a system of belief and practice is a violation of all our moral and civil laws. It is, therefore, as a system, to be destroyed. Yet while we thus favor the suppression of this vice, we do not favor the act recently passed by the Senate, committing to Commissioners the material interests of the Mormon Church. We believe such a bill to be contrary to the spirit of the Constitution, and that, should it become a law, it will work great evil. The Mormons are an industrious, quiet people, and should be protected in all their rights, and should be allowed to practice everything in their creed not in conflict with the moral sense of the people or in violation of the fundamental laws of our country."

The *Record* would probably be puzzled to give a correct definition of "the creed of faith" accepted by the "Mormons." But it is able to perceive the wrong and robbery contemplated in the bill now before Congress.

The idea that "Only that can be called a religion which receives the general consent of Christian nations," is very absurd. By that rule any new "Christian" sect would be declared outside the pale of religion, and the great religions of the world like Buddhism, Mahometanism, etc., would be designated as not religions at all.

"The general consent of Christian nations" has nothing to do with the truth or falsity of any system. A few years ago that "general consent" would have been denied to each of the now prominent dissenting denominations, and to go back a little further would have shut out as religion the whole system of Protestantism with all its offshoots.

"Mormonism" is a religion because it is a system of faith and worship of God which affects the whole lives and acts of its adherents, and it is the Christian religion because it is set up by Christ himself and is carried on under His divine authority. The *Record* should find out what the "creed of faith" of the "Mormons" consists of before deciding so confidently that it is not a religion.

ANOTHER "CONSPIRATOR."

DR. MILLER, of the Omaha *Herald*, is now dubbed a "conspirator." He favors the abolition of the abominable territorial system, and, of course, is "conspiring" to make States out of the satrapies which now exist to the discredit of this republic. This would of necessity include Utah, and the organ of the Federal pap-suckers, who are afraid they will have to let go the teat of the national feeding bottle, belches forth its foul wind upon the *Herald* editor, for suggesting something that would relegate them to their former normal impecuniosity.

Nearly a column of slanderous flatulence indicates the delirum tremens hand at the *Tribune* bellows this morning, and while decent people must be nauseated at the volume of abuse, Dr. Miller ought to feel complimented at being made the mark for the venom of a thing whose hatred of a man is, in the eyes of the decent, equal to a certificate of his worth and respectability.

LIBELS.

THE Supreme Court of Pennsylvania has been passing upon a case of libel which came before it on appeal, and has enunciated the following principles in reference to the subject in general:

"A public newspaper has a right to make inquiries regarding the official conduct of a public officer and to publish reasonable comment and fair criticism upon it. Such an article, if founded upon ordinary care, such as is proper under the circumstances to ascertain the facts, is in law a privileged communication. If such care be not used, or if it be used and the article superadds groundless imputations of bad motives or crime not to be justly or reasonably inferred upon the officer's conduct, an action of libel will lie and the communication ceases to be privileged."

We believe that is good law, and we are sure it is good common sense. A public journal has other functions than those of a simple newsgatherer, but it has no right more than an individual to slander and scandalize officials or private persons. And if it is wrong for a paper to impute improper motives without sufficient cause to public functionaries, it is equally wrong for such dignitaries, especially the judiciary, to "superadd" to their judgments groundless imputations of bad motives," on the part of unfortunate defendants who cannot open their lips in reply. There are libels, and libels, and the newspapers are not responsible for them all by any means.

IS IT A FULFILLMENT OF MALACHI'S PROPHECY?

THE new Edmunds bill has not yet become a law, and it may not become such; but if it should without being shorn of that particularly outrageous provision—that cunningly devised robbery clause—authorizing the appointment of a board of trustees to take possession of and confiscate the Church property, it might prove to be a fulfillment of Malachi's prediction as mentioned in the following communication:

SALT LAKE CITY,
January 24, 1880.

Editor Deseret News:

There is written in the Bible, Malachi, third chapter:

"Will a man rob God? Yet ye have robbed me. But ye say, Wherein have we robbed thee? In tithes and offerings.

Ye are cursed with a curse; for ye have robbed me, even this whole nation."

I think there is something in the new Edmunds bill that will make those words of the Prophet very plain, and I will only say that, bad as it is to be robbed, it is better than to be robbers; for God will surely sometime give unto every man and nation their just reward.

The same Prophet has also said, in chapter 4:

"For behold the day cometh, that shall burn as an oven; and all the proud, yea, and all that do wickedly shall be stubble, and the day that cometh shall burn them up, saith the Lord of hosts, that it shall leave them neither root nor branch."

S. IVERSON,
A believer in Bible doctrine.

AN INTERESTING CONTROVERSY.

WE learn from the *Republican* of Scranton, Pennsylvania, that a preacher of Lancaster, in that State, has lately been taking a Lancaster editor severely to task for sneering at the preachers and at religion. The preacher is the Rev. Mr. Hark and the editor is Mr. Hensel, of the *Intelligencer*. The editor has been taking up the cudgels in defense of "Mormon" polygamy, at least to the extent of refusing to believe that it is more immoral than a certain other offense against the marital relations, which exists in nearly every community. In the course of some remarks the editor has dragged King Solomon into the controversy, and expressed the opinion that the King of Israel believed his practices to be in accord with the moral law. The preacher, on the other hand, believes that Solomon knew he was sinning when he practiced polygamy, and that he was defying the moral law in the pursuit of pleasure.

The editor replies that he is entrenched in his position behind Solomon's proverbial wisdom, and argues that if he was a wise man he could not have knowingly transgressed a law by doing those things which he knew to be wrong. The controversy promises to become highly interesting if pursued far enough. The editor does not assume that polygamy in this day and in this country is admissible, but he does adhere strongly to the theory that it was all right in the days of Solomon.

The editor has much the best of the controversy so far, and he might with consistency go even further and take stronger ground, and claim that what was right in one age would be very wrong in another—in other words, a practice that was planctioned, if not expressly commanded by the Almighty in the days provided other ancient worthies, cannot consistently be regarded as contrary to His will in this age, seeing that nothing in disapproval of it can be found in the Bible.

LEGISLATIVE EXPENSES.

GOVERNOR MURRAY has sent to the Legislature a copy of a letter to the Secretary of the Interior from the Assistant Attorney General, in reference to some extraordinary doings of the Arizona Legislature at its thirteenth session. The Governor submitted the matter to Secretary Lamar, who referred it to the Assistant Attorney General.

It appears that the Arizona Legislature made some extravagant appropriations of territorial funds. For instance, the sum of $19,967.70 for printing, in addition to the $2,500 appropriated for that purpose by Congress. They had fifty extra clerks, four pages, two janitors and two doorkeepers, besides the regular officers whose pay is provided by Congress. These clerks were paid from $9 to $18 each per day; the pages $6 per day. Over $3,000 was expended for newspapers. And each member of the House was given $40, and each member of the Council $93 in excess of the per diem paid by the Government, under the head of "services not paid for by the United States." Of course much of this was wrong and contrary to law, and the letter pronounces the appropriations void.

Such extravagance and excess of authority is of course to be condemned. But we think the Government Attorney has gone to extremes in his learned opinion. He cites the rulings of the Supreme Court of the United States on the powers of Congress over the Territories, quotes from the laws of Congress in relation to legislative expenses in the Territories, and concludes that the Territorial Legislatures have no authority to make any expenditure whatever for legislative expenses beyond the appropriation by Congress for those purposes.

A critical examination of those laws does not fully bear out the opinion of the Attorney, and it certainly does not accord with good common sense. That the members of a Territorial Legislature cannot vote to themselves any compensation out of the Territorial treasury is clear and, we think, indisputable. Section 1855 of the Revised Statutes provides that "No law of any Territorial Legislature shall be made or enforced by which the Governor or Secretary of a Territory, or the members or officers of any Territorial Legislature, are paid any compensation other than that provided by the laws of the United States."

Congress regularly appropriates a certain amount for legislative expenses, and by law has provided for the number of members and officers of each House, and specified that "No greater number of officers or charges per diem shall be paid or allowed by the United States to any Territory." Also that "In no case shall the expenditure for public printing in any of the Territories exceed the sum of $2,500 for any one year."

These two clauses have been usually construed together. Out of the money appropriated by Congress only $2,500 can be paid for printing, and only the stated per diem for the stated number of members and officers can be paid. But to say that such printing as may be absolutely necessary for the convenience of the Assembly, and such extra clerk hire as is indispensible to the transaction of business within the time limited by law, cannot be paid for by the people's representatives out of the people's own money, is preposterous and contrary to usage in all the Territories for many years. Would $2,500 pay for the compilation and printing of the revised laws of Utah? If the amount appropriated out of the National Treasury falls short of meeting actual, necessary expenses, cannot the people use their own money to supply a bona fide deficiency.

Congress, in a fit of parsimony, cut down the number of members and the number of officers and the amount of their per diem, and also the amount to be used for printing, making no provision for the printing of the daily minutes and other necessary work. It was all done in ignorance of the needs the Territories, and would have seriously impeded legislation if the Legislatures had no means to supply the deficiency. But what Congress failed to supply the Legislatures have been able to appropriate, without doing violence to the spirit or the letter of the Acts of Congress directing the expenditure of Government money.

If the Legislature make an appropriation for needful purposes, which is signed by the Governor, how is Congress to stop the expenditure? The Governor may check extravagance, the people may take measures to prevent the waste of their public funds, but by what means, by what right is that expenditure to be stopped which the people approve and is needful for the public welfare?

Arizona has evidently been cursed with a set of wasteful and thieving legislators, and they have clearly overstepped the bounds of the law. But that is no reason why any attempt should be made to cripple an honest legislative body, or prevent the expenditure of local funds for actual public needs.

It is an undeniable fact that the amount limited by Congress for printing is not sufficient for actual necessities. Also that extra clerk hire is indispensable, especially in the latter part of the session. The law specifies that only $2,500 can be used for printing, but it does not say that extra clerk hire shall not be paid for out of the Congressional appropriation. The extra clerks are not officers of the Assembly.

It would be proper for the Secretary of the Territory to acquaint the Legislature with the details of his expenditure of funds appropriated for legislative purposes. We understand that he has managed by economy to keep considerably within the limits of the amount of the appropriations, and has recovered some into the National Treasury. The Legislature perhaps has no means of compelling a report, but if he is unwilling to make one voluntarily, it could no doubt be procured if proper means are taken to obtain it. All the needful expenses of the Legislature should be met from some quarter, and if the Territorial funds may not be used for *any* legislative expenses, the money in the hands of the Secretary not otherwise appropriated, should be utilized for the purpose.

There is no parallel between the economy of the Utah Assembly and the extravagance and clearly unlawful expenditures of the Arizona Legislature, and if there was only proper harmony between the Governor and the Assembly there would be no need to discuss the right of our legislators to provide for the absolute necessities to effective legislation.

TRY HIM AGAIN.

THE Legislature should give the Governor one more chance on the bail bill. In his veto message the chief excuse he offered for not signing the bill was that "a defendant convicted of murder in the second degree, or guilty of rape and other infamous crimes" may prosecute an appeal and "be turned loose upon society." Let a new bill be prepared making bail discretionary with the court in the worst kind of felonies, and a matter of right in the lesser description and in all cases of misdemeanor. This will bring the matter down to a smaller compass, and give our captious Executive a further chance to put himself upon the record. This may bring forth those "other reasons" which he thought proper to conceal, and perhaps the real animus which prompted the first veto will be clearly exhibited. By all means let the Assembly "try it over." Protection against judicial spite is a necessity in Utah, and it ought to be afforded. Against gubernatorial spite, of course, there is no safeguard.

The foregoing was laid over through a press of other matter upon our columns. Since it was written Mr. Joseph A. West has introduced a modified bill, which we hope will receive immediate attention and be quickly forwarded to the Governor, that he may have plenty of time to consider it and show just where he stands on a question of simple justice and right.

THE RIGHTS OF WITNESSES.

IN these times of usurpation and excess of authority, it is proper that the people should clearly understand their rights that they might know what course to pursue when those rights are assailed. Lawful authority should be upheld, and those who lawfully represent it should be respected. But the people have rights also, and the law and its officers are supposed to be for the purpose of protecting them. When the power conferred upon individuals to preserve the peace and guard the public interest is used to oppress and annoy, it is necessary that it should be removed or resisted. But all resistance should be within the limits of law, and that it may be, citizens should learn their own prerogatives and the limits of authority in officials.

A great many persons are wanted to appear before the courts as witnesses. It is necessary to the ends of justice that those who are required to give evidence should attend when properly summoned. But there is a method provided by law for the summoning of witnesses, and unless that is followed citizens are not bound to respond. Any impostor might go about notifying people to leave their homes to appear at court at a given time, but nobody would be under obligations to pay any attention to his demands.

The process in law by which the attendance of a witness is required is called a subpœna. It is a written document, not a verbal order. It must be signed and issued by a Magistrate, Prosecuting Attorney or Clerk of a Court. It is directed to a given person, and specifies where and when he is required to attend as a witness. It may also direct him to bring with him books, or papers, or such other things in his control as he is bound by law to produce when required. But this does not apply to private books, papers or other documents in which the public have no concern.

A subpœna is served by showing the original and delivering a copy, or a ticket containing its substance, to the witness personally, or by leaving a copy with some suitable person at the place of his abode, giving or offering to him at the same time, if demanded by him, the fees to which he is entitled for travel to and from the place designated and one day's attendance there. The witness must be allowed a reasonable time for preparation and travel to the place of attendance. This is the provision of the law in civil cases. The criminal law provides that the service of a subpœna is made by showing the original to the witness personally and informing him of its contents.

Except he is present in court or before a judicial officer, in any case, a witness in not subpœnaed without a writ or order made out in due form as we have described. When a rude person obtrudes himself into a house or presence and exclaims, "You are subpœnaed!" or, "I subpœna you!" without any document duly issued by competent authority, no notice need be taken of his bluster. Even if he is known or supposed to be one of those inflated masses of gigantic importance called deputy marshals, it makes no difference. He has no more right to order a witness to appear, by word of mouth, than he has to arrest an accused person or break into a building without a warrant.

Witnesses cannot be taken into custody on a subpœna. When a witness fails to appear after being properly summoned, the court may issue an attachment or warrant of arrest, and the disobedient witness may be punished by the court for contempt. But officers cannot compel any one to go with them by virtue of a subpœna.

Except in a civil proceeding one against the other, or a proceeding for a crime committed by one against the other, a husband cannot be required to act as a witness against his wife, nor the wife against the husband, without mutual consent. When legal wives are questioned before grand juries in cases against their husbands, they can refuse to testify, no matter how much the attorney or other inquisitor may try to extort information. The attempt to induce legal wives to testify against their husbands is itself an infraction of the law and to be despised and opposed.

When witnesses are taken before a grand jury and required to swear that they will not reveal the questions asked or their answers, they may refuse to take such an oath. There is no law that requires it. It is an imposition that is continually practiced upon unlearned persons. Such an oath as many have been required to take is not binding in law. Witnesses may be sworn to tell the truth, but not to preserve secrecy; that is one of the instances of excess of authority to which the people of Utah are becoming accustomed.

Witnesses are often asked in open court as to their testimony before the grand jury, and attempts are made to bewilder and confuse them by statements that they gave different evidence before the grand jury to that in open court. This is all wrong. And for their own protection, witnesses before a grand jury have just as much right to take notes of the questions propounded and their answers, as the Prosecuting Attorney at Ogden had in a recent case to produce a memorandum of such questions and answers to aid him in examining witnesses in court. Witnesses have as much right to a memorandum to refresh their memory, as a prosecuting officer has for a similar purpose. Self protection, besides being a law of nature, becomes a rule of necessity in such peculiar times as these.

A clergyman or priest cannot be required to testify as to any confession made to him in his professional character, without the consent of the person making the confession; neither can a physician or surgeon be compelled to disclose any information acquired in attending a patient which was necessary to enable him to act for the patient, without the latter's consent.

Witnesses are not required by law to testify as to what they think or imagine, or believe, but as to what they know of their own knowledge. If they do not really know of a fact or occurrence on which they are questioned they need not testify to it or try to magnify their belief into knowledge. Repute, rumor, common talk, hearsay, conjecture are not knowledge, and "I do not know" is a proper answer in the absence of actual knowledge. A witness is not perjured who makes such answer when he does not know, but he is perjured when he says he knows of a thing and he does not.

We have no disposition to say or do anything to obstruct the administration of justice, but we have a desire to see the public protected in their rights. We make these remarks for the benefit of people liable to be imposed upon by unwarranted authority, and because we know that, in many instances, not only has the law been stretched to its utmost limits and construed beyond reasonable bounds, but the unsophisticated have been brow-beaten and terrorized, and the law has been overstepped and violated in the reckless crusade against a people singled out for destruction because of their attachment to religious principles that are dearer to them than life.

A FATED BILL.

THE bill which passed the Council yesterday providing for a Territorial Board of Equalization is intended for a good purpose. There have been many complaints as to inequalities in the assessment of property in the different counties. It is claimed that property in some counties is assessed at a much higher rate than in others, and thus certain sections of the Territory are contributing to the revenue much more than their proper share of the Territorial expenses, while other sections are reaping the benefit and escaping much of the burden. If this is true, a remedy should be applied which will reach the evil.

But we are inclined to think that the inequality complained of is not as great as imagined. Real estate should not be assessed at the value of the cost of the improvements, but upon its probable value in the market. Property at or near the centres of business is of higher market value than that which is remote, and property contiguous to easy means of communication with populous places is worth more than similar property at a distance therefrom. Houses may be built which cost large sums of money or labor, that ought not to be assessed so high as others that in a more desirable location have not cost half as much. Therefore the rates of